



REPORT

**HUMAN
RIGHTS
DEFENDERS
IN SERBIA**

ISSUES AND CHALLENGES



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Human Rights Defenders in Serbia
– issues and challenges –



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INTRODUCTION

Human rights defenders in Serbia have been facing with a narrowing space for action for years, primarily through the impossibility of exercising the basic rights that enable them to work, namely freedom of association, freedom of peaceful assembly and freedom of information. They are constantly exposed to various types of pressures and attacks, both by various government officials and by formal and informal groups and individuals close to the governing structures. Negative public perception of human rights defenders has been present since the 1990s. This narrative has come to the fore in recent years, as evidenced by numerous relevant domestic and international reports on this topic. The essential misunderstanding of the role and importance of human rights defenders by the state is one of the greatest adversaries in the fight for a democratic and free society.

The position in society and the activities of human rights defenders in 2019 depended on the social and political context. Domestic political life in the previous year was marked by a serious crisis of democracy, further collapse of freedom of the media and of expression, and pressure on activists and opposition representatives. The crisis has resulted in a boycott of the National Assembly by opposition lawmakers, as well as an announced boycott of elections by most opposition parties. Civil society organizations attempted to provide support in overcoming the crisis, but that has not been met with understanding. The opportunity was used, once again, to characterize civil society organizations and human rights defenders as political opponents and enemies of the state.

This report has been compiled to present the basic issues and challenges that human rights defenders in Serbia have been facing today, as well as in order to further promote the importance of their role and work on preserving the basic human rights and civil liberties of each individual.



REPORT

METHODOLOGY

For the purposes of this report, the booklet of the *Human Rights House Foundation*¹ was used, which contains principles and standards for the protection and advocacy of respect for human rights. The standards, contained in the booklet, have been developed on international human rights declarations, such as the United Nations Declaration of Human Rights. The booklet contains the following standards:

- Publicly Support Human Rights Defenders
- Don't Criminalise Defending Human Rights
- End Restrictions on NGO Funding
- Respect NGO Independence
- Avoid Registration and Legal Restrictions
- End All Forms of Reprisals
- End Arbitrary Detention and Arrest
- Accept Dissenting Views
- Ensure Free access and Choice of Media
- Facilitate Peaceful Protests
- Uphold Responsibility of Business
- Fight against Impunity, Show Accountability
- Protect Women Human Rights Defenders
- Protect Human Rights Lawyers
- Protect Defenders of Minorities
- Protect Family Members of Human Rights Defenders

1 [*Rights of Defenders - Principles and Standards*](#)

In order to prepare this Report, the standards that best suit the local context were selected for analysis, and therefore the issues were mapped for each standard. Based on the mapped issues, unique questionnaires were developed and used to conduct survey through civil society organizations. The research included ten organizations that filled out the online questionnaire in the period May – June 2020. Surveyed civil society organizations were mapped based on their areas of activity, including the rule of law and human rights, women’s rights, LGBTQ rights, security, freedom of expression and the media etc. In addition, other relevant domestic and international publications were used for the purposes of the report.



MAPPED

KEY ISSUES

Publicly Support Human Rights Defenders

- There is a lack of support and understanding among government officials for the work of human rights defenders;
- Human rights defenders are the target of attacks by government officials;
- Campaigns against human rights defenders are organized in pro-regime media;
- Human rights defenders are the target of attacks by GONGO organizations;
- There is a noticeable lack of support for the work of human rights defenders by other actors associated with government officials;
- There is no public condemnation of attacks against human rights defenders by government officials.

End Restrictions on NGO Funding

- The legal framework is neither restrictive nor encouraging;
- Competitive funding is not transparent and it is sometimes misused;
- There is a lack of an effective complaint mechanism;
- The state of philanthropy and charity is not at a satisfactory level.

Respect NGO Independence

- The scope for civil society organizations acting is narrowed by changes in the legal framework;
- The inspection mechanism based on *Financial Action Task Force – FATF* recommendations is being abused.

Human rights defenders have often been **the target of verbal attacks and tabloid campaigns**. In practice, there is a wide range of attacks, which come from different sources, so we have cases of institutional pressure in the form of police threats or draconian punishment, mainly by imposing fines, the purpose of which is to deter civic activism. The number of attacks is also on the rise, as is the brutality of the campaign against the organization led by a growing number of GONGO associations promoting themselves with the help of pro-government tabloids and television. After criticizing the announced hunger strike of the Minister of Defense Aleksandar Vulin, the director of the organization *Belgrade Center for Security Policy* Sanja Stojanovic Gajic² found herself under attack by the GONGO organization *National Avant-Gard* which published a [video](#) criticizing her personally as well as the work of her organization. The BCSP has been the target of attacks by GONGO organizations for a long time, and the attacks intensified after their report defined Serbia as a “captured state” and asked the European Commission to establish a “Pribe mechanism” modeled on resolving the political crisis in the North Macedonia. Based on its two-week reports on monitoring respect for fundamental rights “Three Freedoms under the Magnifying Glass”, the organization *Civic Initiatives* [94 cases](#) of violating the right to freedom of expression in 2019.³

According to research conducted for the purposes of this analysis, the motives for attacks on human rights defenders are diverse, but most often in practice there are those related to corruption and abuse of power and authority, as well as attacks motivated by intolerance based on ethnicity or sexual orientation. This is evidenced by the cases of attacks on the premises of the organization *Youth Initiative for Human Rights – YIHR* when the hallway of the building was painted with the slogans “Ratko Mladic” and “No Surrender”.⁴ The premises of the Pride Info Center in Belgrade were the target of attacks on two occasions during 2019. For the first time during the protest of *the Democratic Party of Serbia*, a right-wing political organization, and the second time before the football match between football teams *Red Star* and *Greek Olympiacos*.⁵ Both times, the police were close to the scene, but failed to react. The festival “Mirdita, good day”, whose main goal is to bring the social and cultural scene of Pristina closer to the domestic public, has become a traditional target of attacks by political extremists who demand a ban of that festival, and mark their organizers as mercenaries working in the interest of Albanians. During

2 [Monitoring Matrix on Enabling Environment for Civil Society Development, Country Report for Serbia 2019](#)

3 *Ibid.*

4 [Associations of Citizens: Shrinking Civic Space Report, Serbia 2019](#)

5 *Ibid.*

the festival, right-wingers gathered several times, making riots. They tried to enter the festival and violently interrupt it, and on that occasion they clashed with the police.⁶ A torch was thrown into the space where the festival is being held. No one has been held accountable for this violence, nor has anyone been prosecuted.⁷ One of the incidents that marked 2019 were the protests of right-wingers in front of the bakery “Roma” in Belgrade neighborhood of Borchia, demanding its closure because a former worker of that bakery published a picture showing a double-headed eagle, which is a symbol of Albania. After that, a significant number of citizens gathered to show solidarity with the owner of the bakery, and one of the organizers of the protest, Sofija Todorovic, then faced a large number of threats via social networks, but the authorities failed to react. She was forced to turn to the European Court of Human Rights.⁸

The general assessment is that government officials and representatives of state institutions ignore or even discredit the role of human rights defenders in all those areas that can have a political connotation, while they are more willing to cooperate in politically less sensitive areas such as youth employment, it is the conclusion of the research conducted for the purposes of this analysis. Political officials rarely dare to publicly condemn attacks on human rights defenders, except in situations where they estimate that they will political benefit. The situation is better when it comes to independent institutions such as the Commissioner for the Protection of Equality or the Protector of Citizens. Numerous attacks of government officials on representatives of civil society organizations and independent institutions have indicated on that. One of the most impressive examples is when the head of the parliamentary group of the ruling *Serbian Progressive Party*, Aleksandar Martinovic addressed during the parliamentary debate on the topic of the annual report of the Commissioner for Information of Public Importance and Personal Data Protection. On that occasion, he accused the journalists who had asked the competent authorities to provide them with certain information that “these are tendentious inquiries that going to overthrow the security system of the Republic of Serbia.” He accused *CINS*, *KRIK*, *BIRN*, *BIRODI*, Natasa Kandic from the organization *Humanitarian Law Center* and Nemanja Nenadic from the organization *Transparency Serbia* of seeking security-sensitive information. He also claimed that the former Commissioner for Information of Public Importance and Personal Data

6 [News N1: Police Prevented Hooligans from Breaking into the “Mirdita, good day” Festival, published on May 30th, 2019](#)

7 [Associations of Citizens: Shrinking Civic Space Report, Serbia 2019](#)

8 *Ibid.*

Protection was working for foreign security agencies and the opposition.⁹ Journalist of the *KRIK* portal also felt the consequences of the fierce campaign after they had published the story about the corruption affair, whose main actor was brother of the Minister of Finance, Sinisa Mali. On that occasion, *KRIK*'s journalists were accused of harassing and illegally monitoring his family and attempt to overthrow the President Aleksandar Vucic. Additionally, family house of another *KRIK*'s journalist, Milica Vojinovic, was robbed only a day after the photo, showing representatives of the *Serbian List* on the yacht belonging to Behgjet Pacolli, had been published.¹⁰

There is no strategy to support human rights defenders nor systemic support to the other parts of society, but it is obvious that they receive some kind of support from other NGOs and media that objectively and professionally perform its work, such as *N1 Television*, daily newspaper *Danas*, weekly newsmagazines *NIN* and *Vreme*, as well as individual local and regional media. Some organizations also mentioned establishing closer ties with the business sector in order to obtain financial support.

In reference to access to information of public importance, the legal framework does not predict numerous and discriminatory restrictions, but, in practice, associations often face with obstacles. They most often appear in the form of putting secrecy marks on certain documents, avoiding answers to questions or not providing the requested information.

In the questionnaires compiled for the purposes of this analysis it is stated that human rights defenders are affirmatively involved in the process of adopting laws, decisions and strategies related to human rights, but mostly in order to meet formal requirements only. In practice, the role of the Office for Cooperation with Civil Society, which acts as a mediator between civil society and decision-makers, has been demonstrated to be important, and the most concrete participation of civil society organizations is stated the one with *the National Convention on the European Union (NCEU)*, a platform that provides a certain consultative role in Serbia's accession negotiations process with the EU. In Serbia, there is still no strategic document that comprehensively regulates the relationship between the state and civil society organizations. Certain elements of the strategic regulation of this issue are contained in the Decree on the Office for Cooperation with Civil Society of the Government of the Republic of Serbia and the Guidelines for Involving Civil Society Organizations in Adopting Regulations. *The National Convention on the European Union* brings together more than 720 members acting through 24 working groups and two cross-sectoral groups. Based on the decision of the European Integration Committee of the National Assembly of the Republic of Serbia,

9 *Ibid.*

10 *Ibid.*

it is mandatory to consider proposals, enclosures and recommendations of NCEU before the official consideration of the negotiating position, and it is envisaged NCEU to participate in the process of preparation of negotiating positions and informing the public about the course, content and important documents in accession negotiations process with the EU.¹¹

The normative framework contains provisions that envisage civil society organizations to participate in the decision-making process and regulations. Article 77 of *the Law on State Administration* envisages that, during the preparation of a draft law, ministries and special organizations shall consult with all relevant entities, including other state bodies, relevant associations, the professional public, as well as other stakeholders, in a manner that ensures exposure and effective public participation in that process. *The Law on Local Self-Government* contains several norms regulating the obligation of public debate when changing the Statute, adopting the budget, as well as other strategic and development plans, but also other topics if a certain number of citizens or councilors support the proposal. *The Law on the Planning System* also regulates this area prescribing the principles of publicity and partnership, which imply that public policies are determined within a transparent and consultative process, i.e. that during the process of developing and implementing planning documents, as well as analyzing effects and evaluation of public policy performance, it is implemented a transparent process of consultation with all stakeholders and target groups, including associations and other civil society organizations. However, in practice, situation is significantly different, primarily due to the use of the institute of law-making under the abbreviated procedure when acts are adopted without prior discussion. During 2019, almost 17% of regulations were adopted in this manner. Only 6% of civil society organizations that participated in the research for the purpose of MM 2019 pointed out that they were involved in the adoption of these regulations starting from an early stage, and only 13% claimed that they had enough time to submit their amendments and comments. One of the most striking cases is adoption *of amendment of the Criminal Code* reintroducing life imprisonment into the penal system without the possibility of parole for perpetrators of certain criminal offences where the victims are minors. The initiative for adopting these changes came from Igor Juric, the father of the tragically murdered Tijana Juric and the founder of *Tijana Juric* foundation. Signing his initiative, about 160,000 citizens supported this. Although there was enough time, the public debate has never been held, and at the end, on the proposal of the Government, the parliamentary majority adopted those changes. Starting from the fact that those changes have no foundation in the constitutional framework of

11 *Monitoring Matrix on Enabling Environment for Civil Society Development, Country Report for Serbia 2019*

the Republic of Serbia, a number of civil society organizations submitted initiative to the Constitutional Court to examine the constitutionality and legality of the adopted changes.¹²

The Ministry of State Administration and Local Self-Government presented *the Draft Law on Referendum and People's Initiative* whose adoption should replace the same law dating from 1994. In addition to positive developments in certain areas, *the Draft Law* contains certain provisions whose application could lead to meaninglessness and restriction of citizens' freedoms, primarily by introducing the obligation to pay fees for verifying collected signatures, omitting precise definition of the right of participation of initiative committee representatives in all phases of deciding on the people's initiative as well as inefficient and unclearly defined judicial protection.

Public hearings are still burdened with numerous lacks and are very often reduced to the simulation of democratic procedures where GONGO organizations play a major role. In June 2019, a meeting with non-governmental organizations on amendments to *the Law on Financial Support to Families with Children was held in* the Government of the Republic of Serbia, where the association *Mame su zakon (Mums rule)* was not originally invited to, and they mostly criticized the Law. Instead, organizations that have never been familiar with this Law were invited. Only after this association had reacted on social networks, they received an invitation to a meeting, just a day earlier. Incidentally, this Law was passed in 2018 without any public debate and caused waves of protests of civil society organizations and citizens' associations as the one mentioned above. Although it was announced several times that the Law would be changed, during 2019 there were no results, nor did government representatives explain why they had broken their own promises.¹³

The research conducted in order to prepare *the Report on Monitoring on Enabling Environment for Civil Society Development* showed that 8 out of 27 respondents tried unsuccessfully to cooperate with institutions regarding decision-making and drafting legal acts in a certain area. According to the results of the *ACT (Program for an Active Civil Society Together)* research, 63% of civil society organizations somehow cooperated with local self-government units, which is a significant decrease compared to 2011, when the percentage had been 79%. In most cases, this cooperation was reduced to the funding activities of civil society organizations by local self-government unit, while civil society organizations significantly participated in the development of strategies and decision-making processes at the local level only in 14% of cases.

Human rights are mostly indirectly included in the contents of educational programs, while on the other side certain human rights

12 [Monitoring Matrix on Enabling Environment for Civil Society Development, Country Report for Serbia 2019](#)

13 [Associations of Citizens: Shrinking Civic Space Report, Serbia 2019](#)

aspects are included in special training programs for civil servants, as the organizations stated in the research conducted for the purposes of this analysis. Some organizations reported that there is still content in university textbooks motivated by discriminatory treatment of LGBT + people. Subjects related to civil society are partially included in the content of educational programs at all levels. Based on [*the Law on the Fundamentals of the Education System*](#), the Ministry of Education decided to introduce the subject Civic Education or Education for Democracy and Civil Society into the school system of the Republic of Serbia in the school year 2001/2002. The basis for introducing and further development of civic education in Serbia was the Council of Europe Recommendation on Education for Active Participation in a Democratic Society, adopted in 2002. Within this subject, students have the opportunity to learn about important social topics, such as human rights, democratic society, the importance of civic activism and the work of the civil sector. In 2018, the *amended Rulebook on the Curriculum for the First Grade of High School* was adopted, introducing six new elective modules. This is the first time that the program has changed since civic education had been introduced in schools. However, civic education is not envisaged as a module in teacher education programs, which in practice means that there is no higher education where students would study to become professors of civic education.¹⁴

The organizations, participated in the research for the purposes of this analysis, assessed that independent institutions are associates in the protection of human rights and the rights of human rights defenders, but emphasized insufficient capacity of these institutions and ignorant attitude which decision makers express towards them, making their position more reminiscent to civil society organizations.

Media coverage in this area best reflects the atmosphere of complete division and polarization of society, it is the conclusion of the organizations that participated in the research. In this regard, national televisions and the highest-circulation print media, as well as pro-government media, generally ignore or present human rights defenders in a highly negative context, labeling them as traitors, foreign mercenaries or lobbyists. On the other hand, the reporting of a small number of professional media is significantly different and provides more space for pointing out the issues and affirmation of these activists. Pro-government tabloids and right-wing portals have often targeted human rights defenders. In this regard, we remind of the text of Professor Slobodan Antonic published on *the New Standard* portal, entitled “How our youth is being rethought with foreign money”. The text narrates about how much money the organization

¹⁴ [*Monitoring Matrix on Enabling Environment for Civil Society Development, Country Report for Serbia 2019*](#)

the issues of allocating the funds based on a public call of state bodies. [*The Regulation on Funds for Encouraging Programs or the Missing Part of Funds for Financing Programs of Public Interest Implemented by Associations*](#) in more detail regulates the criteria, conditions, areas, methods, allocation process and the manner and procedure of returning funds.

According to the study conducted for the needs of the program “Together for an Active Civil Society” on civil society organizations in Serbia in 2019: 33% of citizens’ associations stated that they were funded by local governments, 10% of them were funded by various ministries, 75% of them were funded by provincial government. Almost 1/3 (29%) were funded by the Ministry of Labor, Employment, Veterans and Social Affairs (MLSW); as well as the Ministry of Culture and Information (28% of them).¹⁷

There isn’t any state body to monitor the implementation of state-funded projects. The monitoring process should be performed by each body that has allocated funds for programs/projects to civil society organizations, but there is a lack of a clear and unique monitoring methodology and the obligation to perform individual and common evaluation of the effects of the call related to the strategic document of the body in a certain area of public interest.¹⁸

The legislature partially meets the standards regarding the transparency of allocating public funds and the fact that it is legally binding. The Decree of the Government of the Republic of Serbia imposes that competent body is obliged to publish the annual plan for announcing public calls by January 31st, at the latest. It is similar with the selection criteria. The regulation very generally sets out criteria for program selection, resulting in a greater possibility of arbitrary decision-making. A public interest criterion has not been defined so far.¹⁹

However, in recent years, there have been cases in practice when there were suspicions of abusing the process of funding civil society organizations, as well as the fact that the selection processes in application calls were non-transparent. The examples indicated that GONGO civil society organizations, established the day before the announcement of the project call, had been receiving the funds in the application process or even those civil society organizations whose area of activity does not correspond to the area which the funds within the application call, were intended for.

Associations of human rights defenders **funded from foreign sources** are almost without exception stigmatized in public and labeled as foreign agents and enemies of the Republic of Serbia. This narrative, dated back to the

17 [*CSO Sector in Serbia in 2019 - Assessment of the Situation in the Civil Society Organisation Sector in Serbia*](#)

18 [*Monitoring Matrix on Enabling Environment for Civil Society Development, Country Report for Serbia 2019*](#)

19 [*Monitoring Matrix on Enabling Environment for Civil Society Development, Country Report for Serbia 2019*](#)

Passing [*the Law on Free Legal Aid*](#) provoked severe reactions of civil society organisations, which thought that the changes made it impossible for the organisations which provided free legal aid to work and that the biggest consequences are to be felt by their clients, mostly members of marginalized groups, whose access to justice will be made more difficult. In the open call for registering legal aid providers the Ministry of Justice says that “societies can provide free legal aid within the goals which they were founded for by means of hiring chosen lawyers to provide free legal aid on their behalf”.

However, [*the Law on Free Legal Aid*](#) explicitly states that the organisations can provide help only in cases described by laws on asylum and prohibition of discrimination.²⁰ These amendments and particularly turning a deaf ear of the Ministry of Justice to the comments made by the civil organisations provoked conflicts between them and some members of lawyers’ community, mostly from the Bar Association of Belgrade. Cases have been confirmed of deleting from the Register of lawyers of some individuals who were related to civil organisations. Blazo Nedic, President of Serbian National Association of Mediators and one of the registered attorneys of the association *Partners for Democratic Change Serbia* was deleted from the Register of lawyers due to an alleged conflict of interest. In an open letter addressed to the public he emphasized that such a decision has not been based on the law and that it is just an orchestrated campaign against him and non-governmental organisations.²¹ In May 2019, president of the organization *Lawyers’ Committee for Human Rights – YUCOM*, Katarina Golubovic, was warned by a memo that she could not represent this organization and maintain her status of a lawyer.²² Faced with this threat, the organization *Lawyers’ Committee for Human Rights – YUCOM* changed its legal representative in April 2019. That was a way of intimidating individuals who exercised a function of public interest and at the same time a direct attack on the right of free association.

Another problematic example of amendments is passing [*the Law on Central Register of Ultimate Beneficial Owners*](#). The Law permits establishing, contents, grounds for registering and way of conducting of Central Register of Ultimate Beneficial Owners other subjects registered in the Republic of Serbia according to the law, whose stipulations are applied to business associations, civil associations, foundations and endowments. Since the idea of ownership is in practice related to the the idea of property, these stipulations are not in accordance with the provisions

20 [*Associations of Citizens: Shrinking Civic Space Report, Serbia 2019*](#)

21 [*Press Release of the Partners for Democratic Change Serbia Association, from September 17th, 2019*](#)

22 *Letter from the Bar Association of Belgrade from March 13th 2019, available in the archives of member organizations of Human Rights House Belgrade*

of [the Law on Associations](#) and [the Law on Foundations and Endowments](#) which prohibit the division of the property among the founders, members of the management of an association, directors, employees or persons related to them. Still, the legislator determined that both associations and foundations are recognized as tax payers based on this law, while political parties, syndicates, sport associations and organisations, church and religious affiliations are exempted from it. The main goal, as stated in the argumentation, was the promotion of the existing system of identification and preventing of money laundry and financing of terrorism, as well as harmonizing domestic legislature with the standards in this domain.

Based on the recommendations of the expert council of *Financial Action Task Force – FATF* and *the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism – MONEYVAL*, the Government of the Republic of Serbia adopted the document [National Money Laundering and Terrorist Financing Risk Assessment](#) with the accompanying [Action Plan](#) in order to implement the recommendations this document contains. Based on this, a stronger coordination has been established among the inspections in charge of civil society organizations and foundation. In order to efficiently supervise and coordinate the work of inspection officials, Coordination Commission for Supervisory Inspection founded the Working Group for supervising the inspection of the non-profit sector. The Working Group created a *Procedures and Criteria for Conducting Joint Supervision of NGOs* document. These procedures introduce steps of preparing and developing the plan for the integrated supervision of the civil society organizations, as well as for implementing of the individual supervision.²³ Resources Center of the organization *Civic Initiatives* was alarmed in two cases of the supervision when these inspections linked two civil society organizations with the risk of money laundry and financing of terrorism. In both cases inspectional supervision was conducted with the abovementioned risk assessment and no irregularities could be established. Besides, there have been several cases related to problematic approach of some banks to the application of the regulations around money laundry. Namely, applying [the Law on Central Register of Ultimate Beneficial Owners](#) some banks required from all the members of the civil society organizations to present their personal documents, and not from the managing representatives only, which had been the case before.

In the domain of guarantees against government-operated interference in internal issues of the civil society organizations, legal framework is in accordance with international standards. Freedom of association

23 [Monitoring Matrix on Enabling Environment for Civil Society Development, Country Report for Serbia 2019](#)

is guaranteed by the Constitution of the Republic of Serbia; there are restrictions in regard to founding of secret and paramilitary associations; civil society organizations are autonomous from the state and they autonomously decide on their internal structure and procedures. There is no legislature based on which the authorities can engage themselves in order to intervene in the process of appointing subjects on associations or in internal procedures of the civil society organizations. But, **when it comes to protecting the freedom of association, including preventing third parties to breach this freedom, the legislation indicates unfavourable environment.** Even though Article 3 of [the Law on Association](#) stipulates that associations are founded and organized on a free basis, autonomous in reaching their goals, there are no specific stipulations as to explicitly prevent interventions of third parties in the process of free association. According to this law, civil society organizations have the right to protection the same as other private and legal subjects.

Officially, there are no restrictions what type of issues the organizations can treat or what their field of work should be, but it can be seen in practice that those which are active in politically delicate topics are as a rule subject to numerous and different sorts of pressure, as well as intimidations and threats directed to their activists, as the organizations, participated in the research conducted for the purpose of this analysis, concluded. Equally, there are no formal differences with regard to the supervision of the work of human rights defenders and organizations which support policies of the Government of the Republic of Serbia, but in practice it has been shown that certain organizations can be victims of institutional pressure, which is borne out by the case of the tax control of *Juzne vesti* (*Southern News* – the regional daily online newspaper). Inspection and audit are used as a means of legal coercion, and their function is often misused. Cases of prolonged inspections have been reported which virtually block the functioning of an association, as well as exceeding inspectors' authorities.

Most issues related to respecting the independence of associations and activists have been recorded in cases of research journalists who were victims of burglary or seizing of work resources as a part of unfounded criminal proceedings, as shown in research data. There are also frequent cases of suspicion of following individuals or interception of communication of individual activists.

Questionnaire data shows that the state, supported by tabloids and GONGO associations, indirectly interfered in the work of organizations engaged in human rights, while direct interference was mostly reserved for research journalists.

4. Ensure Free Access and Choice of Media

States must ensure that human rights defenders have “access to and use of information technologies and the media of one’s choice, including radio, television and the Internet.” Any unjustified and abusive action taken by governments to control and monitor online or offline media, such as censorship of the Internet, is a violation of the right to freedom of expression. People should be able to access and use information technologies or media of their choice. They should not face external pressure or abusive control by public authorities. In some countries, authorities have blocked independent media that are critical of the government and cover human rights related issues. They have sought to shut down social media accounts of independent media outlets, bloggers, and human rights defenders.

According to the data collected from a research conducted for the purpose of this analysis, legal framework on the freedom of speech and access to information of public interest is mostly in accordance with the European legislature, with the exception of a part of the suggested amendment of *the Law on Free Access to Information of Public Importance*, which do not require capital associations to present information of public interest. Problem arises when it comes to the absence of will to enable adequate and equal law enforcement. In the context of the diversity of the media market it can be said it exists, but there is also an issue of insufficient diversity of media content, as well as of their availability.

The right to access to information is in principle stipulated with the rightful interest of the public to be aware of the existence and the content of information. The Law also clearly defines the exemptions to this and here the Law is in the accordance with European standards. According to it, the media have a privileged position to a certain extent – they do not pay the fee when acquiring information. However, in practice information is more often than not unavailable, even when this involves paying a fine by the government bodies. This mostly happens in situations when the information is related to the transactions of the government or government-rules companies, as well as to assigning government funds. Article 22 of *the Law on Free Access to Information of Public Importance* stipulates that the applicant can file a complaint to the Commissioner if an organ denies or refuses the motion within 15 days, or if it does not provide an answer to it within the statutory term. The same is applied when a government organ does not approve the access to a document containing required information and/or does not issue a copy if it. The Law stipulates that an appeal is not allowed if it is made against the decisions of

the National Assembly, the President of the Republic, the Government, the Supreme Court, the Constitutional Court or the Republic Public Prosecutor. According to the data obtained from the Commissioner for Information of Public Importance and Personal Data Protection from 2019, 25,416 cases of motions were registered, 20, 572 were accepted, 563 were refused and 1746 were denied. For the remaining 2,534 of motions there isn't relevant data because it hasn't been presented to the Commissioner. Since the beginning of 2019 the Commissioner issued 80 executive requests, but in practice there are weak legislative solutions because efficient mechanisms have not been put in place in case a government organs turns a deaf ear to the Commissioner motion.²⁴

The Law on Public Information and Media, stipulates protecting the source i.e. confidentiality, with an exception in case of information on a criminal offence or an offender, with a possible conviction to at least five years of prison. There is also come into effect special *Law on Protection of Whistleblowers*.

Slander was decriminalized by *Amendments to the Criminal Code in 2012*, while criminal offence of insult remained within the legal system and it is subject of private charges. In addition, *the Law on Public Information and Media* stipulates the possibility of filing charges against media for reputation, honour or piety damage. The problem is unequal practice in this area and complete ignorance of the practice of the European Court of Human Rights. A trend to often sue journalists who are critical of the government is also worrying, and this puts them under pressure and financially endangers their existence.

So far there have been no indications that laws on national security, anti-terrorism and extremism have influence on the freedom of speech, appears from the research data. Based on *the recommendations* of expert councils of *Financial Action Task Force – FATF* and *the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism – MONEVAL*, in June 2018, the Government of the Republic of Serbia adopted the document *National Money Laundering and Terrorist Financing Risk Assessment* with accompanying *Action Plan* in order to implement the recommendations contained in this document. Based on this, a stronger coordination has been established among different inspections in charge of associations and foundations. Civil society organizations were not involved in the process of passing these documents, but since non-profit sector was recognized as a vulnerable category in the system of preventing money laundry and financing terrorism in the course of 2019, the Ministry of Finance – Department for the Prevention of Money Laundering – organized several public events together with the Office for Cooperation with Civil Society of the Government of the

24 *Monitoring Matrix on Enabling Environment for Civil Society Development, Country Report for Serbia 2019*

Republic of Serbia, with the purpose of raising awareness of the civil society organizations related to these topic.²⁵

On the other hand, the Action Plan as one of the sources of threat/vulnerability defines insufficient supervision of NPO/OCD sector conducted by authorized institutions with the purpose of reducing vulnerability of the system to financing terrorism, as well as insufficient number and inadequate training of authorized inspectors to control conducting regulations by associations. For that reason, the first supervision of NPO/OCD took place in 2019, in order to reduce the vulnerability of the system to financing terrorism. However, neither the report on the supervision nor any information on the results were not made publicly available.

There are no legal restrictions in regard to the use of the Internet, and laws stipulate different aspect of the Internet contents, above all privacy policy, hatred and copyright. *Share Foundation* and *BIRN* are in charge of a database on violation on online rights. In the last year and a half there have been 15 cases recorded in Serbia, in the following three categories: editing or removal of the contents of public interest, algorithmic blocking and suspension of the contents, blocking and filtering on social media. One of the most widely known cases of blocking the account in the last period is that of Sofija Todorovic, an activist who wrote about an incident in a bakery in Belgrade neighbourhood Borca, whose owner is an Albanian. According to the MM survey, 49 organizations answered that their accounts were not blocked and three that they were. 50 organizations answered that they had no restrictions while accessing the information online or offline and two that they had.

Facebook blocked the organization *Autonomous Women's Centre* to share a link regarding the verdict of the Appeal Court in case of a raped girl of Roma nationality, and the excuse was that it violates Facebook standards. This case was registered by the *Share Foundation* as algorithmic blocking and temporary suspension of the contents.

Organizations participated in the research stress that the diversity of the contents and accessibility of the information to the public are fairly outlined by numerous laws. *The Law on Public Service Broadcasting* stipulates the obligation to respect and stimulate political and other ideas. Obligation to freely, truthfully, objectively, to the full and timely inform applies also to other providers of media services. The Law also stipulates the existence and jurisdiction of the Regulatory Authority of Electronic Media, as well as the obligation of all broadcasters to provide equal representation during elections, without discrimination. However, journalists and media experts agree that political parties and candidates do not have equal and fair access

to the media outside election campaign either, which widely influences the state of affairs in democracy and political pluralism in Serbia.

What worries is an even stronger tendency of the highest holders of government offices to attack or put pressure on journalists. They usually begin with offences, followed by pro-governmental tabloid and portals and their campaigns. The most common targets are journalists who conduct research on criminal activities and corruption. Independent Journalists' Association of Serbia organised protests on the occasion of the anniversary of the attempted murder of their colleague Milan Jovanovic.²⁶ His house was torched in December 2018, and on that occasion several shots were fired at his entrance door. Former district mayor of Grocka, Dragoljub Simonovic, was charged with an attempt to murder. For as long as a year no verdict was pronounced, one of the reasons being repeated postponing of the process due to the alleged absence of the defendant, Dragoljub Simonovic.²⁷ *Independent Journalists' Association of Serbia, Independent Journalists' Association of Vojvodina and Branch Trade Union of Culture, Arts and Media Independence*, **declared** on May 3rd – World Press Freedom Day – that the Government in Serbia suppressed critical reporting, while different sorts of pressure, especially financial, undermine independent editorial policy of the media. According to them, state authorities hold the greatest responsibility for the misuse of the public funds, intimidation, slandering and discrediting of the journalists and media. On the other hand, state secretary at the Ministry of Culture and Information Aleksandar Gajovic said: "If you say that the media are not free, that means they are imprisoned. Who did that? Who keeps them in prison? Media privatisation ended in Serbia on December 31st, 2016. All media are free."²⁸

Issues noted as the most serious in the domain of the freedom of speech in the yearly report of the *Independent Journalists' Association of Serbia* "Indicators on the Level of Media Freedoms and Journalists' Safety" which is about to be published:

- Journalists are still in danger because they follow their line of duty. After three years in a row with a single-digit number of attacks, in 2019 that number is again a two-digit number (11 physical attacks)
- Verbal threats are constantly present and have been at the same level for the past five years (there were 23 threats in 2019), while the number and different sorts of pressure have been rising year in year out. 80 such incidents were recorded last year (2018 – 72, 2016 – 33).

26 [*News N1: The Protest Marked a Year since the House of Journalist Milan Jovanovic Was Torched, published on December 12th, 2019*](#)

27 [*Associations of Citizens: Shrinking Civic Space Report, Serbia 2019*](#)

28 [*Associations of Citizens: Shrinking Civic Space Report, Serbia 2019*](#)

The Constitution of the Republic of Serbia explicitly stipulates the right to assembly. [Article 54](#) prescribes that the right to assembly outdoors can only be restricted by the law if it is necessary to protect public health, morale, and the rights of others or the safety of the Republic of Serbia. [The Law on Public Assembly](#) stipulates in a simple way the matter of the freedom of assembly, giving simple procedures of announcing it, but in practice organising public gatherings is made very difficult by different procedures and amounts of fees required by the local authorities for occupying green areas. The city of Pancevo requires in its resolution on specifying public space for public gatherings that the organisers sign an agreement with public utility company *Higijena* (Hygiene) and pay a deposit which is defined by that very company. It is to be used in case of expenses caused by “providing additional communal services”.²⁹ [The Law on Public Assembly](#) is not in accordance with international standards because an efficient legal remedy in case of a prohibition is not foreseen, unlike prohibition related to the place and time, and it stipulates very high fines that can have an aversive effect.

The Law prescribes a system that includes an application, and not that of approval to organize a public gathering, which in practice means that it is considered allowed unless the authorities present a written prohibition. Application has to be submitted five days before the event at the latest. The Law prescribes certain restrictions as to the place and states that it cannot be held in front of health institutions, schools, pre-school facilities or object of strategic interest for defence and security of the Republic of Serbia. The Law stipulates hefty fines for the organisers and participants, both physical persons and corporations.³⁰

[The Law on Public Assembly](#) **does not provide an efficient legal remedy** in case of a prohibition, i.e. the Administrative Court does not have a deadline to make final decision on banning a gathering, so it can happen that it makes it as late as a year after the set date for an event, which makes the intiturion of a legal remedy senseless, as questionnaires’ participants, conducted for the purpose of this research, stressed.

[The Law on Public Assembly](#) stipulates a dual commitment to authorized institutions, both positive and negative. The negative one is defined by the requirement that authorized institutions should not endanger or restrict the right to freely gather by their actions, while the positive one implies that all steps need to be taken with regard to public safety, so that the

29 [Associations of Citizens: Shrinking Civic Space Report, Serbia 2019](#)

30 [Monitoring Matrix on Enabling Environment for Civil Society Development, Country Report for Serbia 2019](#)

gathering can go off without incidents.³¹ **The Law stipulates police forces to take care of the safety of the participants**, but the authorities often failed to fulfill their role and they hired private security at the expense of the organisers, as it was the case when the Pride was organized. In practice, human rights defenders involved in matters of protecting women, minorities and other sensitive issues cannot easily organise a gathering without obstacles, and their safety was in some cases in danger. Students gathered under the association *1 of 5 million* occupied the Rectorate building of the University in Belgrade on September 13th, 2019, asking the Minister of Finance, Sinisa Mali, to stand down and for his doctorate to be declared void, which many members of the academic community and university professors had marked as plagiarised. During their protest, both outside and inside the very Rectorate, many supporters of the ruling party gathered and insulted students, and there were several attempts of physical violence with the idea of stopping the protest. The reaction of the authorities failed to occur, and holders of the highest offices, like the President Aleksandar Vucic and Minister of Education Mladen Sarcevic spoke briskly and with irony about students' motion, calling their requests "idiotic". Ivanka Popovic, the Rector, was also targeted, after having said that the activists of *Serbian Progressive Party* breached the autonomy of the University. Similar situation happened when students protested outside the building of *the Radio Television of Serbia* right before the beginning of an interview with the President of the Republic, when a group of men were insulting gathered people and certain opposition leaders. Several students were attacked, as well as citizens and cameramen, and one of the most serious incidents happened when a group of men without official features and documents prevented people from moving around freely. The police did not react, not even when a group of hooligans in "Civil Guard" T-shirts interrupted the media conference "Rakita – Debacle of the Legal State", which the organization *Civic Initiatives* had organized in the Human Rights House Belgrade.³²

Existing legal framework is not completely in accordance with the international standards. Technical characteristics and ways of implementing coercion are not systematically outlined, as organizations, which participated in the research, concluded. *The Law on Police* and *the Regulations on Police Authorities* stipulate how police officers can use coercion. Still, legal framework has not been complete yet and rounded because new regulations are to be passed which should stipulate how coercion should be used. In 2017, the Protector of Citizens submitted *the Initiative for Regulating the Use of Coercive Means*.

31 *Ibid.*

32 *Monitoring Matrix on Enabling Environment for Civil Society Development, Country Report for Serbia 2019*

Additionally, members of the Communal Police, Military Police and private security, whose control has not been stipulated in an appropriate way, have the right to use it.

The use of force by police officers was noticed during the opposition protest in front of the building of *the Radio Television of Serbia* on March 17th, 2019 and on August 10th, 2019, when members of the Military Police used physical force outside the Presidency building against one of the organizers of the protest *1 of 5 million*.

The Law on Police, the Regulations on Police Authorities, as well as Complaint Resolution Reports are publicly available, but there is no information on to what extent citizens file complaints because of use of brutal force. In the Report from June 21st, 2018, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) states that the Internal Control Sector of the Ministry of Internal Affairs had not conducted a thorough investigation in 23 out of 35 cases of alleged unprofessional behavior of a police officer; in 12 cases it had done it, but the investigation had lasted for more than a year.

CONCLUSION

All research and testimonies given by human rights defenders have pointed to the fact that there is a significant difference in quality between the legal framework around their protection and making their unobstructed work and enforcing the standards possible in practice. That state of affairs is based on deeply rooted prejudice to human rights defenders, which is by the day stronger supported by discriminatory public discourse. Tabloid campaigns, open threats and attacks, as well as institutional pressure, are everyday obstacles which activists, who try to contribute to the improvement of the human rights in Serbia through their activities, have been facing with. A motive for an attack can often be different ethnicity or sexual orientation, but lately the most common victims are those activists who point at the corruption and authority misuse by the authorities. That is probably the reason why the representatives of the Republic of Serbia not only do not provide protection, but also actively participate in prosecuting and discrediting human rights defenders. This is supported by a thesis that the cooperation with state authorities is closer and of better quality when it comes to areas which are less politically sensitive, as it is the issue of youth employment. The situation is significantly different in the context of the cooperation with independent institutions, e.g. with the Commissioner for the Protection of Equality or with the Protector of Citizens, but due to their limited authority, an overall picture on the worrying conditions in the domain of human rights cannot be significantly improved.

Coverage of the most media contributes to the difficult position of the human rights defenders. An ignorant or an openly negative attitude of the broadcasters with the national frequency and pro-government tabloids leads to creation of a dominant concept in the public opinion that the activists in that sector are traitors, mercenaries and lobbyists. On the other hand, those media, whose coverage of HRD activities is unbiased or affirmative, are more often than faced with the same pressure and attacks.

One of the biggest issues in this area is the absence of political will, but also an essential absence of understanding of the role and importance of

the civil society organizations in socially relevant processes. A tendency to merely meet the formal criteria contained in legal regulations is obvious, but without dealing with their essence. That can be clearly seen when it comes to the involvement of human rights defenders in the process of passing laws and other regulations dealing with human rights. Numerous regulations stipulate obligatory public discussions and presence of other interest groups in the process of preparing, passing and evaluating laws, but in practice there is flagrant betrayal of the essence of these commitments, which leads to the fact that public discussions are mostly a mere simulation of democracy, which GONGO associations, with their existence and activities, largely contribute to. Examples of good practice include the role of *the Office for Cooperation with Civil Society*, as well as *the National Convention on the European Union (NCEU)*, which enables civil society organizations greater influence in the process of Serbia's accession negotiations with the EU.

Legal framework is relatively favourable when it comes to the fiscal treatment of civil society organizations, as grants, donations and membership fees are exempted from the tax. Unfortunately, there has not yet been developed a document which integrally regulates institutional support to the civil society organizations, but matters of project support and co-funding of the projects supported by the EU are determined by some of the regulations. Act on funds to stimulate programmes or bridge funding of programmes of public interest realized through the associations regulates in more detail the criteria, conditions, domains, methods, allocation process and the manner of recompensing of funds. Even though this document contains the criteria which are relatively clear and objectively formulated, in practice there are cases of misuse resulting in allocating the funds to different GONGO and PONGO associations. Numerous organizations have a difficult access to the funds to finance their projects due to a request put in by donors who want to cooperate with public authorities, which blurs organizations' critical attitude towards the functioning of the authorities. A prolonged echo of the narratives of the 90's is also present, which typically marks the associations of the human rights defenders, funded by foreign sources, as traitors and public enemies.

Adopting *the Law on Free Legal Aid* led to significant deterioration of the status of human rights in Serbia, which instead of leading to improvements and holding wider positions of authority, caused narrowing of the sphere of work of those associations which, had already provided vulnerable group of citizens with free legal aid for decades. Due to adopting new legal regulations their scope of work is now restricted to the rights of asylum seekers and preventing discrimination.

Finally, the circumstances around human rights can be best evaluated through representing the situation around three basic freedoms: freedom of association, freedom of speech and freedom of assembly. Even though there are no formal restrictions as to how associations work and function, what we see in practice is that those associations which choose to take action on politically sensitive areas will more often face with different sorts of pressure, both informal and institutional, through overstated control, inspections and ungrounded and hefty fees. There have been cases of controls in recent years that lasted for several months, which practically blocked their activities. When it comes to freedom of speech and related to right to access information of public importance, it is in accordance with the European regulations, but unequal exercising of adopted prescriptions, together with almost non-existing diversity of the media contents, contribute to Serbia being far below the European standards. Intolerable pressure of politicians is visible, which is put on contents broadcasted by the media with the national frequency. Self-censorship of the Regulatory Authority of Electronic Media does not serve its purpose in most cases. The situation is slightly better when it comes to the freedom of assembly, even though normative framework contains significant shortcomings in terms of the efficiency of the right to a legal remedy and regulating spontaneous gathering. In this area also, unwarranted interference of politics has been reported, first through introducing unlawful restrictions of the freedom of assembly by enforcing administrative obligations and costs on the organisers. Another issue in this area is intransparently defined authority of the members of police, military police and private security sector to exercise force.

ANEX

- List of questions for civil organizations asked in the research

Indicator 1

1. Does the existing legal framework support the defense of human rights defenders?
2. In the past year, were there any attacks, organized campaigns, slanders or humiliation of human rights defenders?
3. Are attacks or campaigns directed generally at human rights defenders or at those defending certain groups or rights?
4. Do government officials and other political leaders publicly recognize the role of human rights defenders and their legitimacy?
5. Do government officials and other political leaders publicly condemn attacks, campaigns and discrimination of human rights defenders and stand in their defense?
6. Do human rights defenders have the support of other sections of society (business, media, etc.)?
7. Does the state provide human rights defenders with access to information?
8. Does the state involve human rights defenders in the context of making laws, decisions and strategies related to human rights?
9. Does the state provide studying about human rights?
10. Are independent institutions involved in raising awareness of the role of human rights defenders and does their involvement provide a positive image of defenders in public?
11. Do the media publish true information on the situation and activities of civil society organizations?

Indicator 3

1. Does the legal framework allow access to funds in line with international standards?
2. Do the legal framework and practice differ domestic and foreign funding as well as different types of funding?
3. Are the administrative procedure, reporting and audit simple?
4. Are foreign-funded human rights defenders exposed to stigmatization based on their funding?
5. Does the law provide sanctions in case of non-compliance with all funding criteria?
6. Do funding laws differ registered and unregistered associations?
7. Is the different treatment for funding related to the goals that the associations advocate for?
8. Do human rights defenders, associations dealing with sensitive topics have higher restrictions in the context of access to funds?
9. In your opinion, do restrictions on funding affect the work of associations of human rights defenders and if they do, in what way?

Indicator 4

1. Does the legislation recognize respect for the independence of human rights defenders and civil society?
2. Does the state generally respect the functional anatomy of civil society organizations?
3. Are there any restrictions in the context of issues that organizations can work on?
4. In terms of supervision, do human rights defenders differ from associations that support government policies?
5. Does the state interfere in the selection process of board members or employees in organizations?
6. Are organizations exposed to restrictive reporting obligations?
7. Are the internal regulations related to the human resources of organizations under the supervision of the authorities?
8. Are associations of human rights defenders subject to inspection and audit?
9. Does the state respect the privacy of associations of human rights defenders regarding premises, offices and materials?

10. In the past year, were there incidents related to state interference in the work of human rights organizations?

Indicator 9

1. Is the legal framework regarding freedom of expression and access to information in line with international standards?
2. What type of information of public interest do the authorities make publicly available and how?
3. Are there laws that protect the confidentiality of sources and, if there are, who is covered by those laws? Does this include bloggers, citizens, NGOs and academics?
4. Is slander a criminal offence and is it used to suppress different opinions?
5. What is the impact of the laws on national security, anti-terrorism, extremism and related policies on freedom of expression, if there is any?
6. Are there laws that allow restricting access to information and media online and blocking websites and removing content?
7. Is access to a diverse selection of media guaranteed during election periods in order to provide voters with access to the programs and positions of all parties and candidates?
8. Do the authorities participate in organized campaigns and attacks aimed at stigmatizing and discrediting the media? What type of media is the target of an attack and what is the contexts of those attacks?
9. Are there certain topics and types of information that cause attacks on media outlets, journalists and human rights defender, and if there are, which ones (e.g. corruption, certain human rights violations)?
10. How would you describe the general situation in the context of freedom of expression and media?

Indicator 10

1. Is the legal framework for holding peaceful assemblies in line with international standards?
2. Is it required a permit for organizing assemblies or is it only required to inform the authorities?
3. Do the authorities generally facilitate peaceful assemblies?

4. Is there a legal framework governing the use of force during assemblies?
5. Are the rules and regulations governing authorities of the police during protests publicly available?
6. Can human rights defenders who defend women's rights, minority groups and deal with sensitive issues organize barrier-free gatherings?
7. Were assemblies and rallies prohibited or restricted in the context of elections, including the time before and after elections?
8. Do human rights defenders have access to remedies and judicial mechanisms for violating their right to freedom of assembly, including organizing and participating in rallies?
9. Have incidents of violence and abuse by non-state actors against HRDs been investigated in the context of rallies and perpetrators prosecuted?
10. How would you describe the general situation in the context of freedom of assembly?