**PREUGOVOR – REPORT ON PROGRESS OF SERBIA**

**IN CHAPTERS 23 AND 24**

**Belgrade, October 2016**

**About prEUgovor**

PrEUgovor (Eng. *prEUnup*) is the first coalition of civil society organisations formed in order to monitor the implementation of policies relating to accession negotiations between Serbia and the EU, with an emphasis on Chapters 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom and Security) of the *Aquis*. PrEUgovor comprises seven civil society organisations with expertise in the thematic areas covered by Chapters 23 and 24. The coalition was formed in 2013 with the mission of proposing measures to foster improvement in fields relevant for the negotiation process. In doing so, the coalition aims to use the EU integration process to help accomplish substantial progress in the further democratisation of Serbian society. The member organisations of prEUgovor are:

**Anti-trafficking Action (ASTRA)**

[www.astra.rs](http://www.astra.rs)

**Autonomous Women’s Center (AWC)**

[www.womenngo.org.rs](http://www.womenngo.org.rs/)

**Belgrade Centre for Security Policy (BCSP)**

[www.bezbednost.org](http://www.bezbednost.org)

**Centre for Applied European Studies (Sr. CPES)**

[www.cpes.org.rs](http://www.cpes.org.rs)

**Centre for Investigative Journalism (Sr. CINS)**

[www.cins.org.rs](http://www.cins.org.rs/)

**Group 484**

[www.grupa484.org.rs](http://www.grupa484.org.rs)

**Transparency Serbia (TS)**

[www.transparentnost.org.rs](http://www.transparentnost.org.rs)

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**Introduction**

In Serbia, the six-month period preceding this report has been marked by several major events, some of them of relevance or directly linked to the EU integration process. The long-awaited opening of Chapters 23 and 24 of the EU negotiation process finally occurred on 18 July – more than two and a half years after the official commencement of negotiations in January 2014 and seven months after the first negotiation chapters (32 and 35) were opened in December 2015. Even though it had been announced long before July 2016, the opening of Chapters 23 and 24 was postponed several times due to various requests made by EU member states, particularly those made by Croatia with regards to Chapter 23. Croatia tried to impel Serbia to change its Law on Regional Jurisdiction for War Crimes but this attempt failed due to a lack of support from other EU member states. Although Croatia finally agreed to the opening of Chapter 23, there are still no guarantees that Croatia, or another state, will not seek to embed the same (bilateral) requests into the general EU position on this chapter further along the negotiation process.

Within this six-month period, Serbia also elected a new government. More than three months after the general election (held on 24 April), new Government of the Republic of Serbia was finally formed and approved by the National Assembly on 11 August. The composition of the newly elected government does not differ much from the one that preceded it, given the similar structure of the ruling coalition formed after the elections. The strongest party in parliament, the Serbian Progressive Party, leads the new government with Aleksandar Vučić remaining at the helm as prime minister. Despite numerous announcements, the formation of the new government was also delayed several times with no clear explanation given. In his post-election address, the Prime Minister stated that some of the priorities for the new government are national security, “the strengthening of institutions” (including the judiciary), reform of public administration, human rights (including those of minorities, children, the LGBT community, migrants, victims of family violence, as well as issues of gender equality and social care) and the fight against corruption and other forms of criminality. Economic issues remained, however, the main focus of the address. The Prime Minister underlined that EU integration remains Serbia’s foreign policy priority and announced the objective of closing all negotiation chapters by 2020.

Serbia launched implementation of previously adopted Action Plans for Chapters 23 and 24 and, in July, issued its First Report on the Implementation of the Action Plan for Chapter 23 (hereafter, the Report). According to the Report, by the second quarter of 2016 Serbia had completely implemented 77 percent of planned activities, almost completely implemented 8 percent; partially implemented a further 8 percent; not implemented 3 percent; and for the remaining 4 percent the relevant institutions did not deliver any report. Within the Chapter itself, the completion rate is highest in the field of fundamental rights (82 percent) and lowest in the fight against corruption (60 percent). However, the quality of measured and evaluated implementation remains questionable as does, therefore, the real progress Serbia has made in these areas. Due to different reporting dynamics, the corresponding report on Chapter 24 has yet to be published. It is, however, expected that this report will be issued before long.

This prEUgovor report will provide independent insight into progress achieved in the areas covered by Chapters 23 and 24, as well as advancing recommendations for improvements in the monitored areas. The report covers the period from May to October 2016 and, for certain areas, the timeframe will also take in the beginning of 2016 to ensure more adequate monitoring. Unfortunately, many of the recommendations made by the report are similar to those made by the previous prEUgovor report as, despite the state’s positive self-assessment, very little has been done in some areas. This is, *inter alia*, due to another early election cycle that slowed down the reform processes or even postponed reforms for some time undefined moment in the future. The following report covers Political Criteria topics within Chapter 23 and Chapter 24. Since certain issues, such as the Savamala case, have become a matter for public concern they are also covered in the report. Given the refugee crisis – which erupted in 2015 and, while being far from over, has abated somewhat during the reporting period – a section of the report is devoted to migration policy and other related issues.

**1. POLITICAL CRITERIA**

* 1. **Democratic Control of the Security Sector**

Serious backsliding in democratic governance of the security sector has occurred during the reporting period. A major incident involving the security institutions has not been the subject of proper parliamentary scrutiny. There has been a noticeable absence of reaction by the executive and judiciary to the findings and recommendations of independent oversight bodies regarding incidents involving the security institutions. The incident in question concerns the failure of the Police to respond to requests for assistance made by members of the public during the illegal demolition of several buildings in the Savamala quarter of Belgrade[[1]](#footnote-1).

* + 1. *Parliamentary oversight of the security sector*

There is no progress regarding parliamentary oversight of the security sector, as the Security Services Control Committee failed to scrutinise regular intelligence services reports. The majority the ruling party enjoys in parliament is likely to continue to impede oversight activities. Calls for the clarification of mismanagement in the security sector have usually come from opposition parliamentarians and have resisted by the governing coalition[[2]](#footnote-2). The authority of independent institutions has been further diminished by the government. The Ombudsman in particular has continued to face public denigration at the hands of the leaders of key security institutions[[3]](#footnote-3) and his oversight of security sector institutions has been impeded, especially in high-profile cases. For instance, in May 2016, the Ombudsman investigated the high-profile Savamala case, proving that the police operations centre had been ordered not to send units to assist members of the public who requested help. Nevertheless, the Ministry of Interior (MoI) did not respond to recommendations made by the Ombudsman even after an extended two month deadline.[[4]](#footnote-4) The reach of external control and oversight of security sector procurement has been further constrained as it has emerged that part of a major weapons deal, procurement of two military helicopters from Russia, was financed from outside of the official budget.[[5]](#footnote-5)

Recommendations:

* Parliamentary committees responsible for security sector oversight should scrutinise regular reports on the work of security institutions and should also initiate parliamentary inquiries on major incidents involving security institutions. These parliamentary committees should also push for reforms designed to tackle major risks of corruption and abuse e.g. production, trade and procurement of weapons, as well as leaks of police information.
* Security sector institutions should ensure that all of their expenses are planned for in annual budgets and mid-term financial plans approved by parliament and available for parliamentary scrutiny and reviews conducted by the State Audit Institution. The major weapons deals must be part of regular budgets.
  + 1. *Civilian oversight of the security sector*

The Law on the Bases of Security Services Organisation (LBSSO, adopted in 2007) does not comprehensively regulate the security-intelligence system. The Law is imprecise with regard to the roles of some key security-intelligence policy institutions: the roles of National Security Council (the body gathering the key security sector decision-makers) and the Security Services Coordination Bureau are not regulated in sufficient detail. Consequently there is no systematic coordination and cooperation between the political leadership and the security services, making their relations fluid, non-transparent and dependent on individual decision-makers. This state of affairs often leads to worrying conflicts of interest. For instance, the Prime Minister is currently also a member of the Coordination Bureau and is, in this function, entitled to make decisions on assigning personal protection to the Prime Minister (i.e. to himself). This also leads to uncertainty about which decision-maker is entitled to what type of intelligence data, resulting in a high risk of information leaks and abuse of powers.

The legislative framework, consisting of the LBSSO and certain laws regulating position of individual security-intelligence actors, has also failed to clearly separate the competences of different agencies and regulate relations between them. This has brought about some concerning practices. The Security Intelligence Agency (BIA) has taken over the leading role in the fight against organised crime, blurring the line between intelligence and policing powers. A single provision in the Law on the BIA enables BIA’s intelligence officers to resort to police powers during their operations, but it remains unclear which powers they may resort to and under which circumstances. Furthermore, the Police tend to rely on the BIA to implement special investigative measures, a practice that is not in line with European best practices.[[6]](#footnote-6) In the process of EU integration, Serbia has been advised to revise the role and activities of its security services in criminal investigations, to bring them in line with standards on data retention and human rights.[[7]](#footnote-7) So far, Serbia has responded only by proposing analysis for adjustments at the operative level.[[8]](#footnote-8) Nevertheless, there is also a necessity for the strengthening legislation to separate the tasks of the intelligence services and the police in the fight against the organised crime. This also requires improvements to legislation in order to more precisely regulate the role of the Office of the Council on National Security and Classified Information Protection, the body responsible for implementing the aforementioned recommendation. So far, this body is regulated by only one article of the LBSSO and its work is not subject to parliamentary scrutiny.

Also of cause for concern is the fact that not all special investigative measures (SIMs) are regulated or even recognised by law. The BIA has resorted to secret search of premises, governed solely by its internal (and classified) regulations. This significantly diminishes the accountability of the BIA (it acts according regulations it has enacted itself and is thereby subject to no external oversight) and heightens the risk of severe human rights violations. Existing legislation obliges telecommunications operators to provide authorities with unlimited access to their equipment. This means that the security services and the police can activate interception procedures independently, without the knowledge of the operators. As a result, there is no way to objectively verify whether the interception of telecommunications was duly authorised by a court on each occasion. In addition, the authorities can access retained data without submitting a formal request to operators, which is in practice the most common method of accessing this data. The annual reports on the number of requests for access to retained data submitted to the Commissioner for Information of Public Importance and Personal Data Protection (hereafter, the Commissioner) do not, therefore, enable effective oversight.[[9]](#footnote-9) Judges have not received adequate training for the authorisation of SIMs. In practice, this could lead to problematic cases in which the fundamental rights of citizens are unnecessarily infringed upon. For instance, in 2014, just one operator received 88 requests for access to retained data on all mobile telephone numbers present in the area of one or more mobile phone masts over a certain period. It is unclear whether the responsible judges were aware of the amount of personal data the authorities would have access to in these cases.[[10]](#footnote-10) External oversight is also impeded by the utter opaqueness of SIM implementation, with security services resorting to legal ambiguities to keep even general statistical data from the public.

Recommendations:

* A new, comprehensive, law on security service organisation should be adopted to ensure all aspects of the work, competences and relations with other institutions of the security services are clearly defined. The basis for this law should be a new Constitution.
* Legislation regulating the use of special investigative measures should be unified in order to simplify authorisation and implementation processes and prevent situations in which these measures could be implemented without due court approval.
  1. **Gender Equality**

*The newly elected Government has not established a new gender equality body. There is no information on the implementation of the Plan of Action (2016-2017) for the National Strategy for Gender Equality 2016-2020. There is no information on whether comments and suggestions of non-governmental organisations (NGO) on the draft Law on (Gender) Equality of Men and Women have been taken into account or even which institution or body is now charged with drafting this law. The Office for Human and Minority Rights is late in reporting on five quarters of the implementation of the Action Plan (AP) for the Strategy for the Prevention and Protection from Discrimination. There was no data on whether the newly established Council for Monitoring the Implementation of the Recommendations of the United Nations Mechanism for Human Rights reacted to the Serbian state being late regarding the submission of information on the follow-up obser­vations of the CEDAW[[11]](#footnote-11) or with the Report itself. The National Action Plan for implementation of UNSCR 1325 – Women, Peace and Security in Serbia for the period 2016-2020 was drafted, but its adoption is still pending.*

Even though the Council for the implementation of the Action Plan for Chapter 23 (hereafter, the Council)[[12]](#footnote-12) reports that activities are being implemented in accordance with the plan by stating that the Council for the Monitoring of the Action Plan for the Strategy of the Prevention and Protection from Discrimination has produced its *First Report on the Realisation of the Action Plan for the Implementation of the Strategy[[13]](#footnote-13)*, from the data made available it cannot be concluded that realisation of these activities was successful in a manner that would correspond to “full implementation”.

As was stated in the May 2016 prEUgovor Alarm Report, the Action Plan stipulates activities and measures by area rather than by vulnerable socio-economic group (as per the Strategy), which makes it difficult to monitor the attainment of objectives and to check the mutual coherence of these two docu­ments and their compliance with other relevant public policy documents. No hierarchy of measures and activities for the implementation of objectives has been produced and no attempt has been made to assess risks or propose mechanisms to overcome them.

It is also not possible to determine the full scope of financial resources allocated for measures aiming to eliminate discrimination against women. Programs to support victims of violence were not funded in 2014, even though the state identified funds for this purpose.

The First Report on Implementation of the Action Plan for Chapter 23*[[14]](#footnote-14)* stated that The Office for Human and Minority Rights has also prepared a draft of the Second Report on the Implementation of the Action Plan for the Implementation of the Strategy of Prevention and Protection against Discrimination, covering the second, third and fourth quarter of 2015. By September 1st, 2016 this second report was not available on the website of the Office for Human and Minority Rights, indicating that it has not been adopted. It can be concluded that the Office for Human and Minority Rights is late in reporting on five quarters on the implementation of the Action Plan, so it cannot be considered that this activity was implemented successfully.

The Council for the Implementation of the Action Plan for Chapter 23 also reported that the establishment of a mechanism for the implementation of all recommendations of UN Mechanism for Human Rights is progressing successfully because the Council for Monitoring the Implementation of the Recommendations of the United Nations Mechanism for Human Rights, formed on 19 December 2014, has held three meetings and adopted a Rules of Procedure[[15]](#footnote-15). There is no information available on whether this new council has reacted to Serbia’s lateness with submission of *Information on the follow-up to the concluding obser­vations (17 and 23) of the Committee on the Elimination of Discrimination against Women*[[16]](#footnote-16)nor with the Report itself, because the state’s answers were incomplete and imprecise regarding most of the issues on which CEDAW requested reporting in the 2013-2015 period[[17]](#footnote-17).

The First Report on Implementation of the Action plan for Chapter 23 (the Report) states that the drafting of a new *Law on Gender Equality* – designed to fully align legislation with the EU *Acquis* and provisions of *the Council of the Convention on Preventing and Combat­ing Violence against Women and Domestic Violence* – was partially implemented[[18]](#footnote-18). The Council for the implementation of the AP for Chapter 23 admitted that non-governmental organisations expressed reservations and dissatisfaction with the submitted material and that the Government of the Republic of Serbia consequently withdrew the draft law from Parliamentary proceedings. Because the Coordination Body for Gender Equality has in the meantime ceased to exist, there is now no information on whether the comments and suggestions submitted by civil society had been taken into account or even which body is now charged with drafting the law.

Analysis of the effects of the current *National Strategy for Improving the Status of Women and Promoting Gender Equality* (2010-2015) that was concluded on schedule has been declared, by the Report, to be a fully implemented activity[[19]](#footnote-19). It was claimed that the findings of this analysis were used by the Government of Serbia in preparing a new Gender Equality Strategy, adopted in the first quarter of 2016. Women’s rights NGOs dispute this claim because the main conclusion of the analysis of the previous Strategy was that allocated funds were mostly not sufficient for effective implementation. The new Strategy and Action plan repeated the same pattern of not allocating sufficient funds for the proposed activities.

The activity of adopting the National Strategy for Gender Equality 2016-2020 together with its Plan of Action 2016-2017 in January 2016 was also declared to be a fully implemented activity[[20]](#footnote-20). The Council did not report on the process of adopting these acts, which had come under fire from women’s rights NGOs who objected because there had been no public discussion. The adopted Action Plan is not aligned with the Strategy and lacks the allocation funds for its full implementation. No information is available on any progress made towards implementation of the Action Plan.

The Council for the implementation of the Action Plan for Chapter23 admitted that the activity of strengthening the capacities of the Unit for Gender Equality has not been implemented[[21]](#footnote-21). *The Coordination Body for Gender Equality* of the Government of the Republic of Serbia ceased to exist once early elections had been announced. During its existence, it had not been allocated funds or designated a 2015 budget line for its work. No report on the realisation of the Plan of Activities[[22]](#footnote-22) has been made public. The newly elected Government has not established a new gender equality body.

Serbia is about to adopt the second iteration of the National Action Plan for Implementation of UNSCR 1325 – Women, Peace and Security in Serbia for the period 2016-2020 (hereafter, the NAP)[[23]](#footnote-23). The previous NAP expired in 2015 and the Government Working Group, established in December 2015, was tasked with drafting the second NAP. In comparison to the previous process of NAP development, a significant improvement has been the inclusion of civil society experts on gender and security in the Working Group, through consultations with local organisations during drafting and public discussion. Some civil society organisations have, however, challenged the whole process for not being sufficiently inclusive as women’s peace organisations did not participate in the process. Qualitative changes, in terms of content, were achieved by introducing impact measurement indicators and new topics such as: a chapter on recovery; protection for women civil right defenders; processes of disarmament and the impact of the SALW on women’s safety; programmes for rehabilitation of veterans and the victims of war; participation of women in negotiations between Belgrade and Priština; and so forth. The document places a greater focus on human security and the protection of women against gender based violence through prevention. Although the Working Group finalised the NAP in July following public discussions, there is an evident lack of committed leadership to adopt the NAP and allocate a budget for its implementation. Therefore, the adoption of National Action Plan (2016-2020) is still pending.

Recommendations:

* Ensure sufficient human resources (both in quantity and quality) for the effective implementation of the government’s anti-discrimination and gender equality policies
* Establish functional mechanisms for the implementation and monitoring of anti-discrimination and gender equality policies, which will enable horizontal and vertical communication and coordination with strategic sectoral policies
* Establish clear and measurable monitoring and evaluating indicators tracking the effects of the implementation of national strategies and action plans, along with regularly published and publicly available reports
* Ensure the participation of civil society organisations, particularly women's organisations, in the creation and adoption of strategic and action plans – through consultations, public hearings and working groups – with the obligation to report the results of these processes
* Adopt an NAP for implementation of UNSCR 1325 – Women, Peace and Security in Serbia for the period 2016-2020, allocate a budget for its implementation and include women’s peace organisations in additional discussion and implementation of the Plan

1. **CHAPTER 23**

The Action Plan for Chapter 23 of the negotiations with the EU was finally adopted, during the government’s inter-election caretaker period, on 27 April 2016. Some of the deadlines cited in the plan have already passed[[24]](#footnote-24) and the plan contains no new improvements compared with its 2015 versions.

The preparation process was consultative but a large number of the elaborated remarks were not accepted. As a result, some important issues were not covered at all, such as the corruption risks inherent in inter-state agreements, and certain measures and activities were not sufficiently elaborated, such as the failure of the Government to ensure access to information. There are also problems with the deadlines assigned (these are too long and differ from those determined by the Anti-Corruption Action Plan, which had already expired in 2015) and the allocated assets planned. However, the biggest potential problem lies in insufficiently ambitious or insufficiently elaborated success indicators. There is a real danger that the association process will not be utilised to create a sustainable anti-corruption system in Serbia. There is also a danger that success indicators will be used for political point-scoring instead of the attainment of clearly established objectives.

Another concern relating to EU integration and cooperation with other international institutions is the reluctance of ministries to make any changes to draft legislation if they receive a ‘positive opinion’ from the European Commission (EC), the International Monetary Fund (IMF), the Council of Europe or other international actors. Moreover, proposals forwarded by Serbian stakeholders are sometimes resisted on the basis of **alleged** compliance with EU regulations, and not on the basis of existing directives. Such was the case of alleged compliance with EU rules in the case where the Minister of Economy (serving from 2014 to 2016) denied access to information even after a binding decision from the Commissioner for Information and a non-binding opinion by the Ombudsman[[25]](#footnote-25).

* 1. **Anti-Corruption Policy**

Overall there have been some improvements in the fight against corruption since September 2015 but progress remains far removed from what was planned by strategic acts and the official programme of the 2014-2016 Government of Serbia. On the other hand, negative trends from the previous reporting period have continued. Particularly so when it comes to how independent state bodies are treated by the Government and parliament, a lack of application of national anti-corruption regulations to inter-state agreements and a lack of political will as a major factor preventing implementation of existing legislation or its reform. The formation of a new government has been the focal point of the period since April 2016 elections. Fighting corruption was not a priority during the election campaign, as was the case during the previous general election, and the major parties did not present comprehensive anti-corruption programmes to the voters. The campaign was marked by serious suspicions of vote buying, abuse of powers, forged documents and other irregularities but these were not investigated by the public prosecutor[[26]](#footnote-26). Abuse of promotional resources by public officials was frequent and exposed a serious loophole in the legislation[[27]](#footnote-27). These cases have not been pursued, even when existing laws were apparently violated.

Apart from election of a new government and the Prime Minister's post-election address, one of the important steps taken during the reporting period has been the adoption (during the inter-election caretaker period) of changes to the Action Plan for the implementation of the National Anti-Corruption Strategy for 2013-2018. Some measures were removed from the Action Plan because the government concluded that they had been accomplished, others were transferred to the Action Plan for Chapter 23. This resulted in the total deletion of some measures that had not been fully implemented, the extension of most deadlines (which had already been broken) and a lack of oversight for those measures which are now present only in the Action Plan for Chapter 23. Currently, the Anti-Corruption Agency (hereafter, ACA) is charged with monitoring implementation of the AP for the National Anti-Corruption Strategy. The draft changes to legislation regulating the work of the ACA envisage that the ACA should extend its oversight to implementation of the AP for Chapter 23. Adoption of the changes is, however, nearly two years overdue. According to the AP for Chapter 23, they should be adopted in the third quarter of 2016, however, only a draft for public debate has been published by the end of that period.

Although the **fight against corruption** was proclaimed in April 2014 as one of the **Government’s top priorities**, very little has been done. The Government’s own programme did not recognise all of the major problems and measures necessary to fight corruption.[[28]](#footnote-28) An even greater problem is, however, the fact that the plan was only partly implemented. While some of one-off actions were carried out, with delays, there is no systemic and sustainable change of attitude where needed (such as promises to organise public debates as part of the process of drafting new legislation).

Plans put forward by the new government (which is almost identical to the outgoing government) are a step backwards. The fight against corruption was last on the list of the 10 priorities outlined by the Prime Minister during his post-election address and very little was said regarding the matter. The Prime Minister even claimed that “Serbia successfully implements its 2013 Strategy on the fight against corruption”, although precise indicators show the opposite to be true. In terms of corruption suppression, it is positive that the programme of the new government states issues that are within its jurisdiction, namely the adoption and implementation of specific strategies and laws rather than criminal investigation of individual cases. The importance of reporting more cases of corruption was emphasised by the Prime Minister but measures that should lead to this goal were not elaborated upon.

More attention is devoted to investigation of financial crimes and the reorganisation of public prosecutions. These are measures which could have beneficial anticorruption effects, especially in the cases that were unsuccessful due to a lack of knowledge on the part of prosecutors. The general impression remains, however, that they could have been be applied earlier too (the Strategy was adopted in May, and draft Law appeared in August last year).

The Prime Minister has, for the umpteenth time, announced the adoption of a Law on Origin of the Property. As he presented it, this would be something similar to the cross-checking of property and incomes, which is a legal mechanism that has already existed for 13 years. Support to the Anti-Corruption Agency and adoption of the new law were also mentioned.

Parliament still hasn't discussed conclusions made by its committees on 2014 annual reports submitted by independent bodies (including Anti-Corruption Agency's report on Strategy Implementation) and the Government has not reported on implementation of the parliament's conclusions for the 2013 reports. Reports for 2015 were discussed in committee sessions in late September 2016. Due to the dissolution of parliament prior to the election and the obligations regarding constitution of a new assembly, there was no legislative activity over the last six months.

In regards to **legislation**, major problems include a failure to discuss potential corruption risks and the anti-corruption effects of legislation. These are due to violations of rules on public debates and an absence of a duty to thoroughly analyse such risks, as well as insufficient consistency of the legislative and planning system. The situation has seen slight changed since the Anti-Corruption Agency commented such risks under its own initiative, thus at least triggering parliamentary and public debate prior to the adoption of problematic provisions.

A **large number of plans**, mostly in the Action Plan for Implementation of the Anti-Corruption Strategy (2013-2018), **have remained unfulfilled**[[29]](#footnote-29).Therefore, although deadlines from the Action Plan expired, there have still been no improvements to the **Law on the Anti-Corruption Agency**. The drafting of this law began in March 2015 and there was some progress in the Working Group after initial conflicts and obstructions (partly relating to relations between the Ministry of Justice and the Anti-Corruption Agency) but there are still disputes over some legal concepts. Following the April 2016 election the Working Group did not even convene, however, according to the Prime Minister’s address, the law is soon to be adopted. On 1 October the Ministry of Justice published a draft of the law for public debate. There has been no attempt to amend the **Law on Financing of Political Activities**,as envisaged by the Action Plan. Regarding the **Law on Lobbying**, also to adopted, not even a draft has been published. The **Criminal Code** has not been amended, nor were various laws regulating legislative procedure and the work of the Government and the National Assembly – i.e. the **Law on Free Access to Information** and several laws concerning public finances.

The Government Coordination Body for the implementation of the 2013-2018 National Anti-Corruption Strategy, established with the aim of enhancing the execution of anti-corruption duties, meets only rarely. No information is available on any effects of this initiative. Moreover, in July 2016 the Constitutional Court announced that it would consider an initiative assessing whether the Government’s establishment of a coordination body headed by the Prime Minister is constitutional. In this regard there are several problematic issues including the Government’s attempt to coordinate parliament, the judiciary and independent bodies, inconsistencies with the Anti-Corruption Strategy and the heading of the body by the Prime Minister[[30]](#footnote-30).

The National Assembly also passed a systemic **Law on the Salary System** in the public sector and changes to the Law on Judges, the Law on Public Prosecutors, the **Law on the High Judicial Council** (HJC) and the **Law on the State Prosecutorial Council** (SPC). The latter two introduced the presumption of transparency of HJC and SPC decisions – i.e. binding these bodies elaborate on their decisions, to publish annual reports and to hold public sessions. Even though this represents an improvement in comparison to the previous wording of these laws, there is still no guarantee for transparency since the rulebooks of the HJC and the SPC can envisage an unlimited number of exceptions[[31]](#footnote-31).

One of the most problematic areas for potential corruption is urban planning and construction. While some improvements can be expected in this area – through simplification of the system for obtaining planning permission, permits and other documents – the constitutionality of the **Law on Legalisation** **of Objects** has been called into question[[32]](#footnote-32). Issues also remain regarding the preferential treatment of citizens and firms known to have violated the law in the past, as well as potential influence exerted by big business on some legal provisions[[33]](#footnote-33).

The **Law on Public-Private Partnership** **and Concessions** has been amended. Flaws in that law, identified by the Anti-Corruption Agency[[34]](#footnote-34) in July 2014, have not been removed (this input is partly based on Transparency Serbia research on public-private partnership /PPP/ in Serbia)[[35]](#footnote-35). While some of the changes introduced are useful, there are still many problems, such as insufficient PPP oversight, the unclear status of Commission for PPP, discretionary powers for public partners, lack of clear deadlines, etc.

The new **Law on the Police**, in force since February 2016, has introduced some important improvements, such as mandatory internal calls for high-ranking positions in police departments, greater powers for the Sector for Internal Control (to include oversight of civil servants in the Ministry) and declaration of assets and integrity tests for police officers. However, political influence by the Minister remains possible, especially in the appointment of officials for specific operations or in the delegation of internal control tasks. Furthermore, there remain three separate bodies tasked with control within the police. New anti-corruption provisions are not sufficiently developed and too many issues remain to be regulated through the additional regulatory acts[[36]](#footnote-36).

The **Law on Investments** has been the cause of commentary and public reaction. The Ministry of Economy did not want to initiate public debate about the final version of the draft and the public were only indirectly (as a result of comments made by the Anti-Corruption Agency) made aware of intentions to severely limit rights to the freedom of access to information regarding contracts with investors. This was particularly problematic since such contracts are frequently not made public and prove to be questionable from the perspective of the public interest. Following public reactions by the Commissioner of Information, the ACA, Transparency Serbia and others, the most problematic provision was removed but many others, which remained “bellow the radar” of public oversight, were retained, leaving room for discretionary decision-making processes and, consequently, for corruption[[37]](#footnote-37). The Government of Serbia and the Minister of Economy are free to regulate, through sub-legislative acts, how direct investment is to be attracted and whether a given investment is considered to be of “special importance”.

“**Professionalization of public enterprise management**”– one of the Government’s major goals for the 2012-2016 period – has still not been implemented, even though it has been obligatory under the law for three years. Legal mechanisms for the appointment of directors and members of supervisory committees in public enterprises suffer numerous shortcomings – even so, these mechanisms are not being implemented. The appointment of directors has only been completed for a small number of public enterprises, which means that nobody has been deciding on appointments for the majority of public companies for more than three years. Meanwhile, for some companies, no calls for directors have been announced at all (particularly in cases where high-ranking officials from governing parties hold these posts). The Government continued to keep most existing directors on in their role as “acting directors”. Instead of the implementation of existing accountability mechanisms, the quality of directors is discussed by politicians and the media in an arbitrary manner or through irrelevant arguments. Most public sector reforms failed to tackle public enterprises. In the absence of full implementation, due to a lack of political will[[38]](#footnote-38), the Law has been amended. The Ministry of Economy failed to organise the mandatory public debate prior to these amendments but some consultations were held, particularly with international financial institutions. The new Law rectified some existing shortcomings – for example, by making it mandatory to appoint the best candidate selected after a public call and not from among one of three. The Law has, however, kept transitional provisions that enable party control over public enterprise, preventing the full professionalisation of these appointments, for an unlimited period of time. Specifically, the Law calls for the conclusion of new calls within a year but also mandates the finalisation of 2013 calls without deadline[[39]](#footnote-39). In September 2016, six months after the new Law was passed, there were only two new announcements for directors of public enterprises and none of the outstanding calls from 2013 have been concluded. A governmental decree aiming to regulate the selection process of directors now also covers the local level but retains the same shortcomings as national-level regulation – the selection criteria and the scoring system are clear but not applicable in all instances[[40]](#footnote-40).

**Public sector and political advertisement** rules in Serbia are neither consistent nor sufficient. As a consequence, public resources are wasted and political influence in media achieved through discretionary financing or media discrimination. These problems were identified by the 2011 Media Strategy and Anti-Corruption Council Report and they came to number among the political priorities of 2012 but with no solution implemented. The Government failed to fully resolve this problem during reform of media legislation (in 2012-2014) or through the Law on Public Procurement. Similarly, the new Law on Advertisement focuses only on commercial advertising, thus leaving these problems unresolved[[41]](#footnote-41).

Implementation of new **regulations for the media** has introduced some beneficial effects. Certain problems, identified during adoption process[[42]](#footnote-42), were demonstrated in practice, through unclear competition provisions for financing of programmes of public interest. There were examples of direct violation of the law in distribution of public funds and a complete failure to assign funds for financing public interest content[[43]](#footnote-43). Measures for transparency of media ownership have not resulted in any fundamental progress. There is, therefore, still no reliable information on the ownership of leading print media, while the privatisation of local electronic media and the subsequent allocation of public funds to these companies has initiated new suspicions of hidden political influence.

While laws envisaged by strategic acts have not yet been prepared, top government officials have made several announcements to the effect that Serbia will soon have a new “**Law on the Investigation of the Origins of Property**”. Adoption of that document has not been defined in any of Serbia’s existing strategic acts. On the other hand, there was no announcement that “illicit enrichment” would be criminalised, as foreseen by strategic acts from 2013[[44]](#footnote-44) and based on Serbia’s international obligations[[45]](#footnote-45). A public debate about the law on the origins of property has not been launched.[[46]](#footnote-46) In April 2016, the Minister of Justice once again announced that the law is “almost finished”. In August 2016, when again mentioning the law as a top government priority, the Prime Minister described measures for the cross-checking of assets against income. This mechanism has, however, already existed as part of the legal system (via the Law on Tax Procedure and Tax Administration) for 13 years. Therefore, a thorough comparison of the new law with the existing regulation should be carried out as a first step, together with the analysis of why existing legislation has produced no significant results.

The implementation of the **Law on Whistle-Blower Protection** began in June 2015 but there is no evidence that the number of reported corruption cases has increased significantly. The Prime Minister has claimed that by September 2016 a total of 35 whistle-blowers received protection. According to a statement by the Ministry of Justice[[47]](#footnote-47), there have been 157 lawsuits, 89 of which have been resolved, and that of 40 requests for temporary protection measures, 37 have been accepted. There is no comprehensive data about the number of reported irregularities but this seems to be rather small (i.e. only 15 cases of internal and 5 cases of external irregularities across all ministries)[[48]](#footnote-48). The Law retains numerous loopholes, which were identified through public debate[[49]](#footnote-49).

Unfortunately, the Prime Minister’s promise regarding the drafting of legislation, from his 2014 address, has not been fulfilled: “We will allow business, civil society and other interested parties to participate in all phases of legislation, from concept laws and drafts, to the preparation of sub-legislative acts”. Rules on **public debates have not been improved** in a manner sufficient to make mandatory public and stakeholder discussions of concept laws and sub-legislative acts. The number of draft laws, strategies and sub-legislative acts that are subjected to public debate is, however, larger than in previous years[[50]](#footnote-50). Obligatory debates were not, however, organised in many instances, including laws important to the fight against corruption[[51]](#footnote-51). Even if a public debate is held, this does not guarantee that problems will be identified. In the case of the Law on Investments, a provision that undermines the unity of the legal system pertaining to freedom of access to information was inserted into the draft law only after the public debate and was not removed even after warnings from the Anti-Corruption Agency, the Commissioner for Information and others. All of this took place well before draft reached parliament for approval[[52]](#footnote-52).

In April 2014, the Prime Minister announced the establishment of “**strike teams** for prosecution of organised crime and corruption”. He offered, however, no explanation of the legal nature of these teams. A Draft Strategy for Financial Investigations was presented in May 2015, mentioning the use of these “strike groups” for investigation of large corruption cases[[53]](#footnote-53). The legal basis for establishing such bodies can be found in changes to the Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime, Corruption and Other Severe Criminal Offences, announced in September 2015. Although the draft of this act contained some loopholes, it can be expected that its adoption will bring positive effects through financial investigations and greater specialisation of public prosecutors and other institutions[[54]](#footnote-54). No information is available, however, regarding the outcome of this public debate and the changes have not even been proposed to parliament. These measures were announced again in August 2016, as part of the Prime Minister’s address, followed by further media announcements by government representatives.

There is still no comprehensive information on what has been determined with regards to 24 reports produced by the Government’s Anti-Corruption Council between 2002 and 2012. The Council obtained some information on the outcomes of relevant criminal investigations[[55]](#footnote-55) but there has been reaction by the government in terms of producing recommendations for systemic reform. Similarly, there is no information on the basis of which one may conclude that the Government has begun to systemically discuss reports issued by the Council’s after 2012.

Furthermore, unlike that of 2012 and the 2013 Anti-Corruption Strategy, the Prime Minister’s 2014 and 2016 addresses **made no mention of** **relations between the Government and decisions and recommendations of independent state institutions**. In his August 2016 address, the Prime Minister mentioned the Anti-Corruption Agency, promising “full support” and willingness to make amendments to legislation governing this body (the very same thing that the same government failed to do during the its previous three years in power). The situation has worsened further still over the past 18 months. The adoption of parliamentary conclusions on annual reports issued by independent organs in 2014 has not resulted in any changes in practice[[56]](#footnote-56). The Government ignored its obligation to report on undertaken measures to the National Assembly within six months and National Assembly has not questioned this failure. During 2015, parliamentary committees adopted “weaker” conclusions and the National Assembly failed to even discuss this issue. In 2016, the parliamentary committee discussions began only in September, long after the conclusion of parliamentary elections. The Parliament failed to elect two absent members of the Anti-Corruption Agency’s Board (proposed by non-political bodies), thus effectively exposing the Agency to higher political influence and, at a minimum, obstructing its work. Similarly, most parliamentarians even went so far as to violate the parliamentary rules so as to avoid appointing an independent candidate to the Regulatory Body for Electronic Media[[57]](#footnote-57).

The Prime Minister’s 2014 address contained **plans for rationalisation** of the public sector, conclusion of public enterprise restructuring, a decrease of the budget deficit, curbing of the informal economy, the launch of e-government and a reduction in the time it takes to apply for planning permission. While there was some progress in these areas, which may also be of relevance for the fight against corruption, there were no visible changes regarding the “decreased number of employees in the public sector… especially of those that are appointed with the help and influence of political parties” and implementation of the functional analysis that should precede this. On the contrary, even rhetoric about cuts in the public sector has changed significantly and no such action has taken place.

Expectations that the status of **civil servants on posts** will be finally organised in accordance with the Law on Civil Servants were not fulfilled. In many instances the Government continued to appoint “acting civil servants” and has not yet awarded posts on the basis of competitive recruitment. An illustration of this problem is the Director of Police, Mr Milorad Veljović. He was retired on 31 December 2015 but without clear information about if this was mandatory or why he was appointed in for a five year term in March 2013. Subsequently, the recruitment procedure for a new director was initiated only in September 2016. Furthermore, the current acting director, the head of the traffic police, has also been head of most important police department, the Criminal Force Directorate, for several years. This approach demonstrates lack of will on behalf of the Government to implement rules on the depoliticisation of administration and disavows this concept as a whole.

While there have been some small improvements, usually coming with new legislation and technical progress (i.e. the publishing of certain information on websites is almost the rule with every new law), there has been no substantial or systemic progress in the **transparency of public authorities**. There have also been some questionable decisions, such as changes to the Decree on the Work of State Administration, which introduced new grounds for secrecy[[58]](#footnote-58). In the Prime Minister’s August 2016 address, it was announced that there would also be some transparency measures in sectoral reforms (customs, education, permits etc.). In March 2016, the Government seemingly changed its practice of ignoring the Law on Free Access to Information and responded almost immediately to the dozens of requests for information to Transparency Serbia and other applicants, following their lawsuits and the rulings of the Administrative Court[[59]](#footnote-59). The list of decisions by Commissioner that have not been acted upon is part of this institution’s annual report but the National Assembly and the Government have yet to resolve outstanding issues. While the Ministry for Public Administration had done some preparatory work relating to amendment of the Law on Free Access to Information, this was not considered a priority by this body. There is no clear concept of changes nor a Working Group officially established.

There were no changes to the **Law on Public Procurement,** other than those suddenly made in the summer of 2015[[60]](#footnote-60). Results from the implementation of existing anti-corruption provisions in this Law have been very limited due to the shortcomings of certain provisions and, to a greater degree, due to limited supervisory capacities, primarily of the Public Procurement Office. The mechanism for sanctioning infractions remains problematic due to inconsistencies between the Law on Public Procurement and the Law on Misdemeanours. Furthermore, even the Strategy for Promotion of the Public Procurement System and short term action plan do not identify all of the important problems in this area[[61]](#footnote-61). However, some progress was noticeable in Supreme Audit Institution Report. Although the sample is not representative, the share of irregular public procurements identified by the 2015 audit saw a decrease in comparison to previous years.

Significant loopholes are evident in the implementation of rules on **awarding state benefits to investors[[62]](#footnote-62)**, in regards to the scope of existing regulations, control mechanisms and inconsistencies in the implementation of existing regulations. While “control of state benefits” is in most instances formal, there are the cases where it is obvious that there was no control at all. This was the case with a contract that awarded state incentives to Chinese investor, Mei Ta, where the subsidy contract refers to a State Aid Commission decision, issued three months after the contract was awarded[[63]](#footnote-63). The policy of awarding high subsidies has continued. Cost-benefit analyses are not prepared for invested funds and politicians publically proclaim calculations of benefits that are not grounded in fact[[64]](#footnote-64).

In the area of **suppression of corruption, as in previous years, the Government** tried to demonstrate a willingness to fight corruption mostly through high-profile arrests. A new development, however, is the practice of arresting large numbers of individuals in a single day through unified police operations, even when there are no obvious links between those arrested and the criminal offences they are suspected of. The idea behind such actions is largely promotional. The first such operation came at the very end of 2015.[[65]](#footnote-65) Some of the alleged abuses were up to 10 years old. Announcements of the arrests again gained traction in the tabloid press. The Minister of Interior appeared at a press conference to report on the police operation. An official from the Criminal Force Directorate later that day stated that “there were complicated investigations with time needed to collect evidence necessary for further action by prosecutors” and that, “the timing of the arrests is decided in order to send, on the basis of EU Commission and Government of Serbia recommendations, a preventive massage to the directors of public enterprises and local governments, and to the representatives of private enterprises working with public bodies to comply with the law and that everything will be fine”. This might be a sign that an EC remark about Serbia’s poor track record in cases of high-level corruption had been somewhat misinterpreted.

The second instance of such ‘mass arrests’ occurred in March 2016, during the election campaign[[66]](#footnote-66). Again, it was the (then caretaker) Minister of Interior who reported the results of the operation. As with the first operation, the cases of alleged corruption were not interrelated. It is notable that in these recent cases alleged abuse of the office and other offences did not include charges of bribery of officials, which might be a result of a lack of evidence.

*The work of the CINS investigative shows that Serbia’s struggle with corruption mostly boils down to three criminal offences: embezzlement (982 criminal investigations initiated), abuse of office (2,361 investigations) and abuse of office by a responsible official (2,098 investigations) – the latter offence being introduced with amendments to the Criminal Code[[67]](#footnote-67) in 2012. It should be noted that some offences nominally designated as “corruption” in police statistics are questionable. For example, “abuse of office by a responsible official” does not, in most of cases, involve a public official but violation of the regulations governing the management of a private company. Between 2013 and the end of 2015, 6,179 persons were reported to the Ministry of Interior for these three felonies and. according to data from prosecutors’ offices which answered the FOIA[[68]](#footnote-68) requests, almost three thousand persons were indicted.[[69]](#footnote-69) According to data by basic and higher courts of Serbia, 1,861 fines were handed out, with more than one fine per person (suspended sentence and fine), so the total number of persons sentenced was around 1,500. Of the total number of sentences, most are suspended sentences (1,268).[[70]](#footnote-70) According to data gathered by the Ministry of Interior, from the beginning of 2013 to the end of 2015, acts of corruption analysed by CINS, 354 persons were arrested, out of 6,179 reported to the police. Most of these cases were processed by low-level courts and public prosecutor’s offices, responsible for processing less serious offences resulting in fines or up to ten years of imprisonment. The ‘larger’ cases are prosecuted by the Special Prosecutors Office for Organised Crime and the Special Department (for Organised Crime) of the High Court in Belgrade, which has passed around 200 sentences in the aforementioned period. A revealing example is the statistics for three largest cities in Serbia: the Higher Public Prosecutors Office in Belgrade has, for embezzlement and the two forms of abuse of office, processed 1,376 reported persons, but brought arraignment or charges against only 362. In Novi Sad, the ratio is 843 to 68 and, in Niš, 210 to 72.*

While occasional announcements were made by individual ministers about the reporting of corruption, there has been no campaign that would encourage citizens to do so. Legislation protecting whistleblowers has brought little or no change in that regard. Public prosecutors, in charge of criminal investigations of corruption and other crimes, have done even less, showing insufficient interest in even publically available information that indicates corruption. While it is true that prosecutors need more resources to fight corruption more successfully, the main problem is the lack of will to do so, as clearly demonstrated in the failure to investigate the landmark ‘politically sensitive’ Savamala case.[[71]](#footnote-71) Furthermore, in such cases, Government representatives and pro-government media go to great lengths to discourage NGO activists, the media and even those public officials ready to point out serious flaws in rule of law[[72]](#footnote-72).

During the reporting period, **there were no final convictions** in high-level corruption cases, nor publically visible final rulings for violations of the Law on the Anti-Corruption Agency or the Law on the Financing of Political Activities. Some previously initiated criminal procedures are still in progress. In some instances, cases with no elements of corruption are presented to the public (mostly in a political context) as instances of the suppression of corruption[[73]](#footnote-73). The Agency has initiated several procedures for violation of rules on conflict of interest against serving ministers. The State Audit Institution conducted its first audits of political subjects (the three most powerful political parties). Parliamentary elections were organised in the spring of 2016 with no clear outcome of the investigation of alleged abuses and vote buying that occurred during the 2012 elections.

There were significant **changes to law enforcement bodies**, all of them problematic. As previously mentioned, in December 2015 the Government dismissed the Director of the Police, also in charge of the Criminal Force Directorate.[[74]](#footnote-74). The selection process of the new Prosecutor for Organised Crime can be characterised, at a minimum, as controversial. The winning candidate, former attorney in law, Mladen Nenadić, scored significantly higher in the testing for the more demanding office (he was also tested for the post of local public prosecutor in his hometown, Čačak) and is allegedly close to the ruling party.[[75]](#footnote-75) The State Prosecutorial Council left too much room for further government intervention in the process of proposing of candidates for public prosecutor offices and they were, in the end, selected from a list by the National Assembly (SPC could have decreased such political influence by providing the candidates’ scores). Significant changes were also made to the organised crime department of the Belgrade High Court – one of the court’s most experienced judges, Vladimir Vučinić, resigned from his post, citing pressure from the court president and a lack of protection from the High Judicial Council.[[76]](#footnote-76)

Generally speaking, when it comes to suppression of corruption, trends evident from previous years have continued – i.e. a small increase in the number of detected and processed cases. There is no practice of publishing these data regularly (the latest Prosecutors’ Report, made available in September 2016, was for 2014), and registers of various institutions remain incomparable and insufficiently informative.

Recommendations

* Since the process of revising the 2016 Action Plan for Implementation of the Anti-Corruption Strategy was not consultative and further constrained the potential benefits of the Strategy’s implementation, the National Assembly should ask the Government to re-open the revision process and to base it on the Anti-Corruption Agency’s report.
* The process of negotiations and transparency of information **pertaining to the signing of international agreements and credit arrangements must become more transparent**, so that parliamentarians (MPs) and the public can have an insight into **whether the potential benefits are greater than the damage that occurs due to the non-implementation of regulations on public procurements and public-private partnership**
* **The Criminal Code** **must be improved** in order to ensure a more effective legislative framework for curbing corruption through the incorporation of “illicit enrichment”, based on UNCAC’s Article 20, revision of criminal offences of bribery, bribery related to voting and offences related to declaration of assets, public procurement and party financing, as well as by criminal sanctioning of reprisals against whistle-blowers
* To clearly define the **jurisdiction and authorities of anticorruption state organs:** In that sense it is especially important to organise the powers of the Government Coordinator for the Fight Against Corruption, if this concept is to be retained, removing of **overlapping jurisdictions** between the Government Coordination Body and the Anti-Corruption Agency (when it comes to prevention), or the police Office for the Fight against Organised Crime and Corruption and the security services (when it comes to detecting cases of corruption)
* The Government should regularly **consider the reports and recommendations of its Anti-Corruption Council** and undertake measures to resolve problems these reports identify. When the Council publishes its reports, the Government should inform the public of action taken to resolve systemic problems (e. g. changes to regulations), individual problems (e. g. accelerating or cancelling procedures, dismissal of accountable leaders, inspection or criminal charges) or further verification of the facts.
* Amendment of the Constitution is necessary to narrow existing broad immunities from criminal prosecution, decreasing the number of MPs, redefining the status of independent state bodies, setting up a barrier to violation of rules on use of public funds through excessive borrowing and international contracts, better organisation of resolving conflicts of interest and provision of firmer guarantees for transparency.
* Harmonisation of the Laws on Public Procurement and Misdemeanours, in order to improve the mechanism of sanction violations of public procurement procedure
  + 1. *Anti-corruption policy in the police*

**Limited progress has been made in developing police integrity in Serbia.** The transparency of the Internal Affairs Sector within the Ministry of Interior has increased. In March 2016, for the first time since its creation in 2005, the Internal Affairs Sector published a comprehensive report on its activities for the preceding year.[[77]](#footnote-77) In 2015, the Internal Affairs Sector pressed 168 criminal charges against 173 police officers and 65 civilians, an increase of 13.5 percent compared to 2014. The charges covered 335 crimes, the most common of which were bribery (111) and abuse of office (86). The report clearly shows and officially confirms the main challenges faced by the Internal Affairs Sector: poor cooperation with regional police directorates, insufficient capacities for the application of special investigative techniques and a lack of human resources.

There has still been no progress in unifying the police internal control system. There are no clear distinctions between the jurisdictions of the Internal Affairs Sector, the Department of Control of Legality within the Police Headquarters in Belgrade and the Police Administration, the Department of Control of the Legality within the Gendarmerie and the Department for Complaints. The new Law on the Police, in force since February 2016, brought new anti-corruption measures such as the declaration of assets and integrity tests. These are not sufficiently developed, although they can contribute to reducing corruption in the police. The sub-legislative acts that operationalise the work of the Internal Affairs Sector and the implementation of new anti-corruption measures have not been adopted. The deadline for this expires in February 2017. There has been no public debate about the legal framework on the new anti-corruption measures.

The application of integrity test causes a number of dilemmas because it may limit the rights of inviolability of the place of residence, confidentiality of correspondence, the right to work, the right to equal protection, and the right to a fair trial. [[78]](#footnote-78) The Constitution requires that these rights be restricted by primary legislation and not a sub-legislative acts. The Law on the Police does not at all recognise the prosecution and the judiciary as actors in the implementation of integrity testing. In addition to providing legal regulation, it is also necessary to eliminate any doubt regarding the work of the Internal Affairs Sector. The Sector is currently not operationally independent. Namely, the Head of the Internal Affairs Sector is accountable for his work and the work of Sector directly to the Minister of Interior, a political figure. In addition, the Minister provides the Sector with guidance and binding operational instructions, thus directly controlling the work of employees within the Sector.

Two main problems have been identified in the last six months. Firstly, there is a noticeable four-month absence of a reaction by the Internal Affairs Sector regarding the findings and recommendations issued by the Ombudsman’s Office on the failure of the police to respond to requests for assistance made by members of the public during the previously mentioned illegal demolition of buildings in Belgrade’s Savamala quarter. The High Public Prosecutor’s Office in Belgrade has requested the application of control proceedings by the Internal Affairs Sector. To this day, it is unclear why the police refused to respond to requests for assistance, even though it was evident from the recorded conversation that a police phone operator told one of the callers that an order had come “from the top” to redirect calls to Communal Police. Also, the High Public Prosecutor’s office refused to publish the name of the prosecutor in charge of the case, justifying this with his right to privacy and protection from third party pressure.[[79]](#footnote-79)

Secondly, it is often the case that information, believed to be in the possession of police, is leaked from this institution, published or forwarded to certain individuals. The said information is usually subject to manipulation, often for the narrow interests of political parties instead of for the purposes of tackling crime or corruption. It appears[[80]](#footnote-80) that the newly established Department for Security and Data Protection should be resolved to prevent information leaks from the police. However, two issues remain problematic. The Department for Security and Data Protection is not equipped to prevent political abuse of information from the police – this only seems plausible if the Department’s personnel refuse to execute the tasks that are not in line with positive law. From an organisational perspective, the Department is directly subordinated to the Minister of Interior, a member of the executive and, in most cases, a member of the ruling party. Moreover, with the creation of the new Department, the internal control mechanisms of the Ministry of Interior are becoming even more convoluted. This Department is fifth organisational unit within the Ministry that has internal control functions. The Law on Police (Art. 225) clearly proscribes that the Internal Affairs Sector is the only responsible unit for controlling the legality of the work of the Ministry’s employees.

Recommendations

* The 2015 strategic priority for the Ministry of Interior on strengthening the accountability of the police and internal control mechanisms designed to suppress corruption in police ranks needs to remain a top priority within the police reform process
* It is necessary to ensure the transparency and commitment to the continuing reform of the police in establishing a system of internal control and regulating the application of new anti-corruption measures
* The Internal Affairs Sector should conduct internal control procedures and investigate command responsibility resulting in a failure to respond to calls for assistance and should inform the Ombudsman Office and the public accordingly
* The competences of the newly established Department of Security and Data Protection for resolving the problem of information leakage from the most sensitive police investigations need to be transferred to the Internal Affairs Sector
  + 1. *Conflict of interest*

There has been some improvement in the legal framework and implementation of rules designed to prevent conflicts of interest but far from what was considered necessary and even what was planned. Since the Law on the Anti-Corruption Agency was not changed, there has been no progress in implementing recommendation 2.2.3. (*Improve the legal and administrative framework to prevent and deal with conflicts of interest. Ensure the concept is well understood at all levels)*, the only activity conducted and reported by the Ministry of Justice in its quarterly report[[81]](#footnote-81) is training conducted on “Prevention of conflict of interest in public administration” and attended by nine participants. According to the EU recommendation, continuous training on conflict of interest should prevent conflict of interest and ensure its understanding at all levels of national and local government, including in public enterprises. This number of participants is not enough to be seen as a strategic and organised approach to conflict of interest prevention. Furthermore, it is also not known who the nine participants attending the training were.

Overall, the strategic framework for conflict of interest prevention and resolution experienced backsliding. The intended introduction of comprehensive rules covering conflicts of interest for all public sector employees (from the 2013 AP for the Anti-Corruption Strategy) was omitted from the 2016 AP in favour of a provision dealing with civil servants only. It is therefore not known whether conflicts of interest of employees in various public services and public enterprises will be regulated at all as part of these reforms.

There were several adopted laws which may have either positive or negative impact on the fight against corruption and, therefore, on combating conflicts of interest. The new General Administrative Procedure Act, adopted in February 2016[[82]](#footnote-82), improved rules for the resolution of conflicts of interest and simplified communication between the public authorities and citizens, thus decreasing the risk of corruption[[83]](#footnote-83). The Law on Civil Servants in Autonomous Provinces and Local Government[[84]](#footnote-84) introduced conflict of interest prevention, rules on reporting gifts and additional employment for this part of the public sector, as well as recognising recommendations made by the Anti-Corruption Agency as grounds to dismiss civil servants.

Out of 97 state institutions to which the Anti-Corruption Agency sent recommendations to suspend officials, 54 have answered FOIA[[85]](#footnote-85) request in which CINS journalists asked if the official in question was indeed suspended. Of these 54, only in 11 cases were officials actually suspended (a little over 20%). In 23 cases, the officials were simply not suspended, while the rest of the cases represent a mix of the recommendation not being decided upon, officials resigning on their own initiative or officials being suspended for reasons not related to the recommendation of the Agency. The recommendation for suspension is just a final stage of the Agency procedure against officials for different breaches of Anti-Corruption Agency Act[[86]](#footnote-86). It is most often applied if officials employ relatives, pay for the services of their private companies with public money or perform several public offices at the same time. One of the examples shows the local council of the Ćićevac municipality voting against the suspension of the Director of the local Public Health Clinic, Zoran Milivojević, who employed his two sons without informing the local council of a potential conflict of interest. The municipality of Babušnica has paid over 4 million RSD (over 32,000 EUR) to a company owned by Saša Stamenković, the brother of Srdjan Stamenković, who previously owned the company and has issued cash orders for purchases from public funds as Municipality President (mayor). Although he failed to inform the local authority or the Agency of this and was recommended for suspension in November 2015, the local authority failed to deliberate on the recommendation by the Agency on three occasions because there were too few party representatives present at council meetings. They would simply leave the session and return after the voting had failed[[87]](#footnote-87).

The Anti-Corruption Agency has processed every one of every five deputies in the National Assembly convened after the 2016 election[[88]](#footnote-88). Out of the 51 processed deputies, most are from the Serbian Progressive Party (SNS), 13 from Socialist Party of Serbia (SPS), 9 from Social-Democratic Party of Serbia (SDP) and 3 from the Democratic Party (DS). The Agency has processed 43 deputies for suspicion of not filing property and income reports on time or for intentionally concealing assets, while four deputies have allegedly failed to report their new position or terminate their previous one. The rest of the procedures were conducted for deputies failing to renounce the management of their private companies, receiving gifts, not transferring managerial rights in their private companies to a “third person” and managing private companies at the time of being appointed to public office. In all the cases which ended up before misdemeanour courts, fines adjudicated were at the legal minimum or below. Of 29 verdicts, 14 officials were fined 50,000 RSD (around 400 EUR), while in three cases the fine was 20,000 RSD (around 160 EUR). On four occasions officials were warned and in eight instances the cases were dismissed. In order to ascertain the number of deputies failing to comply with the law, CINS reporters collected data on 1,500 officials against whom the Agency has brought action since it was founded, as this kind of data is not collected by the Agency. CINS has published the database with all the legal actions against officials, including the outcomes of prosecutions[[89]](#footnote-89).

Regarding the area of **public procurement**, some changes are necessary in order to make progress in combating the conflict of interest. It seems, however, that this area is not adequately regulated and that certain changes to the relevant legislation have to be undertaken. Namely, it is necessary to harmonise different acts and their provisions that pertain to this area. The Law on the Anti-Corruption Agency and the Law on Public Procurement have to agree on the definition of a conflict of interest so as to avoid misunderstandings and conflicting interpretations. Moreover, this new definition should encompass a broader range of officials than the number current law.

Furthermore, it is necessary to establish or authorise a particular institution (or department within an existing institution) that would in an efficient and effective way deal with the prevention of conflicts of interest in the public procurement system. In addition, given the amount of money that corruption ‘consumes’ in public procurement, it is really necessary to increase the volume of cases in which the possible existence of a conflict of interest would be controlled, rather than limiting the number of cases by application for protection of rights. Therefore, it is necessary to significantly strengthen the capacity of all the bodies that currently have competences in this field (and particularly the Anti-Corruption Agency) or to introduce new actors that would be provided with adequate powers and capacities to do this work. In order to make further progress in this area, it is also necessary to organise additional training and capacity-building for the staff of those institutions authorised with combating conflicts of interest.

In respect of the **security sector**, namely the police, no progress has been made in tackling conflicts of interest. The Law on the Police, adopted in January 2016, made some progress in prevention of conflict of interest by prescribing the general principles that define police activity and activities that commercialise professional police knowledge and skills as incompatible with police work, in the event that they influence the professional autonomy of police personnel. Nevertheless, it failed to define a precise list of concrete activities that can cause this conflict or influence said autonomy and it is left to be determined by regulations passed by the Minister. As with all other sub-legislative acts crucial for the fight against corruption, these regulations have not yet been passed by the Minister.

Other newly introduced anti-corruption measures in the police include a corruption risk assessment for personnel, to be conducted by the Anti-Corruption Agency. This includes risk identification, a risk register and a plan for the management of these risks. Since conflicts of interest can represent one of these risks, using this mechanism to decrease the chances for conflict of interest within Ministry of Interior should also be considered. Problems can arise because regulations passed by the Minister will govern this provision. Also, additional regulations have not been adopted since last prEUgovor report. It is, however, still necessary that the Ministry defines concrete activities that can be deemed incompatible with police work and that commercialise professional police knowledge. Also, the corruption risk assessment for employees in the police needs to be developed and conducted by the Anti-Corruption Agency.

When it comes to suppression of corruption and organised crime, there have been significant changes in the leadership of institutions tasked with law enforcement – all of them controversial. It was previously mentioned that appointments of the Director of Police, as well as the selection process of new Special Prosecutor for Organised Crime were both controversial. Once again, too much space has been left by the State Prosecutorial Council for further government involvement in the process of proposing candidates for public prosecutor offices.

Recommendations

* Improve Constitutional provisions on conflict of interest and harmonise currently incompatible rules for various public officials
* Regulate the conflicts of interest of employees in the public services (health, education, culture) and public enterprises
* Improve rules for the prevention and resolution of conflicts of interest through changes to the Law on Anti-Corruption Agency and laws regulating the work of civil servants at all levels
* Further develop profession and function specific conflict of interest rules where necessary (e.g. for members of parliament, police officers, etc.)
* Harmonise definitions of the conflict of interest in the Law on Anti-Corruption Agency and the Law on Public Procurement
* Transfer all the competences of detecting and assessing conflicts of interest to one single body, potentially the ACA, or harmonise skills and practices of the various existing bodies through training organised by the ACA
* Proactively publish more information about the implementation of conflict of interest prevention and resolution rules
  1. **Fundamental Rights**
     1. *Personal data protection*

No progress has been made in the area of personal data protection. This was also confirmed by the latest statement from the Commissioner for Information, from the beginning of September 2016.[[90]](#footnote-90) The Commissioner continuously makes public his concern regarding delays to the adoption of the Action Plan for Implementation of the Strategy for Personal Data Protection and a new Law on Personal Data Protection, which was submitted by the Commissioner to the Government and Ministry of Justice in October 2014.

Almost a year since publishing the draft Law on Records and Personal Data Processing in Internal Affairs, this Law was not adopted or the draft law amended. The Ministry of Interior made no progress in responding to the objections[[91]](#footnote-91) which came from civil society. These objections refer to a lack of coherency with the Law on Personal Data Protection, imprecise definition of the proportionality principle in collecting, holding, processing and using personal data and the harmful definition of police collecting data in the community.

As part of the EU accession process, state actors should follow recommendations made by the previous prEUgovor report: use already developed proposals for necessary change in personal data protection; adopt the Action Plan for the implementation of the Strategy for Personal Data Protection and the new Law on Personal Data Protection; adopt a new Law on Records and Personal Data Processing in Internal Affairs and take action in amending provisions which can lead to unlawful sharing or misuse of personal data.

* + 1. *Access to information of public importance*

There has been no substantial and systemic progress in the area of **transparency of public authorities**. While there were small improvements, usually coming with new legislation and technical progress (i.e. publishing of certain information on websites is almost the rule for every new law).

In the Prime Minister’s August 2016 address, it was also announced that there would be some transparency measures in sector reforms (customs, education, permits etc.). In March 2016, the Government seemingly changed its practice of ignoring the Law on free access to information and responded almost at once to the dozens of requests for information to Transparency Serbia and other applicants, following their lawsuits and rulings by the Administrative Court.

However, there is no practice of publishing important documents, such as international agreements related to the dealing with huge public resources, neither proactively, nor upon request. Therefore, some important annexes of the Air Serbia contract, the Belgrade Waterfront arrangement and the Smederevo Steel Mill management agreement are still not available. The latter example is the most striking, as access was denied even to the state’s independent oversight body, the Commissioner for Information of Public Importance. The list of not executed decisions of Commissioner is part of its annual report, but the National Assembly and the Government have not resolved these problems. On the other hand, even though Ministry for Public Administration conducted some preparatory work relating to the changes of the Law on Free Access to Information, it was not priority for this body. There is no clear concept of changes nor a Working Group officially established.

Furthermore, there was backsliding in the access to information of public importance as the Government adopted two sub-legislative acts that lower the level of access to public information established by the Constitution and laws governing access to information of public importance and confidentiality. The first of these acts is the Regulation on Office Operation of State Administration Bodies that introduces a new category of classification “official” (in Serbian “*službeno”*) into the existing classification of data secrecy set by the Law on Confidential Data. This restriction of access to the information was introduced without clear criteria for labelling documents with that new category and contrary to existing Law on Confidentiality of Data that recognises distinct categories (Top Secret, Secret, Confidential and Restricted) in line with the EU standards. This limitation of freedom of access to information at the level of sub-legislative acts is a violation of the Constitution and laws of the Republic of Serbia. The Commissioner reacted by asking the Government to abolish the new regulations,[[92]](#footnote-92) and Government’s Anti-Corruption Council submitted an appeal[[93]](#footnote-93) to Constitutional Court to assess legality and constitutionality of the regulations highlighting that “this does not only endanger the right to access information of public importance, which is guaranteed by the Constitution and laws, as it also enables concealing information important for the fight against corruption”[[94]](#footnote-94).

Additionally, the Government adopted a Conclusion regarding Preparation of Negotiation Positions in the EU accession talks[[95]](#footnote-95) enabling use of the “official” classification in the EU accession process. According to this new regulation, all negotiation positions will be classed as “official” thus not being available to the public until the opening of Chapters. This will limit the participation of civil society and interested groups in consultations over negotiation positions and policies during accession talks.

Recommendations:

* Ensure implementation of all final decisions made by the Commissioner to provide access to information
* Introduce the practice of proactive publishing of all important documents, including all government contracts and related analyses
* Ensure the publishing of data in a machine-readable format, whenever possible
* Accelerate adoption of changes to the Law on Free Access to Information, on the basis of the 2011 draft, and ensure all standards of citizens’ rights achieved to date
* Abolish the category of “official” information (in Serbian “*službeno”*) in all secondary legislation and align the Regulation on Office Operation of State Administration Bodies with the freedom of information guaranteed by the Constitution and those categories defined by the Law on Data Confidentiality
  + 1. *Principles of non-discrimination and the social position of vulnerable groups*

***Violence against Women.*** *The**Ombudsman’s report on cases of femicide in Serbia stated that in 12 out of 14 cases there were serious omissions and misconduct in the work of the relevant institutions which did nothing or did not do enough to protect the lives of women. The Ministry of Justice is drafting a Law on the Prevention of Domestic Violence which will introduce emergency protection measures in the form of police powers to evict the perpetrator from the family home and prohibit contact with the victim for a period of 48 hours (which can be prolonged by a court, at the prosecutor’s request, for up to 30 days). Women’s rights NGOs in Serbia have not received funds gathered from deferred prosecution on the call for proposals issued by the Ministry of Justice.*

In the first 7 months of 2016, 18 women were killed by their partners, ex-partners and relatives and one mass killing related to femicide took place[[96]](#footnote-96). That was the third femicide related mass killing in Serbia in the last three years. In the mass killing that happened at the beginning of June 2016, in the small municipality of Žitište near Zrenjanin, five people were shot and killed, including the ex-wife of the perpetrator, and 22 people were wounded[[97]](#footnote-97). The Minister of Social Policy stated that social services were not aware of previous violence by the perpetrator, even though the father of the murdered woman stated that he himself reported violence to them[[98]](#footnote-98). The Ombudsman, in his report on 14 cases of femicide, including this mass killing, revealed that this statement of the Minister of Social Policy was false. After that Minister of Social Policy admitted that social services had previous information of violence but continued to minimise their responsibility in this case[[99]](#footnote-99). Women’s NGOs wrote a letter of protest asking for the Minister not to be selected again in the new Government[[100]](#footnote-100) but with no effect. The Ombudsman’s report on cases of femicide in Serbia stated that in 12 out of 14 cases there were serious omissions and misconduct in the work of the relevant institutions which did nothing or did not do enough to protect the lives of women. The Ombudsman issued 45 systemic recommendations to the Ministry of Interior, the Ministry of Social Policy, the Ministry of Health and to the Secretariat for Social Policy of the Autonomous Province of Vojvodina[[101]](#footnote-101). The Ombudsman also issued 59 systemic recommendations in 45 cases of domestic violence and abuse of children, regarding which monitoring procedures had been conducted[[102]](#footnote-102), to the same ministries and Provincial Secretariat, finding the same omissions and misconduct of most institutions in all these cases. Except of three cases of femicide in which the Police Directorates conducted disciplinary proceedings and sanctioned police officers with a 20 percent reduction of salary for one month[[103]](#footnote-103), other ministries and institutions did not even initiate disciplinary proceedings against their employees.

In June 2016, the Ministry of Justice announced a call for proposals for funds gathered from deferred prosecution. A significant amount of these funds was gathered from deferred prosecution in domestic violence cases (in 2014, 51 percent of cases in which prosecutors in Serbia rejected criminal charges for domestic violence, in at least 15.2 percent[[104]](#footnote-104) of these cases they deferred criminal prosecution). If the minimum amount of payment for humanitarian purposes is approximately 320 EUR, it can be concluded that at least 192,000 EUR[[105]](#footnote-105) was gathered from perpetrators of domestic violence. The Commission of the Ministry of Justice did not grant funds to a single women’s NGO in Serbia that provides services to victims of violence against women[[106]](#footnote-106).

The Ministry of Justice is drafting a Law on the Prevention of Domestic Violence, which will introduce emergency protection measures in the form of police powers to evict the perpetrator from the family home and prohibit contact with the victim for a period of 48 hours (which can be prolonged by a court, at the request of a prosecutor, for up to 30 days)[[107]](#footnote-107). A representative of the AWC is a member of the Working Group. While the pre-draft was in public debate, the AWC also sent its comments and amendments on almost all articles of the law, claiming that the proposed procedure will be too complicated[[108]](#footnote-108). On 15 July 2016, the then caretaker Prime Minister held a meeting with 3 Ministers (of Justice, Interior and Social Policy), the Director of Police, the State Prosecutor and representatives of two NGOs[[109]](#footnote-109), with the aim of agreeing measures to enhance and improve the protection of victims of domestic violence and other forms of gender based violence. After the meeting it was publicly announced that the Law on the Prevention of Domestic Violence and changes to the Criminal Code will be adopted by the end of the year[[110]](#footnote-110). The AWC issued a press statement calling for the state system to be efficient and responsible, and not to depend on one man[[111]](#footnote-111).

Before the final adoption of the Action Plan for Chapter 23, Activities 3.6.1.6 and 3.6.1.7 were moved to the third quarter 2016. The Ministry of Justice, with support from the Policy Legal Advice Center (PLAC), conducted a detailed analysis of the alignment of criminal justice legis­lation with the *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence[[112]](#footnote-112)*. The Ministry announced to the press that changes to the *Criminal Code,* in line with the provisions of the Council of Europe Convention, have been prepared and that new criminal acts will be introduced: gender harassment (instead of sexual), stalking and female genital mutilation[[113]](#footnote-113).

The First report on implementation of the Action Plan for Chapter 23[[114]](#footnote-114) stated that the activities related to community policing and the appointment of specially trained and selected police officers as contact points for socially vulnerable groups (women, victims of domestic violence, LGBT persons and any other vulnerable group) are being implemented successfully. The Government adopted a Community Policing Strategy and respective Action Plan for implementation in 2015 and 2016[[115]](#footnote-115). The Strategy itself calls upon the CEDAW Convention but the Action Plan has only one planned activity in which women are mentioned: informative participatory programs for community members regarding (different types) of security, including violence against women.

The Council reported on a number of realised activities but they were predominately based on project funding and were carried out in a small number of municipalities (3 out of 15)[[116]](#footnote-116). Besides activities related to the LGBTI community, which were actually planned and realised by the women’s LGBTI organisation, Labris, and activities promoting Security Councils at local level, other activities, including work in multi-ethnic and multicultural communities were rare. The Report contains no data on the appointment of specially trained and selected police officers as contact points for women who are victims of domestic violence and partner relationships.

# *Rights of the child*

*The Committee for the Rights of the Child sent a list of issues pertaining to the second and third periodic reports issued by the Republic of Serbia. After seven months the Working Group of the Ministry of Social Policy published a report on public discussion of the* Law Governing Financial Support to Families with Children*, without presenting a new and improved draft. The Working Group of the Ministry of Justice did not publish a report on public discussion on the draft of the new Law on Juveniles that was conducted eight months previously.*

The Committee for the Rights of the Child sent its list of issues on 10 June 2016[[117]](#footnote-117). Some of the Committee’s questions came out of the AWC’s Shadow report, *(Non) Protection of children in Serbia*[[118]](#footnote-118).

Activities planned by the Action Plan for Chapter 23 relating to the improvement of the system of cash benefits for families of vulnerable children with disabilities, in accordance with the principles of social inclusion, through amendments to the Law on Social Protection and the Law Governing Financial Support for Families with Children, were moved to the first and second quarter of 2017, before the Action Plan for Chapter 23 was adopted. Hence, the Council has not yet reported on these activities[[119]](#footnote-119). After seven months the Working Group of the Ministry of Social Policy published a short report on public discussion of the *Law governing financial support to families with children*[[120]](#footnote-120). The report stated that all those suggestions and comments that complied with the substance of the law were accepted and incorporated into the draft law but the report did not presenting a new and improved draft.

The adoption of amendments and supplements to the Law on Juveniles was moved to the third quarter 2016, before final adoption of the Action Plan for Chapter 23, so the Council cannot yet report on it[[121]](#footnote-121). The Working Group of the Ministry of Justice, that created the completely new Law on Juveniles, has not yet published a report on public discussions conducted eight months previously.

**The case of the missing babies** – It has been two years since the due date for the Republic of Serbia to implement a verdict rendered by the European Court for Human Rights (EHCR) regarding the 1950s case of babies missing from Serbian maternity hospitals. Even after the extension of the deadline for implementation, the Government of the Republic of Serbia has still not found adequate solutions and mechanisms to investigate these cases and has not provided suitable compensation as stipulated by the EHCR verdict. Following the round table held in February 2016 and which focused on draft legislation on procedures for determining the facts in the cases of new-born babies presumed missing from Serbian maternity hospitals, no subsequent steps were taken to solve the actual problem of the missing babies, at least not to any public knowledge. In collaboration with organisations ASTRA and YUCOM, representatives of the association of parents prepared their comments on the proposed Draft Law, but it remains unclear what the final version of the Draft Law will look like and when it will be passed.

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| *ASTRA has successfully completed the accreditation process for the 116000 European missing children hotline, which also included standardisation and formalisation of working procedures based on the quality of work. Since 2012, ASTRA has been managing this hotline number for Serbia, with the aim of searching for the missing children with more efficiency and promptness. Two years later, ASTRA signed a Memorandum of Understanding with the Ministry of Interior, with a view to improving mutual cooperation in searches for specific missing children but this cooperation still remains limited to by the level of interest of individual members of staff at the Ministry of Interior and their personal willingness to collaborate with civil society organisations. ASTRA’s success appears even greater in light of the fact that it manages the hotline number with no financial support from domestic or foreign funds. Unfortunately, meeting all the accreditation requirements and standards for managing the 116000 hotline still does not mean free access to funds for the European Union and European network of the missing children hotline numbers. The next step should be the implementation of initiatives to introduce a Child Alert system in Serbia, and hopefully the newly formed Government will consider this as priority when it comes to the rights of the child. ASTRA has received more than 1,300 calls through the 116000 European missing children hotline, 69 of which were reports of various cases of missing children (44 girls and 25 boys).* |

Recommendations:

* Ensure the highest standards of protection for juvenile victims of crime in accordance with Directive 2012/29/EU
* Ensure support for financially disadvantaged children, parents and families, especially with regard to children's school attendance, in order to prevent early dropouts and unacceptable (temporary) separation of children from the biological family for socio-economic reasons
* Consistent implementation of the European Court for Human Rights verdict pertaining to the case of the missing babies in Serbian maternity hospitals
* Intensification of efforts to introduce a Child Alert system
  + 1. *Procedural rights and safeguards*

*The Ministry of Justice did not make the final version of the draft Law on Free Legal Aid (FLA) publicly available but conducted an analysis of the normative framework for the implementation of minimum standards concerning the rights, support and protection of victims of crime/injured parties in accordance with Directive 2012/29/EU. Women’s NGOs that provide support only to female victims of violence were completely excluded from the establishment of a nationwide network of services for support to the victims, witnesses and injured parties in criminal proceedings.*

The adoption of draft Law on Free Legal Aid compliant with the EU *Acquis* was, before final adoption of the Action Plan for Chapter 23, moved to the third quarter 2016, so the Council cannot report on it at present[[122]](#footnote-122). The Council reported that the impact assessment had been performed and that the results were included in the financial part of the Rationale of the Draft Law on FLA, without providing information where the latest version of the draft law is publicly available[[123]](#footnote-123). The Ministry of Justice’s website only makes the February 2015 draft available[[124]](#footnote-124). The Republic Secretariat for Public Policy published an Opinion on draft Law dated October 2015[[125]](#footnote-125), which has 3 articles more than the version on the Ministry’s website.

The First report on Implementation of the Action Plan for Chapter 23[[126]](#footnote-126) stated that an analysis of alignment of normative framework with the EU *Acquis* and standards in the field of procedural safeguards is in progress. The analysis will be performed by the new Working Group that is tasked with amendments to the Criminal Procedural Code (CPC). The Ministry of Justice’s website makes no information publicly available regarding when this new Working Group on the CPC was created or the group’s composition and carries no excerpts from group’s meetings.

Analysis of normative framework for the implementation of minimum standards concerning the rights, support and protection of victims of crime/injured parties in accordance with Directive 2012/29/EU was moved to the second quarter 2016, before the final adoption of the Action Plan for Chapter 23. The Council[[127]](#footnote-127) stated that this activity is fully implemented, having in mind the fact that the analysis had been finalised by a local expert in December 2015 and then submitted and circulated to the Working Group members for amendments to the Criminal Procedure Code. There is no publicly available information on Ministry of Justice’s web site regarding this process nor has the analysis been presented to the public or posted online.

The Council reported that the establishment of a national network of services for support to the victims, witnesses and injured parties in criminal proceeding are being implemented successfully[[128]](#footnote-128) because the expert hired within the MDTF-JSS[[129]](#footnote-129) submitted a draft analysis focusing on the alignment of the Serbian legal framework with the Victims Directive, as well as best comparative practices in five states[[130]](#footnote-130). The analysis was published in August 2016 only on the MDTF-JSS website[[131]](#footnote-131).

The Council also reported that presentation of analysis was performed in April/May, with the participation of relevant stakeholders (the Ministry of Justice, civil society, the EU Delegation in Serbia, the relevant prosecutors’ offices, university professors, etc.), and that the expert previously performed a series of interviews with key stakeholders, as well as organising separate meetings/presentations with different groups of stakeholders. NGOs that provide support only to female victims of violence were not invited to attend these meetings nor consulted in any capacity[[132]](#footnote-132).

The Council also stated that local expert is currently performing an analysis of the alignment of the Law on Juveniles and Law on Misdemeanours with the relevant *Acquis* on victims, that application for IPA 2016 has been submitted with an aim to obtain support for the establishment of a victim support services network across the country and that an expert for fiscal impact analysis for the selected model will initiate the analysis for network sustainability.

NGOs that provide support only to female victims of violence have been completely excluded from these processes and were given access to no relevant information. There is no publicly available data on Ministry of Justice website regarding any of these activities.

The MDTF-JSS website does grant access to the analysis conducted on the alignment of the Law on Juveniles with the relevant *acquis* on victims[[133]](#footnote-133). It was conducted in May 2016 by a member of the Working Group that created new draft Law on Juveniles. From the point of view of the AWC, which submitted comments on this draft Law because it impaired the existing rights of children as victims, this is questionable choice of expert[[134]](#footnote-134).

With regards to long-standing trials, according to CINS investigations[[135]](#footnote-135) at the end of 2015, courts in Serbia were processing 583 trials older than 10 years. At the same time, there were an additional 2,188 trials older than five years. Of the former 583 cases, 519 were before Basic Courts and 64 before Higher Courts. The trial against the wife of Serbia’s former President, Slobodan Milošević, has been going on for 13 years. There were at least 50 delays of court assembly and the entire process was re-started from scratch at least four times (which is very likely to happen again in September 2016). The Higher Public Prosecutor Office suspects the defendants to have taken part in unlawful appropriation of apartments owned by state in 2000. The process was marred by postponed sessions, witnesses failing to appear and alterations to the indictment. Long trials postpone sentencing for perpetrators and the timely acquittal of the innocent. At the same time, such trials significantly burden the budgets of judicial institutions and postpone the payment of compensation to aggrieved parties. In the case of the so-called “bankruptcy mob”, 35 persons were indicted in 2007. By the end of June 2016, 22 were acquitted. Just for the costs of the trial, these persons were compensated with an amount close to 2.3 million EUR. Over nine years of proceedings, court has financed experts, witnesses and ex-officio lawyers, expenses of bringing defendants from custody and for four of these it reimbursed their salaries (44,000 EUR – acquitted persons are entitled to reimbursement of 1/3 of their salaries for the duration of legal custody).

*Late on 11 July 2006, after a football match in the village of Selevac near Smederevska Palanka, Milorad Mijailović has fell on a concrete surface and sustained aggravated injuries to his head. In March 2015, the competent Higher Court in Smederevo sentenced a policeman Nikola Šiljić to six months of house arrest for aggravated assault and battery against Mijailović. Suspended one year sentences were adjudicated to two more policemen, for abuse of public position. Marina Jovanović Bajović, at the time a coroner for the Municipal Court in Smederevska Palanka, was sentenced for entering inexact information in a court record, claiming the civilian fell of his own accord, protecting the policemen from being prosecuted for aggravated assault and battery. According to the sentence of the court of original jurisdiction, Šiljić was her husband’s friend. In December 2015, the Belgrade Court of Appeals confirmed the sentence in the very act, but changed the felony for Jovanović Bajović: “assisting the perpetrator after the commission of a felony”, instead of “breach of the law by a judge”. Almost 10 years since the crime itself, she received a suspended sentence of one year. She refused to talk to CINS reporters. The son of Milorad Mijailović, Boban Mijailović, told CINS reporters that his father was of very poor health that day and explained: “There were a lot of policemen there and they came to give statements, then the lawyer was supposedly sick, then he couldn’t come… And so it was all postponed and I had to appear with my father, ten years I have spent taking him to Smederevo and then to Belgrade”.*

Recommendations

* Make the final version of the draft Law on Free Legal Aid and the analysis normative framework for the implementation of minimum standards concerning the rights, support and protection of victims of crime/injured parties publicly available in accordance with Directive 2012/29/EU
* Adopt an appropriate Law on Free Legal Aid
* Include women’s NGOs in process of revising and harmonising laws and sub-legislative acts in line with the minimum standards concerning the rights, support and protection of victims of crime/injured parties in accordance with Directive 2012/29/EU
* Include NGOs that provide support only to women victims of violence in the activities of establishment of nationwide network of services for support to the victims, witnesses and injured parties in criminal proceedings

1. **CHAPTER 24 – JUSTICE, FREEDOM AND SECURITY**

**3.1. Migration**

According to the Action Plan for Chapter 24, the state plans to fully align its legal framework with the EU *acquis* on legal and illegal migration two years prior to formal accession to the EU. The first activity in this process, planned for the third quarter of 2016, is the adoption of amendments to the Law on Foreigners **(Activity 1.1.1.)**, which should establish partial harmonisation. Nevertheless, Serbia still needs to redefine its migration strategies in order to create a unified and coherent strategic framework when it comes to migration[[136]](#footnote-136).

The new Law on Foreigners must be accompanied by appropriate sub-legislative regulations and should constitute a legal framework that is in line with the EU *acquis* and international human rights standards, taking into account the specific nature of the legal system of the Republic of Serbia. Certain steps have been made in this regard. The state has reported that work on drafting a new law has already started and that its adoption can be expected by the end of 2016.

One of the activities in this Action Plan pertains to continuous and efficient implementation of readmission agreements **(Activity 1.5.1.)**. Serbia has signed readmission agreements with the EU, countries from the region (Bosnia and Herzegovina, Macedonia, Albania and Montenegro), countries such as Canada, Moldova, Switzerland, Norway, etc. The purpose of these agreements is to create conditions for organised, reciprocal and institutional readmission of nationals of the contracted parties, third-country nationals and stateless persons, who do not have the right to enter, stay or reside on the territory of a certain country, as well as for transiting of third country nationals and stateless persons to country of origin or other third country. Contracted parties must ensure that the provisions of the agreement are implemented whenever conditions are met and in a way that is based on the respect of human rights standards across all phases.

However, there has been no efficient implementation of readmission agreements in the context of readmission of third country nationals in the reporting period. From July 2016, in North Serbia continuous rejections of third country nationals from Hungary have been reported[[137]](#footnote-137). These procedures of return were not conducted according to the readmission agreement: there have been no official requests submitted to the Serbian authorities or the procedure that follows. Also, there has been no effective implementation of readmission agreements in the context of third country nationals with Serbia as the requesting state[[138]](#footnote-138).

Recommendations:

* The Government of Serbia should adopt new Law on Foreigners that must be accompanied by appropriate sub-legislative regulations and which should be in line with the EU *acquis*, international human rights standards but should also take into account the nature of the legal system of the Republic of Serbia
* Steps to necessary for the intensification of efforts for effective implementation of readmission agreements of third country nationals should be taken, whilst taking into account standards of protection for returnees
  1. **Asylum**

Since July 2015 certain mechanisms to regularly review the capacity of asylum centres and reception facilities for temporary accommodation of migrants have been put in place **(Activity 2.1.3.3.).** In accordance with existing needs, the accommodation capacities of asylum centres in Serbia were increased in 2016 to 2,000 places and, in temporary reception centres for migrants, to 4,000 places[[139]](#footnote-139).

Continuous implementation of awareness raising activities for host communities **(Activity 2.1.3.2.)** was also foreseen by the Action Plan. The Commissariat for Refugees and Migration regularly implements public calls for civil society organisations in order to finance programs of importance for the broader population of migrants, including asylum seekers. However, with the opening of the new accommodation facilities for migrants and with the practice of providing accommodation for beneficiaries of various forms of international protection, there is also a need to expend the awareness rising activities in new host communities and, in this regard, to continuously provide sufficient funds.

The Action Plan for Chapter 24 envisaged the adoption of a new Law on Asylum **(Activity 2.1.4.3.)** in order to fully align it with the EU *acquis* on asylum (during first quarter of 2016). Prior to the preparation of the draft Law, a gap analysis of the existing legislative framework in the field of asylum, initially planned for September 2015, was conducted **(Activity 2.1.4.1.)** and presented to a relatively small circle of civil society organisations – only organisations actively monitoring topics of migration and asylum – on 3 December 2015. As the leading experts who worked on the gap analysis have pointed out, the main bases for development of the analysis were: the 2015 Law on International and Temporary Protection of the Republic of Croatia and propositions of amendments to the Law on Asylum of the Republic of Serbia from the publication “Challenges of Forced Migration in Serbia – the position of asylum seekers”[[140]](#footnote-140). In a relatively short period of time the Government established a special Working Group that created draft of the new law **(Activity 2.1.4.2.)**, now the Law on Asylum and Temporary Protection. In the period from 10 to 30 March 2016, public debates on the draft text of the new law were organised: in Niš on 17 March, Novi Sad on 22 March, and Belgrade on 24 March 2016. The state has reported that the adoption of the new Law on Asylum and Temporary protection is expected by the end of 2016.

Although the main purpose of a new law is the harmonisation of the national asylum system with the legislative framework of the EU, it is positive that competent authorities have opted for gradual harmonisation in defining the provisions of the draft law. According to the new provisions, legislators have recognized the need for timely processing of applications and ruled out the act of expressing the intention to seek asylum as one of the initial phases in the initial procedure, as well as laying out precise deadlines. It remains questionable, however, whether these changes will contribute to the efficiency of the asylum system. Primarily, the newly prescribed deadlines for the adoption of the first decision in a regular procedure, although in line with Directive 2013/32/EU, is unreasonably long, taking into account the circumstances under which the asylum system in Serbia functions. Furthermore, the moment of starting the asylum procedure remains the submission of an asylum request. The request shall be submitted within 15 days upon the arrival at the one of the asylum centres, before an authorized official of the Asylum Office. In order prevent the practice of allowing several months to pass from the moment of arrival at a given asylum centre to the submission of a request, it is necessary to provide additional guarantees for access to the asylum procedure. It is positive that such guarantees are preset in the current draft law.

In 2016[[141]](#footnote-141), 26 positive decisions were made by the competent asylum procedure authorities: 10 refugee statuses and 16 subsidiary protections. With the increase of the number of beneficiaries of international protection in Serbia, the question of their integration is becoming increasingly interesting.

The Action Plan also envisaged the implementation of an adequate integration procedure applicable to beneficiaries of various forms of international protection **(Recommendation 2.1.5.)**, which should be implemented by developing a sub-legislative act regulating the accommodation of beneficiaries of various forms of international protection, as well as a sub-legislative act on integration programs, ensuring sufficient resources for the implementation of integration policies.

With the implementation of an adequate integration procedure the aim is to create the economic, social and cultural opportunities migrants need to make their integration into Serbian society successful. In July 2015, the Government adopted a Regulation on criteria for establishing priorities for accommodation of persons granted refugee status or subsidiary protection and on the conditions of use of housing facilities for temporary accommodation[[142]](#footnote-142) (**Activity** **2.1.5.1**., originally due in April 2015). The Regulation elaborates in detail who is to be considered the beneficiary of a housing facility for temporary accommodation, the conditions under which a beneficiary is to be granted accommodation, the criteria which establish priorities for granting accommodation, the conditions of accommodation as well as its duration.

Even though the Regulation represents an important aspect of Serbia’s integration policies, certain problems have appeared in its implementation. According to the provisions of the Regulation, a beneficiary is a person who is a recipient of a final administrative act, not older than a year, that grants him or her international protection. As the validity of the administrative act comes later, implementation of the current provision may create a situation whereby a beneficiary receives accommodation in an appropriate housing facility and his decision comes to be rejected in the judicial review of the administrative act.

The Commissariat for Refugees and Migration has composed a first draft version of the sub-legislative act that will regulate the programme of support for the integration of beneficiaries of international protection into social, cultural and economic life **(Activity 2.1.5.2.).** The presentation of the main components of the first draft version was made in June 2016 to relevant international and national civil society organisations, who were later invited to send their elaborated suggestions and additional comments if they believe that integration programme should include additional components. According to the presentation, the Integration Programme will consist of: provision of informational assistance to beneficiaries about refugees rights and obligations, possibilities of employment, training, etc.; development of an individual/family integration plan; provision of a Serbian language learning programme and a programme of introduction to the Serbian history, culture and the Serbian Constitution; provision of assistance in the process of inclusion of children into the educational system, the inclusion of beneficiaries into employment and other forms of assistance. Continuous cooperation with civil society organisations in the realisation of certain aspects of the Integration Programme is also planned.

The Action Plan envisaged the adoption of a sub-legislative act on integration programmes for beneficiaries of international protection by December 2015, however, existing legal obstacles have delayed its adoption. According to the current normative framework on integration (Article 46 of Law on Asylum[[143]](#footnote-143) and Article 16 on Law of Migration Management[[144]](#footnote-144)), the right to integration is granted only to persons enjoying refugee status and not to beneficiaries of subsidiary protection, which is contrary to the EU *acquis*. It is important and commendable to note that the draft of the new Asylum Law includes, *inter alia*, the equalization of persons enjoying refugee status with beneficiaries of subsidiary protection in terms of available rights, including the right to assistance in integration. If the state adopts the relevant sub-legislative act before the adoption of the current draft of the Law on Asylum, it will only apply to the persons enjoying refugee status and then again it will be necessary to subsequently amend the sub-legislative act in order to fully harmonise it with the relevant provisions of the EU *acquis*.

Recommendations:

* The Government of Serbia should continue with reforms in order to create and establish a comprehensive asylum policy that will ensure efficient and fair asylum procedures. Changes to policy should (at the very least) include: adoption of the Law on Asylum and Temporary Protection as soon as possible, including specific legal solutions for the integration of refugees and persons enjoying other forms of protection, as well as the development of a mechanism for functional integration
* For the established legal framework it is necessary to provide infrastructural capacities and human resources that will be sufficient for effective implementation
* Opportunities should be made available for cultural and social programs that enable communication between the asylum seekers and the local population
  1. **The Fight against Organised Crime**

Serbia has achieved a certain level of preparation in the fight against organised crime and some progress was made over the past six months. The screening report for chapter 24 and Progress Reports from previous years indicate that the fight against organised crime is a priority area for Serbia and efforts on the part of the Government need to be stepped up. To efficiently tackling organised crime, Serbian law enforcement agencies need to streamline cooperation, enhance their analytical capacities and demonstrate a positive track record when it comes to final convictions. In essence, Serbia needs to ensure proactive investigation of organised crime cases and efficient prosecution.

Despite the fact that the Action Plan for Chapter 24 was adopted in April 2016 and came into force with the opening of negotiations on Chapter 24 in July, its implementation is lagging behind the foreseen dynamic. Moreover, early elections organised in April pushed back the legislative agenda and the adoption of several important pieces of legislation is falling behind the schedule. This was the case with the Law on Organisation and Jurisdiction of State Authorities in the Fight against Organised Crime, Corruption and Other Particularly Serious Criminal Offences, which was originally scheduled for adoption by the end of 2015 and then moved to the fourth quarter of 2016.

Moreover, the first report on the implementation of the AP for Chapter 24 remains to be published by the Ministry of Interior and, without this document, it is impossible to independently verify implementation of certain activities. For instance, the EC’s recommendation on the need to revise the role and practice of security services in the criminal investigation phase in line with standards on data retention and human rights (Activity 6.2.3.1.), envisages the production of an analysis by the Office of the Council for National Security and Protection of Secret Data. Despite indications that the working group for this activity has organised several meetings, implementation of this activity is dependent on inputs from the Bureau for Coordination of the Security Services. The source of verification for this activity, namely minutes from the meetings and the recommendations themselves, have not been made publicly available.

When it comes to strategic approaches to fighting organised crime, Serbia adopted the Serious and Organised Crime Threat Assessment (SOCTA) in line with the Europol methodology in December 2015. However, SOCTA has yet to be operationalised and used for shaping internal security policies and the work of law enforcement agencies, which was a requirement recognised in the interim benchmarks presented for Chapter 24 on 18 July. Little has been achieved toward this goal, however, as SOCTA application rests largely upon the introduction of intelligence-led policing (ILP) and an efficient criminal intelligence system (Ser. KOS), which are still in their nascent phases. Moreover, little to no information is available as to how SOCTA will be connected to the process of introduction of ILP and KOS, what are the upcoming phases or timeframes, which might indicate the absence of a synergetic approach when it comes to managing these strategic processes at the MoI. Moreover, a regional SOCTA for Serbia, Macedonia and Montenegro is currently in the final stages of drafting under the auspices of an OSCE led project and is expected to be published in November 2016. It largely remains unclear what the purpose of this document is expected to be and how it is related to the national SOCTA and other ongoing processes. There is a potential danger of the hyper-production of various strategic documents and the multiplication of processes where there is no available data as to how these are inter-connected and what their purposes are expected to be.

* + 1. *Police reform and police cooperation*

**Limited progress has been made in reforming the police in Serbia.** Police reform needs to remain a top priority as part of the negotiations with the EU and especially within the monitoring of the implementation of Chapter 24. Therefore, besides a number of activities related to improving specialised policing already envisaged by the Action Plan for Chapter 24 (e.g. the fight against organised crime or terrorism), there is a need to pursue building an effective police organisation and police integrity and transparent reporting on both to the Serbian public and the EU. The further professionalisation and development of more effective public management structures and practices in police governance need to be continued and monitored independently.

In order to enable monitoring of police reform, it is suggested to clearly list the key measures, deadlines, responsible authorities, necessary funding and indicators for the implementation of the EC recommendation “Assess the need for further reform and rationalisation of the police/MoI in order to increase its effectiveness” in accordance with the methodology used in the rest of the Action Plan for Chapter 24. Currently, the Action Plan for Chapter 24 offers only a rough description of the process of the reforms that are underway and/or are planned by the MoI, without identifying the responsible authorities, the necessary funding or the means of verifying whether the announced changes have been achieved (impact indicators).

The second priority of general police reform is building police integrity, a key feature of all aspects of policing, especially the fight against corruption and organised crime. In this regard, significant further work should be done to ensure that police services are operationally independent of political influence and shielded from criminal influences. Short-term priorities should be an adoption of the sub-legislative regulations needed for implementation of the new Law on Police and appointment of key police leaders chosen from among experienced professional police managers in an open competition.

Some progress was made regarding human resource management within the Ministry of Interior. The Rulebook on the Competences of Employees in the Ministry of Interior was adopted in May 2016 and the Regulation on the Implementation of Public Competition in the Ministry of Interior in September 2016. The good news is that the Ministry of Interior finally launched, eight months after the appointment of the acting police director, a public competition for this highest position within the Police Directorate. This eight-month period without police director in full capacity was marked by armed conflicts in public places (in Belgrade and Niš), unsolved cases (Savamala) and internal turmoil (dismissal of the Head of Belgrade Criminal Police). Too many questions have remained unanswered about the appointment of the acting director of the police and high-ranking personnel within the Ministry. Milorad Veljović is now advisor to the prime minister on national and regional security issues.

The selection of the new police director must be executed on the basis of merit. It is important not to favour particular candidates but to allow equal opportunities for all and that the Competition Commission chooses and proposes the top three candidates to the Minister of Interior. After that, the Minister proposes to the Government the candidate for Police Director. At this stage, it is also important that the Minister makes a decision on the basis of professionalism and the ability of the candidate to improve safety and security in Serbia, not on the basis of other criteria.

No progress has been made in dismissals and layoffs in the police, which remain controversial. Firstly, the process of rationalisation was conducted hastily, abruptly and without any plan and clear criteria for outputs. Secondly, crucial information was leaked to the tabloid press, which started running stories claiming that 1,000 members of the Criminal Police Directorate will be fired and that a yet to be formed commission will decide on this matter together with police unions. Furthermore, it was speculated that those police officers convicted of serious criminal offences will be fired, as well as those who have the so-called “code f” diagnosis. Later, in the very same tabloid newspaper, the Minister of Interior publically announced that a number of employees in the police will be persecuted and that “there will be no criminals working in the police or recruited within the force.” The whole process started at the end of November 2015 and has not yet been completed.

The Ministry of Interior has a selective approach towards the media. Several media organisations have complained about a lack of police transparency. Getting official information from the police has become a problem for news agencies, TV stations and daily newspapers in Serbia.

Recommendations:

* It is necessary to continue reform of human resources management in the police, especially in the area of internal competitive selection processes, through further defining public policies, procedures and sub-legislative regulations and their implementation in practice
* It is necessary to have the criteria for police rationalisation made publicly available, as well as to explain how the process itself is being executed. The Commission for analysing the transfer decisions regarding the Risk Assessment of job posts should have drafted a report after this work was completed and should have presented it to the Committee on Defence and Internal Affairs of the Parliament

# *Combating trafficking in human beings*

In the period between May and September 2016, no significant progress was made in solving the pervasive problems in efforts to suppress human trafficking. According to the official data[[145]](#footnote-145), 29 victims of human trafficking were identified in the first half of the year, mostly citizens of the Republic of Serbia (21), both male and female, who were exploited in Serbia. The majority of the identified victims in Serbia are girls and women, whereas in 10 of the cases the victims were children. During the first eight months of 2016, more than 2,000 calls were received through the ASTRA SOS hotline, made by 285 new clients, and 12 human trafficking victims were identified (all adults, 8 men and 4 women). Two women had been exposed to sexual exploitation and two cases of forced marriage were recorded. Seven men had been exposed to labour exploitation and one case referred to forced begging[[146]](#footnote-146). It is evident that during the first six months of the year more victims were officially identified than in the whole of 2015 but drawing any conclusions should be postponed until the end of the year, when it will be possible to determine whether there has been a more proactive approach to the identification of victims by the police and social welfare system. In addition to that, police units tasked with investigating cases of human trafficking are also in charge of irregular migration; it might therefore be possible that closing the borders and reducing the number of refugees into Serbia during 2016 left more room for the fight against human trafficking.

## The June report on human trafficking made by the US State Department stated that the Government of the Republic of Serbia had not met minimum standards in the fight against human trafficking and the protection of human trafficking victims and that was thus placed on its watch list.[[147]](#footnote-147) The previous period has exposed the worrying fact that court proceedings fail to take an approach fully oriented towards the rights of the victim, whereby the victims are frequently exposed to new traumas and threats, while they almost never manage to obtain the right to compensation. Still, frequent breaches of the reflection period for victims are encountered in practice, as well as inadequate accommodation, absence of any kind of reintegration and social inclusion program, a lack of cooperation between governmental and non-governmental parties in the process of providing support for human trafficking victims. Since the Centre for Human Trafficking Victims Protection was founded, the trend has been to marginalise civil society organisations that worked to provide help to human trafficking victims for 10 to 15 years and to avoid the use of their expertise and resources.

## Experience still shows that only a small number of victims are informed of the services of non-governmental organisations (e.g. of the 40 victims that were identified in 2015 only three were referred to ASTRA, while during the first eight months of 2016 only one victim was referred to this organisation). Another indicator of the absence of political interest in the topic of human trafficking is the fact that the Republic of Serbia has not proposed its candidates for GRETA (Group of Experts on Action against Trafficking in Human Beings)[[148]](#footnote-148) for the forthcoming elections, although Council of Europe officially invited them to do so and NGOs kept reminding them of the relevant deadlines. At the same time, some countries-signatories of the Council of Europe’s Convention have submitted the names of several candidates, many of whom are NGO activists.

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| *The results of ASTRA’s analysis of the verdicts in criminal cases of human trafficking brought in 2015 show that the average duration of court procedure is 2 years and 4 months, which is six months longer when compared to the preceding year. Of all the procedures that were concluded in 2015, 32 percent lasted more than three years. Furthermore, a permanent decrease in the percentage of convictions has been noted: 48 percent in 2015, 59 percent in 2014, and 79 percent in 2013. The average sentence for human traffickers was 4.5 years, which is longer when compared to results from 2014. Sentences pronounced for human trafficking have always been approximate to the statutory minimum, but what is disturbing is the decrease in the percentage of sentences of more than five years which has been noted in the last couple of years (11 percent in 2015, 14 percent in 2014, and 27 percent in 2013). From the point of view of victim protection, criminal proceedings last too long, court sessions are often cancelled and, since the victim’s statement is still the basic means of proving the offence has been committed, the victim is expected to appear in court regularly, threatened by a fine in case of absence, faced by the perpetrators and forced to relive the trauma for years after she or he experienced it. All of which drastically prolongs the period of recovery. The status of a particularly sensitive witness, stipulated by the Criminal Procedure Code, is not applied to a sufficient extent and, even when the victim is awarded this status, it rarely makes a significant contribution to the position and protection of the victim but rather appears only formally and in many cases for the simple reason that courts have no technical possibilities to provide the victim with statutory protection.*  *One of the weakest links in the chain of the protection of victims’ rights is access to compensation. Although criminal law allows for the possibility for the victim to claim compensation which is to be decided upon during the criminal proceedings, practice shows that courts always instruct the victim to claim this right in civil proceedings, which lasts too long, requires considerable financial means that victims do not have and does not provide the measures of protection that exist within criminal procedure. In addition, even when the judgment is reached in favour of the victim, it is uncertain whether its implementation will ever happen, because human traffickers rarely have any property registered to their name and the enforcement system in the Republic of Serbia is not functional.[[149]](#footnote-149)* |

In addition to the topics that we have presented in previous prEUgovor reports, and that we keep repeating year after year, the following problems still pose pressing challenges in the Serbian anti-trafficking system:

* The adoption of the Strategy and Action Plan for the prevention and combat of human trafficking and victim protection has still not been completed within the Action Plan for Chapter 24 (6.2.8.1). These two documents were formulated in 2013; hence the question reasonably arises whether the action plan developed for the period from 2014 to 2016 can today be adopted in the same form. In the three years during which the adoption of the Strategy and Action Plan has been on standby, the system of the human trafficking suppression has stagnated because the relevant coordination bodies have in the meantime ceased to operate and the new ones stipulated by the Strategy have not yet been established.
* A change for the better envisaged by the implementation of the Action Plan for Chapter 24 is the announced re-organization of the police, to the effect that the organisational capability of the Criminal Police Department should be improved by specialising in investigation of human trafficking. This could make a considerable contribution to the identification of victims of all forms of exploitation.
* Serbian legislation should in the forthcoming period be harmonised with the European Union Directives (6.2.8.5), whereby particular attention should be directed towards achieving the right to compensation for the victims of criminal offences, as well as towards the observance of non-punishment and non-prosecution of victims of human trafficking for the offences committed as a consequence of exploitation.
* The Action Plan for Chapter 24 envisages, among other things, the establishment of the office for the National Rapporteur on Trafficking in Human Beings in Serbia, which should lead to the objective monitoring of the national mechanism for combating human trafficking. However, precisely how and where this office will be instituted is not defined, its purpose being to monitor and evaluate the work of all the parties in the fight against human trafficking, carry out research and analysis and suggest different measures towards an improved functioning of the national referral mechanism. In order for this purpose to be achieved, the National Rapporteur office should be established as an independent body.

Recommendations:

* Adoption of the Strategy for Combating Human Trafficking in Republic of Serbia and the Na­tional Action Plan
* Resources should be provided for the reintegration of victims of human trafficking, in accordance with the European Union Directives 2012/29/EU and 2011/36/EU
* Changes in legislation should be adopted to help introduce an efficient and sustainable compensation mechanism for the victims of violent criminal offences, including the victims of human trafficking
* The Criminal Code of the Republic of Serbia should be modified so that the clauses on non-detention, non-prosecution, and non-punishment are clearly defined by the law
* Standards and procedures should be prepared and implemented in all the stages of victim protection, starting from the identification of victims to their reintegration/voluntary return; protocols on the cooperation with NGOs likewise
* Cooperation should be improved between the Centre for Human Trafficking Victims Protection and the NGOs that provide assistance to victims
  1. **The Fight against Terrorism**

Serbia has shown some level of preparation in the fight against terrorism. Its legislative framework is in place and to a good extent aligned with the EU *acquis*, especially with the recent changes being made to the Criminal Code with regard to the transposition of the United Nations Security Council Resolution 2178 (2014) on the criminalisation of foreign fighters, which saw the introduction of two new criminal offences, and through the adoption of the Law on Freezing of Assets for the Purpose of Preventing Terrorism. Likewise, the European Commission has stated its satisfaction with the transposition of the Framework Decision 2008/919/JHA on combating terrorism. However, further harmonisation needs to be achieved when it comes to the area of chemical, biological, radiological and nuclear (CBRN) threats, with the view of transposing Regulation 98/2013 on the marketing and use of explosives, having also in mind the CBRN Action Plan of the EU. Likewise, it is necessary to harmonise the protection of critical infrastructure through the transposition of the Directive 2008/114/EC on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection. By the end of 2016, Serbia will need to finish the analysis of the best practices relating to Directive 2008/114/EC and, by 2017, to draft adequate legislative proposals, in accordance with the assessments conducted prior to it. Lastly, Serbia still has not established a single national terrorism-focused database, even though it has assumed the obligation, through the Action Plan for Chapter 24, to determine a model for the establishment of a single national terrorism-focused database in the first quarter of 2016.

During 2016 there has been some progress in the field of fighting terrorism notably due to the drafting of the Serbian National Strategy and Action Plan to prevent and fight terrorism. However, the Strategy has not yet been adopted, despite the deadline for this activity being set as June 2016 by Action Plan for Chapter 24. The drafts of the Strategy[[150]](#footnote-150) and the Action Plan[[151]](#footnote-151) were made public on the website of the Ministry of Interior and interested parties were called upon to submit their assessments of these two documents. Apart from civil society organisations, opinions also came from some state institutions, such as the Office for Human and Minority Rights, the Office for Cooperation with Civil Society and the Directorate for Cooperation with Churches and Religious Communities within the Ministry of Justice.

As was envisaged in the Action Plan for Chapter 24, the Strategy is formulated according to the “prevent-protect-pursue-respond” concept of the EU Counter-Terrorism Strategy. However, the section on the role of local communities in preventing radicalisation is not well developed within the Strategy, having in mind the importance of the local level in EU’s policy on fighting terrorism. The role of local coordinating mechanisms is paramount in combating terrorism and radicalisation, especially when it comes to identifying individuals at risk of radicalisation, and with the purpose of establishing a coordinated response in the prevention of possible terrorist attacks. The role of the local communities in combating terrorism is adequately referred to in the European Commission’s Communication supporting the prevention of radicalisation leading to terrorism. Also, within the part of the Draft Strategy dedicated to dealing with persons at risk of radicalisation, there is a limitation only to those persons in the penal and probation system, which does not include other persons at risk of radicalisation, such as victims of hate speech, members of extremist groups, etc. It is also unclear on what research the threats identified in the Strategy are based.

This is perhaps the reason why this document contains some flaws. For instance, the Draft Strategy is focused on Islamic extremism and terrorism, while other forms of extremism (related to the Serbian ethnic majority, such as fascism, extreme nationalism, neo-Nazism, etc.) are neglected. Therefore, it is needed to confirm the findings from the Draft Strategy with publicly accessible data, which would outline the scope and quality of the problems identified by the Strategy, especially when it comes to the specificities of the growth of radicalization and violent extremism. Therefore, it should be clearly stated in the Strategy that violent right-wing groups also represent a security threat. Considering their activities and the government’s lack of will in combating these groups, it can be concluded that these groups represent a greater danger than can be deduced from the Strategy. On the other hand, reference to ethnically motivated extremism and separatist tendencies, with a special emphasis on Kosovo, should be reconsidered, and the future formulation of such problems should be done within the framework of Chapter 35 which deals with the comprehensive normalisation of the relations between Belgrade and Priština.

It is wrongly identified that widespread use of social media facilitates the spread of extremism, instead of emphasising the misuse of social media and improving the prosecution of hate speech on the internet. In the same vein, the importance of relying on the existing civil emergency system in responding to terrorist acts is not recognised despite the fact that this is the approach of the EU. In this regard, transformation of the Sector for Emergency Situations, which operates within the MoI, into an independent government body (agency or directorate) was postponed once again.

It is also worrying that the deadline for learning about best practices in identifying and designating of European critical infrastructures (ECI) and assessing the need to improve ECIs protection was postponed for a year. The Draft Strategy did not recognise the role of private security in protection of critical infrastructure, as well as the importance of setting standards for private security companies to be engaged to protect critical infrastructure. Within Priority 4 of the Draft Strategy, Responding to Terrorist Attacks, the Draft Strategy only briefly mentions providing aid to victims of terrorism. On the other hand, victims represent an integral part of EU’s policy on combating terrorism. Namely, victims, along with their family members and other associates, can provide one of the best testimonies of what terrorism can do to people and can present true messages of peace and reconciliation. Thus, it is important to provide for full alignment of the Serbian legislative framework in this field with the EU *acquis*, notably Directive 2012/29/EU, establishing minimum standards on the rights, support and protection of victims of crime and Directive 2004/80/EC relating to compensation provided to victims of crime.

As far as the Draft Action Plan is concerned, more needs to be done on specifying the content of many of the stipulated activities and on introducing better and more realistic indicators, in order to have a more objective overview and assessment of the degree of the implementation of the Strategy. Likewise, it is important not to repeat many of the activities from the Action Plan within different sets of strategic goals. Some of the activities can be situated within wider plans: for example, instead of only setting the stage for the formation of the national network for raising awareness of radicalisation, broader plans should be introduced aiming at adopting a special strategy on preventing radicalisation, something recommended by the European Commission in the already mentioned Communication supporting the prevention of radicalisation that leads to violent extremism.

Furthermore, it is necessary to conduct an analysis of the resources necessary for implementation of stipulated activities. If there is no possibility of conducting such an analysis before the Action Plan is put into force, this should be done within the framework of the first report on the implementation of the National Strategy.

Last but not the least, it is stipulated in the Draft Strategy that implementation will fall under the responsibility of the Working Group formed by the Serbian government, which also had the task of drafting the National Strategy and the Action Plan. However, it is not clear whether this Working Group is the same group as the Permanent Working Group on Combating Terrorism, formed in January 2015. If not, there needs to be further work on the separation of competences and tasks between the two bodies. Further to this, the section on coordination in the implementation of the Strategy needs to be elaborated on in more detail concerning clarification of the relationship and the division of tasks between the National Coordinator for Combating Terrorism, a body which still to be formed, and already existing bodies for combating terrorism, including the ones established by the National Strategy against Money Laundering and the Financing of Terrorism. In the follow up to the implementation of the Strategy, the National Assembly ought to be included, through the introduction of an obligation to submit yearly reports on the implementation of the Strategy and the Action Plan to the National Assembly’s committee in charge of security and defence issues.

Recommendations:

* Step up the implementation of activities from the part of the Action Plan for Chapter 24 dedicated to the fight against terrorism by adopting the National Strategy to Prevent and Fight Terrorism, fully aligned with EU’s Counter-Terrorism Strategy, so as:
  + To address other forms of extremism;
  + A greater focus on the misuse of social media and the improvement of prosecution of hate speech on the internet;
  + Strengthen the role of local authorities and civil society organisations in the early identification and prevention of extremism and radicalisation;
  + Highlight the importance of improving the quality of private security engaged in the protection of critical infrastructure;
  + Recognise the importance of resorting to the existing civil emergency system and speed up transformation of the Sector for Emergency Situation, currently subordinated to the MoI, into an independent government body;
  + Further alignment of Serbian laws with the *acquis* concerning the protection of victims of terrorism;
  + Better clarification of the institutional infrastructure surrounding the implementation of the National Strategy and the Action Plan, especially with regard to the coordination and division of competences between various bodies;
  + Further implementation of EU rules in the area of CBRN threats.

1. <http://pointpulse.net/magazine/collapse-rule-law-serbia-savamala-case/> [↑](#footnote-ref-1)
2. Prominent recent examples were initiatives by Democratic Party MPs for setting up inquiry committees to investigate the circumstances surrounding the March 2015 crash of a military helicopter (rejected during the 17/04/2015 plenary session , minutes of which are available at: <http://www.parlament.gov.rs/Четврта_седница_Првог_редовног.25084.43.html>) and indications that the opposition Democratic Party’s leaders phone conversations had been intercepted (“Odbijen predlog DS o formiranju anketnog odbora”, N1 news, 09/10/2015. Available at <http://beta.rs/vesti/politika-vesti-srbija/15177-odbijen-predlog-ds-o-formiranju-anketnog-odbora>) [↑](#footnote-ref-2)
3. “Stefanović: Zaštitnik građana se bavi samo politikom”, Blic, 31/07/2016: <http://www.blic.rs/vesti/drustvo/stefanovic-zastitnik-gradana-se-bavi-samo-politikom/bv03spr> [↑](#footnote-ref-3)
4. MUP nije u zakonskom roku postupio po preporukama Zaštitnika građana u slučaju Savamala niti je na njih odgovorio, 9.08.2016. <http://www.zastitnik.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/4847-2016-08-09-13-10-13> [↑](#footnote-ref-4)
5. Novi helikopteri Mi-17 stigli u Beograd: Plaćeni 25 miliona evra, u upotrebi od 4. jula. Tangosix portal, 28.06.2016. <http://tangosix.rs/2016/28/06/foto-novi-helikopteri-mi-17-stigli-u-beograd-placeni-25-miliona-evra-u-upotrebi-od-4-jula/> [↑](#footnote-ref-5)
6. [Screening report Serbia – Chapter 24](http://ec.europa.eu/enlargement/pdf/key_documents/2014/140729-screening-report-chapter-24-serbia.pdf): 26. [↑](#footnote-ref-6)
7. [Screening report Serbia – Chapter 24](http://ec.europa.eu/enlargement/pdf/key_documents/2014/140729-screening-report-chapter-24-serbia.pdf): 28. [↑](#footnote-ref-7)
8. As proposed in the Action plan for Chapter 24: 173-4. Available at: <http://goo.gl/gsxKRW> [↑](#footnote-ref-8)
9. Djokic, K. *Electronic Surveillance in Serbia: the Oversight Blind Spots*. (Geneva, DCAF: 2016), p.6. Available at goo.gl/OMgqjt. [↑](#footnote-ref-9)
10. Ibid, p.7. [↑](#footnote-ref-10)
11. CEDAW - Committee on the Elimination of Discrimination against Women.  [↑](#footnote-ref-11)
12. The First Report on Implementation of the Action Plan for Chapter 23 (for activities planned for the second quarter of 2016): [*http://www.mpravde.gov.rs/files/Report%20no.%201-2-2016%20on%20Implementation%20of%20Action%20plan%20for%20Chapter%2023.pdf*](http://www.mpravde.gov.rs/files/Report%20no.%201-2-2016%20on%20Implementation%20of%20Action%20plan%20for%20Chapter%2023.pdf) [↑](#footnote-ref-12)
13. Report available in English: <http://www.ljudskaprava.gov.rs/index.php/ljudska-prava/strategije> [↑](#footnote-ref-13)
14. Report, Activity 3.6.1.1. [↑](#footnote-ref-14)
15. Report, Activity 3.6.1.3. [↑](#footnote-ref-15)
16. The deadline was July 2015 and, having received an official reminder in December 2015, the report was submitted in February 2016. [↑](#footnote-ref-16)
17. See: <http://www.ljudskaprava.gov.rs/index.php/yu/ljudska-prava/konvencije/57-konvencija-o-eliminisanju-svih-oblika-diskriminacije-zena/1534-izvestaj-o-primeni-preporuka-17-i-23> [↑](#footnote-ref-17)
18. Report, Activity 3.6.1.8. [↑](#footnote-ref-18)
19. Report, Activity 3.6.1.9. [↑](#footnote-ref-19)
20. Report, Activity 3.6.1.10. [↑](#footnote-ref-20)
21. Report, Activity 3.6.1.12. [↑](#footnote-ref-21)
22. See: <http://www.mgsi.gov.rs/lat/koordinaciono-telo-za-rodnu-ravnopravnost> [↑](#footnote-ref-22)
23. See: <http://www.civilnodrustvo.gov.rs/vest/rezolucija-1325:-javni-poziv-za-dostavu-sugestija-na-nacrt-nacionalnog-akcionog-plana.37.html?newsId=724> [↑](#footnote-ref-23)
24. See: <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/8408-akcioni-planovi-za-proslost-i-buducnost> [↑](#footnote-ref-24)
25. See: <http://www.transparentnost.org.rs/images/dokumenti_uz_vesti/Ombudsman_preporuke_Ministarstvo_privrede.doc> [↑](#footnote-ref-25)
26. See: <http://www.transparentnost.org.rs/images/dokumenti_uz_vesti/Nalaz_o_monitoringu_izborne_kampanje_TS_12_jul_2016_sazetak.docx> [↑](#footnote-ref-26)
27. See: <http://www.transparentnost.org.rs/images/dokumenti_uz_vesti/Funkcionerska_kampanja_2016_izve%C5%A1taj_maj_2016.pdf> [↑](#footnote-ref-27)
28. See: <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/saoptenja/6546-> [↑](#footnote-ref-28)
29. <http://www.acas.rs/wp-content/uploads/2011/03/Izvestaj-o-radu-o-sprovodjenju-Strategije-2015.pdf> [↑](#footnote-ref-29)
30. See: <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/8664-ustavni-sud-i-vladin-koordinator-antikorupcije> [↑](#footnote-ref-30)
31. See: <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/8102-upitna-transparentnost-u-pravosudu> [↑](#footnote-ref-31)
32. Previous attempts of legalisation were successfully disputed before the Constitutional Court: http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/8132-hoce-li-nova-legalizacija-proci-ustavnu-proveru [↑](#footnote-ref-32)
33. <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/8036-ozakonjenje-iz-ugla-agencije-za-borbu-protiv-korupcije-predsednika-opstina-i-savesnih-gradana> [↑](#footnote-ref-33)
34. See: http://www.acas.rs/wp-content/uploads/2012/12/Misljenje-o-izmenama-i-dopunama-Zakona-o-koncesijama.pdf?pismo=lat [↑](#footnote-ref-34)
35. See: http://www.transparentnost.org.rs/images/dokumenti\_uz\_vesti/JPP\_nacrt\_izvestaja\_april2015.doc [↑](#footnote-ref-35)
36. See: http://www.bezbednost.org/Sve-publikacije/5785/Nacrt-Zakona-o-policiji-dobro-lose-i-sta-moze.shtml [↑](#footnote-ref-36)
37. http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/7934-koruptivne-odredbe-ostaju [↑](#footnote-ref-37)
38. http://www.transparentnost.org.rs/images/dokumenti\_uz\_vesti/Politicization\_or\_professionalization\_October\_2014.pdf [↑](#footnote-ref-38)
39. http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/8194-nova-propustena-prilika [↑](#footnote-ref-39)
40. <http://transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/8661-kriterijumi-za-imenovanje-direktora-javnih-preduzeca> [↑](#footnote-ref-40)
41. See: <http://www.transparentnost.org.rs/images/dokumenti_uz_vesti/Evrointegracije_mediji_i_drzavno_i_politicko_oglasavanje.doc> [↑](#footnote-ref-41)
42. See: <http://www.transparentnost.org.rs/images/stories/inicijativeianalize/BIRN_Transparentnost%20Srbija_Analiza%20i%20preporuke_Zakon%20o%20medijima%20zip%20%20Septembar%202014.pdf> [↑](#footnote-ref-42)
43. See: <http://anem.org.rs/sr/aktivnostiAnema/monitoring.html> [↑](#footnote-ref-43)
44. On the other hand, the draft Action Plan for the Chapter 23 envisaged only analyses and consideration of various options for the first half of 2016. [↑](#footnote-ref-44)
45. See: <http://www.paragraf.rs/propisi/zakon_o_ratifikaciji_konvencije_ujedinjenih_nacija_protiv_korupcije.html> [↑](#footnote-ref-45)
46. See: <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/7937-ispitivanje-porekla-imovine-ili-novi-zakon-o-ekstraprofitu> [↑](#footnote-ref-46)
47. <http://www.mpravde.gov.rs/vest/13678/zakon-o-zastiti-uzbunjivaca-.php> [↑](#footnote-ref-47)
48. According to Ministry of Justice statistics (only print version available), presented at the 21 September 2016 conference on implementation of the WBP Law in Belgrade. [↑](#footnote-ref-48)
49. See: <http://www.transparentnost.org.rs/images/stories/inicijativeianalize/amandmani%20TS%20na%20predlog%20zakona%20o%20zastiti%20uzbunjivaca%20novembar%202014.docx> [↑](#footnote-ref-49)
50. About 30 such debates were announced on the E-Government portal from September 2015 to March 2016. [↑](#footnote-ref-50)
51. See: <http://www.transparentnost.org.rs/images/dokumenti_uz_vesti/Zasto_nema_JR_o_Nacrtu_ZoJP.doc> [↑](#footnote-ref-51)
52. See: <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/7924-pobeda-ili-razlog-za-dodatan-oprez> [↑](#footnote-ref-52)
53. See: <http://www.transparentnost.org.rs/images/dokumenti_uz_vesti/komentari_na_nacrt_strategije_finansijskih_istraga_i_akcionog_plana_mart_2015.doc> [↑](#footnote-ref-53)
54. See: <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/7859-prosiriti-nadleznost-tuzilastva> [↑](#footnote-ref-54)
55. See: <http://www.antikorupcija-savet.gov.rs/sr-Cyrl-CS/radio-televizija-i-stampa/cid1037-3204/izvestaj-tuzilastva-sta-je-sa-istragama-o-24-sporne-privatizacije> [↑](#footnote-ref-55)
56. See: <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/saoptenja/6550-> [↑](#footnote-ref-56)
57. See: <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/8266-izbor-i-nadzor> [↑](#footnote-ref-57)
58. See: <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/8576-osvrt-na-novi-osnov-poverljivosti-u-uredbi-o-kancelarijskom-poslovanju> [↑](#footnote-ref-58)
59. See: <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/8183-tuzbe-i-vapaji-urodili-plodom> [↑](#footnote-ref-59)
60. See: <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/saoptenja/7789-nedovoljno-transparentna-procedura-neobrazlozene-promene-i-korisni-predlozi> [↑](#footnote-ref-60)
61. See: <http://www.transparentnost.org.rs/images/dokumenti_uz_vesti/Izvetaj_o_sprovodjenju_Strategije.pdf> [↑](#footnote-ref-61)
62. See: <http://www.transparentnost.org.rs/images/dokumenti_uz_vesti/Drzavna_pomoc_izvestaj_februar_2015.doc> [↑](#footnote-ref-62)
63. See: <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/8253-vidovitost> [↑](#footnote-ref-63)
64. As shown by the Ministry of Economy responses to Transparency Serbia’s query. [↑](#footnote-ref-64)
65. See: <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/8130-novogodisnji-pritvori-zbog-korupcije> [↑](#footnote-ref-65)
66. See: <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/8280-ponovo-nepovezana-hapsenja-u-istoj-akciji> [↑](#footnote-ref-66)
67. See: <http://www.legislationline.org/documents/section/criminal-codes/country/5> [↑](#footnote-ref-67)
68. FOIA – Freedom of Information Act [↑](#footnote-ref-68)
69. CINS journalists have obtained data from Ministry of Interior and judicial institutions of Serbia on the following offences: taking a bribe, giving a bribe, giving and taking bribes in relation to voting, abuse of office, breach of the law by a judge or public prosecutor, fraud committed while in office, embezzlement, trade of influence and abuse of office by responsible official. [↑](#footnote-ref-69)
70. CINS has obtained data on processing corruption based on documentation of the Ministry of Interior, 36 lower (out of 58), 15 higher (of 25) Prosecutor's offices, Prosecutor's Office for Organized Crime, as well as 59 lower (of 66) and 20 higher (of 25) courts. The remaining courts and prosecutor's offices failed to respond or their responses were not applicable to data indexing [↑](#footnote-ref-70)
71. See: <https://www.krik.rs/tag/rusenje-savamala/>

    <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/8450-politicka-i-krivicna-odgovornost> [↑](#footnote-ref-71)
72. See: <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/8441-o-stranim-placenicima-donatorima-i-investitorim> [↑](#footnote-ref-72)
73. For example, the case against Miroslav Mišković and his son, who were accused of abuses committed in the management of their private companies and tax evasion: <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/8513-da-li-je-osuda-protiv-miskovica-vest-o-borbi-protiv-korupcije> [↑](#footnote-ref-73)
74. See: <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/8189-razresenja-i-obrazlozenja> [↑](#footnote-ref-74)
75. See: <http://pescanik.net/pripreme-za-izbor-javnih-tuzilaca-institucionalne-i-vaninstitucionalne/> [↑](#footnote-ref-75)
76. See: <https://www.krik.rs/vladimir-vucinic-zbog-pritisaka-sam-napustio-sudstvo/> [↑](#footnote-ref-76)
77. Available at: <http://goo.gl/IE5xHf> [↑](#footnote-ref-77)
78. See: <http://bezbednost.org/Sve-publikacije/6179/Testiranje-integriteta-policajaca.shtml> [↑](#footnote-ref-78)
79. http://www.poverenik.rs/sr/saopstenja-i-aktuelnosti/2445-pismo-poverenika-republickom-javnom-tuziocu-povodom-slucaja-qsavamalaq.html [↑](#footnote-ref-79)
80. Available: <http://goo.gl/W2Zqhu>, p. 73. [↑](#footnote-ref-80)
81. First Report on the Implementation of the Action Plan for Chapter 23, page 95, (in Serbian), <http://www.mpravde.gov.rs/files/Izve%C5%A1taj%20br.%201-2-2016%20o%20sprovo%C4%91enju%20Akcionog%20plana%20za%20Poglavlje%2023.pdf> [↑](#footnote-ref-81)
82. <http://www.parlament.gov.rs/upload/archive/files/cir/pdf/predlozi_zakona/266-16.pdf> [↑](#footnote-ref-82)
83. National Integrity System 2015, Public Sector, Transparency Serbia, <http://transparentnost.org.rs/images/dokumenti_uz_vesti/TS_report_NIS_2015.pdf> . [↑](#footnote-ref-83)
84. <http://www.parlament.gov.rs/upload/archive/files/cir/pdf/predlozi_zakona/2727-15.pdf> [↑](#footnote-ref-84)
85. http://www.seio.gov.rs/upload/documents/ekspertske%20misije/civil\_and\_political\_rights/law\_on\_free\_\_access\_to\_information.pdf [↑](#footnote-ref-85)
86. http://www.osce.org/serbia/35100?download=true [↑](#footnote-ref-86)
87. https://www.cins.rs/srpski/research\_stories/article/drzavu-ne-zanima-borba-protiv-korupcije- [↑](#footnote-ref-87)
88. https://www.cins.rs/srpski/research\_stories/article/agencija-za-borbu-protiv-korupcije-vodila-postupak-protiv-petine-poslanika-narodne-skupstine [↑](#footnote-ref-88)
89. https://www.cins.rs/srpski/postupci-protiv-funkcionera [↑](#footnote-ref-89)
90. See: <http://www.poverenik.rs/sr/saopstenja-i-aktuelnosti/2425-strategija-zastite-podataka-o-licnosti-i-posle-sest-godina-qmrtvo-slovo-na-papiruq.html> [↑](#footnote-ref-90)
91. CSO comments on the proposal for new Law on Personal Data Protection: <http://heartefact.download/sh/defense/trazimo-bolju-zastitu-podataka-o-licnosti.html> [↑](#footnote-ref-91)
92. <http://www.b92.net/info/vesti/index.php?yyyy=2016&mm=08&dd=15&nav_id=1165977> [↑](#footnote-ref-92)
93. <http://www.antikorupcija-savet.gov.rs/Storage/Global/Documents/Inicijativa%20Ustavnom%20sudu%20-%20oznaka%20sluzbeno.pdf> [↑](#footnote-ref-93)
94. <http://www.antikorupcija-savet.gov.rs/en-GB/reports/cid1028-3181/report-on-unlawful-classification-of-data-secrecy-based-on-the-regulation-on-office-operation-of-state-administration-bodies> [↑](#footnote-ref-94)
95. <http://pescanik.net/wp-content/uploads/2016/07/Zakljucak-o-usmeravanju-i-uskladjivanju_izrade-pregovarackih-pozicija_Sluzbeni-glasnik-br-50_jun-2016.pdf> [↑](#footnote-ref-95)
96. http://www.zeneprotivnasilja.net/images/pdf/FEMICID\_Saopstenje\_01.januar-31.jul\_2016.pdf [↑](#footnote-ref-96)
97. https://en.wikipedia.org/wiki/%C5%BDiti%C5%A1te\_shooting [↑](#footnote-ref-97)
98. http://rs.n1info.com/a173650/Vesti/Vesti/Otac-ubijene-Prijavljivali-smo-ga-slavili-smo-dan-razvoda.html [↑](#footnote-ref-98)
99. http://www.blic.rs/vesti/drustvo/slucaj-zitiste-vulin-ponovio-da-niko-nije-prijavio-nasilje-najavio-detaljan-izvestaj/y3lezxq [↑](#footnote-ref-99)
100. http://www.zeneprotivnasilja.net/vesti/603-sistem-stiti-sebe-a-ne-zene [↑](#footnote-ref-100)
101. available only in Serbian at http://www.zastitnik.rs/index.php/2012-02-07-14-03-33/4833-2016-07-28-08-59-32 [↑](#footnote-ref-101)
102. available only in Serbian at http://www.zastitnik.rs/index.php/2012-02-07-14-03-33/4869-z-sh-i-ni-gr-d-n-pr-p-zn-i-n-silj-u-p-r-dici [↑](#footnote-ref-102)
103. The Ombudsman’s Report, pg.15, footnote 21: <http://www.zastitnik.rs/index.php/2012-02-07-14-03-33/4869-z-sh-i-ni-gr-d-n-pr-p-zn-i-n-silj-u-p-r-dici> [↑](#footnote-ref-103)
104. [Special Report of the Protector of Citizens on the Implementation of the General and Special Protocols on Protection of Women Against Violence](http://www.ombudsman.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji/3711-special-report-of-the-protector-of-citizens-on-the-implementation-of-the-general-and-special-protocols-on-protection-of-women-against-violence), pg. 3. par. 15, available in English at <http://www.ombudsman.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji/3711-special-report-of-the-protector-of-citizens-on-the-implementation-of-the-general-and-special-protocols-on-protection-of-women-against-violence> [↑](#footnote-ref-104)
105. Calculated as follows: out of 4,000 criminal reports of domestic violence, 15 percent are deferred, which means that 600 perpetrators paid at least 320 EUR. Therefore, the minimum amount gathered from perpetrators in one year is 192,000 EUR [↑](#footnote-ref-105)
106. See: <http://www.mpravde.gov.rs/vest/13226/resenje-o-dodeli-sredstava-prikupljenih-po-osnovu-odlaganja-krivicnog-gonjenja.php> [↑](#footnote-ref-106)
107. See: <http://www.mpravde.gov.rs/sekcija/53/radne-verzije-propisa.php> [↑](#footnote-ref-107)
108. See: <http://www.potpisujem.org/srb/2020/prednacrt-zakona-o-zastiti-od-nasilja-u-porodici-mora-biti-precizan-i-konzistentan> [↑](#footnote-ref-108)
109. Counselling centre against domestic violence and Autonomous Women’s Centre [↑](#footnote-ref-109)
110. See: <http://www.tanjug.rs/full-view.aspx?izb=258030> [↑](#footnote-ref-110)
111. See: http://womenngo.org.rs/vesti/804-sistem-mora-da-bude-efikasan-i-odgovoran-i-ne-sme-da-zavisi-od-jednog-coveka [↑](#footnote-ref-111)
112. Available only in English at web site of PLAC: <http://www.info-evropa.rs/wp-content/uploads/2016/06/Compliance-analysis.pdf> [↑](#footnote-ref-112)
113. http://www.blic.rs/vesti/hronika/nova-krivicna-dela-u-srbiji-napadne-sefove-cekaju-stroge-kazne-a-za-proganjanje-i-do/nm59xh8 [↑](#footnote-ref-113)
114. Report, activities 3.6.1.21., 3.6.1.22.and3.6.1.23. [↑](#footnote-ref-114)
115. On August 6, 2015. [↑](#footnote-ref-115)
116. Report, activity 3.6.1.21 [↑](#footnote-ref-116)
117. http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/SRB/INT\_CRC\_LIT\_SRB\_24382\_E.pdf [↑](#footnote-ref-117)
118. http://www.womenngo.org.rs/images/vesti-16/NonProtection\_of\_children\_in%20Serbia.pdf [↑](#footnote-ref-118)
119. Action plan with status of implementation, activity 3.6.2.4, available in English at http://www.mpravde.gov.rs/files/Action%20plan%20Ch%2023-with%20status%20of%20implementation.pdf [↑](#footnote-ref-119)
120. There is no detailed Report on the websites of the Ministry http://www.minrzs.gov.rs/cir/aktuelno/item/5871-izvestaj-o-sprovedenoj-javnoj-raspravi-o-nacrtu-zakona-o-finansijskoj-podrsci-porodici-sa-decom or E-uprava http://javnerasprave.euprava.gov.rs/javna-rasprava/85 [↑](#footnote-ref-120)
121. Action plan with status of implementation, activity 3.6.2.10 [↑](#footnote-ref-121)
122. Action plan with status of implementation, Activity3.7.1.1. [↑](#footnote-ref-122)
123. Report, Activity 3.7.1.3. [↑](#footnote-ref-123)
124. See: <http://www.mpravde.gov.rs/sekcija/53/radne-verzije-propisa.php> [↑](#footnote-ref-124)
125. See: <http://www.rsjp.gov.rs/m/Mi%C5%A1ljenje---Nacrt-zakona-o-besplatnoj-pravnoj-pomo%C4%87i/1171> [↑](#footnote-ref-125)
126. Report, Activity 3.7.1.9. [↑](#footnote-ref-126)
127. Report, Activity 3.7.1.16. [↑](#footnote-ref-127)
128. Report, Activity 3.7.1.20. [↑](#footnote-ref-128)
129. MDTF-JSS – Multi Donor Trust Fund for Justice Sector Support in Serbia. [↑](#footnote-ref-129)
130. See: <http://www.mdtfjss.org.rs/en/mdtf_activities/2016/analysis-of-victims-rights-and-services-in-serbia-and-their-alignement-with-eu-directive-2012-29-eu#.V8yywVt95dg> [↑](#footnote-ref-130)
131. Available in English only on the MDTF-JSS web site: <http://www.mdtfjss.org.rs/archive//file/VSS%20-%20Final%20draft%20-%2008%2008%202016.pdf> [↑](#footnote-ref-131)
132. Only two NGOs that provide support to victims have been invited and consulted - Victimology Society of Serbia and ASTRA [↑](#footnote-ref-132)
133. News item on the MDTF-JSS web site: <http://www.mdtfjss.org.rs/en/mdtf_activities/2016/assessment-of-alignment-of-serbian-juvenile-legislation-with-the-eu-2012-29-victim-support-directive-#.V8y3eVt95di> [↑](#footnote-ref-133)
134. Summary in English available at MDTF-JSS web site: <http://www.mdtfjss.org.rs/archive//file/Assessment%20Juvenile%20Victims%20Skulic%20May%202016_%20Summary_eng.pdf> [↑](#footnote-ref-134)
135. See: <https://www.cins.rs/srpski/research_stories/article/beskrajni-procesi-za-krivicna-dela-sudjenje-miri-markovic-50-puta-odlagano-tokom-13-godina> [↑](#footnote-ref-135)
136. The Strategy for Combating Illegal Migration in the Republic of Serbia for the period 2009-2014 (Official Gazette of the RS, no. 25/09), Migration Management Strategy for the period 2009-2014 (Official Gazette of the RS, no. 59/09), Strategy for Integrated Border Management in the Republic of Serbia (Official Gazette of the RS, no. 11/06), Strategy for the Reintegration of Returnees under the Readmission Agreement (Official Gazette of the RS, no. 15/09), etc. [↑](#footnote-ref-136)
137. UNHCR, Serbia Interagency Operational Update July 2016 [http://data.unhcr.org/mediterranean/documents.php?page=1&view=grid&Country%5B%5D=187](http://data.unhcr.org/mediterranean/documents.php?page=1&view=grid&Country%255B%255D=187) [↑](#footnote-ref-137)
138. Regular Annual Report of Protector of Citizens for 2015, Belgrade, March 2016 [http://www.zastitnik.rs/attachments/article/1431/Annual%20Report%202015.pdf](http://www.zastitnik.rs/attachments/article/1431/Annual%2520Report%25202015.pdf) [↑](#footnote-ref-138)
139. Source: <http://www.kirs.gov.rs/articles/navigate.php?type1=3&lang=SER&id=2616&date=0> [↑](#footnote-ref-139)
140. Group 484, Belgrade Centre for Human Rights and Belgrade Centre for Security Policy, Belgrade, 2014 [↑](#footnote-ref-140)
141. From January to July 2016. [↑](#footnote-ref-141)
142. Official Gazette of the RS, No. 63/2015 [↑](#footnote-ref-142)
143. Official Gazette of the RS, No. 109/2007 [↑](#footnote-ref-143)
144. Official Gazette of the RS, No. 107/2012 [↑](#footnote-ref-144)
145. The official statistics of the Center for Human Trafficking Victims Protection can be found at <http://www.centarzztlj.rs/images/stat/16/Sestomesecni%202016.pdf> [↑](#footnote-ref-145)
146. The entire statistics of ASTRA SOS hotline is available at <http://www.astra.rs/sos-telefon-i-pomoc-potencijalnim-zrtvama-trgovine-ljudima/statistika/> [↑](#footnote-ref-146)
147. Part of the State Department Report on human trafficking referring to Serbia can be found at the following link (in Serbian translation): <http://www.astra.rs/izasao-tip-report-srbija-na-listi-za-posmatranje/> [↑](#footnote-ref-147)
148. See: http://www.coe.int/en/web/anti-human-trafficking/home [↑](#footnote-ref-148)
149. The entire analysis of verdicts in criminal cases of human trafficking brought in 2015 can be found at the official ASTRA website: <http://www.astra.rs/wp-content/uploads/2016/07/ASTRA-legal-analysis-2015.pdf> [↑](#footnote-ref-149)
150. Draft of the National Strategy to prevent and fight against Terrorism,

     <http://www.mup.gov.rs/wps/wcm/connect/7ba665d2-d46d-4a4a-8f6b-2311a766ffa1/2016-04-04-NACIONALNA+STRATEGIJA+TERORIZAM.pdf?MOD=AJPERES&CVID=liv.U7Z&CVID=liv.U7Z&CVID=liv.U7Z&CVID=liv.U7Z&CVID=liv.U7Z&CVID=liv.U7Z&CVID=liv.U7Z&CVID=liv.U7Z&CVID=liv.U7Z&CVID=liv.U7Z&CVID=liv.U7Z> [↑](#footnote-ref-150)
151. Action Plan for the National Strategy to prevent and fight against Terrorism,

     <http://www.mup.gov.rs/wps/wcm/connect/ce4a9973-8268-48f9-9799-bd213df8cb3b/2016_05_11_AKCIONI+PLAN_TERORIZAM.pdf?MOD=AJPERES&CVID=liv.MDr&CVID=liv.MDr&CVID=liv.MDr&CVID=liv.MDr&CVID=liv.MDr&CVID=liv.MDr&CVID=liv.MDr&CVID=liv.MDr&CVID=liv.MDr&CVID=liv.MDr&CVID=liv.MDr> [↑](#footnote-ref-151)