



European Asylum Support Office

EASO Country of Origin Information Report

Republic of Serbia Country Focus



November 2016

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EASO Country of Origin Information Report

Republic of Serbia

Country Focus

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Disclaimer

This report was written according to the EASO COI Report Methodology (2012) ⁽¹⁾. It is based on carefully selected sources of information. All sources used are referenced. To the extent possible and unless otherwise stated, all information presented, except for undisputed or obvious facts, has been cross-checked.

The information contained in this report has been researched, evaluated and analysed with utmost care. However, this document does not claim to be exhaustive. If a particular event, person or organisation is not mentioned in the report, this does not mean that the event has not taken place or that the person or organisation does not exist.

Furthermore, this report is not conclusive as to the determination or merit of any particular claim to refugee status or asylum. Terminology used should not be regarded as indicative of a particular legal position.

'Refugee', 'risk' and similar terminology are used as a generic terminology and not as legally defined in the EU Asylum Acquis and the Geneva Convention.

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The target audience are asylum caseworkers, COI researchers, policymakers, and decision-making authorities.

The drafting of this report was finalized on 30 September 2016. Any event taking place after this date is not included in this report. An exception to this cut-off date was made for the European Commission's 2016 Communication on EU Enlargement Policy issued 9 November 2016, the main findings of which were incorporated in this report.

⁽¹⁾ The EASO methodology is largely based on the Common EU Guidelines for processing Country of Origin Information (COI), 2008, and can be downloaded from the EASO COI Portal: <https://coi.easo.europa.eu/administration/easo/PLib/EASO%20COI%20Report%20Methodology.pdf>.

Glossary and Abbreviations

ANA	Albanian National Army
BIA	Security Information Agency
BiH	Bosnia and Herzegovina
BDZS	Bosniak Democratic Community of Sandžak
CEPOL	European Union Agency for Law Enforcement Training
CoE	Council of Europe
DJB	Enough is Enough (progressive movement)
DS	Democratic Party
DSHV	Democratic Alliance of Croats in Vojvodina
DSS	Democratic Party of Serbia
EC	European Commission
EIDHR	European Instrument for Democracy and Human Rights
EP	European Parliament
ETV	Public Enterprise Broadcasting Equipment and Communications
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
EUROPOL	European Police Office
FRY	Federal Republic of Yugoslavia
GRECO	Group of States against Corruption
GDP	Gross Domestic Product
IBM	Integrated Border Management
IFEX	The Global Network Defending and Promoting Freedom of Expression
ILO	International Labour Organisation
IMF	International Monetary Fund
IPA	Instrument for Pre-Accession Assistance
IREX	International Research and Exchanges Board
KFOR	Kosovo Force
KLA	Kosovo Liberation Army
LDP	Liberal Democratic Party
LFPA	Law on Financing Political Activities
LEOM	Limited Election Observation Mission
LER	Law on Election of Representatives
LGBT	Lesbian, gay, bisexual and transgender persons
LSV	League of Social Democrats of Vojvodina

LUVR	Law on the Unified Voters Register
MFF	Multiannual Financial Framework
Moi	Ministry of Interior
NATO	North Atlantic Treaty Organisation
NS	New Serbia
ODIHR	Office for Democratic Institutions and Human Rights
OECD	Organisation for Economic Co-operation and Development
OSAC	Overseas Security Advisory Council
OSCE	Organisation for Security and Co-operation in Europe
PDD	Party for Democratic Action
PS	Movement of Socialists
PSS	Movement Strength of Serbia
PUPS	Party of United Pensioners of Serbia
RIK	Republic Electoral Commission
RSF	Reporters Without Borders
SAA	Stabilisation and Association Agreement
SBPOK	Service for Combating Organized Crime
SDA Sandžak	Party of Democratic Action of Sandžak
SDP	Social Democratic Party of Serbia
SDPS	Social Democratic Party of Serbia
SDS	Social Democratic Party
SEIO	European Integration Office
SFRY	Socialist Federal Republic of Yugoslavia
SIGMA	Support for Improvement in Governance and Management
SNP	Serbian People's Party
SNS	Serbian Progressive Party
SPO	Serbian Renewal Movement
SPS	Serbian Socialist Party
SRS	Serbian Radical Party
SVM	Alliance of Vojvodina Hungarians
UKP	Criminal Police
UMNIK	United Nations Mission in Kosovo
VBA	Military Security Agency
VOA	Military Intelligence Agency

Introduction

This Country Focus report on the Republic of Serbia was written at the request of both the European Parliament and the European Council for general background information and more detailed information relevant for international protection status determination and for the assessment of the applicability of the safe country of origin concept to Serbia. For the designation of safe countries of origin, Annex I of the Asylum Procedures Directive foresees that:

‘A country is considered as a safe country of origin where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution as defined in Article 9 of Directive 2011/95/EU, no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situations of international or internal armed conflict.’⁽²⁾

In addition, ‘account shall be taken, *inter alia*, of the extent to which protection is provided against persecution or mistreatment’⁽³⁾. The Serbia Country Focus covers the most important information related to the abovementioned criteria for safe country of origin designation: state structure, socio-political landscape, rule of law and state protection, security situation and human rights situation. The [Terms of Reference](#) can be found at the end of the report.

The report aims to provide an objective and neutral information base (without assessment or policy recommendations) that will allow for more informed policy discussions. It should be noted that the situation of third country nationals in Serbia (including persons transiting through the country or seeking international protection in Serbia) does not fall within the scope of this report.

Methodology

- Defining the Terms of Reference

The [Terms of Reference](#) have been defined on 8 April 2016 taking into account feedback from the EASO Country of Origin Information (COI) Strategic Network.

- Drafting process

The first draft of this report was drafted by EASO staff. The reference period for this report is 30 September 2016. An exception to this cut-off date was made for the European Commission’s 2016 Communication on EU Enlargement Policy⁽⁴⁾ issued 9 November 2016, the main findings of which were incorporated in this report.

- Quality control

In order to ensure that the authors respected the EASO COI Report Methodology, a quality review was carried out by COI specialists from the countries listed as reviewers in the [Acknowledgements](#) section, and by EASO. All comments made by the reviewers were taken into consideration and most of them were implemented in the final draft of this report.

⁽²⁾ Council of Europe, Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), 29 June 2013.

⁽³⁾ Council of Europe, Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), 29 June 2013.

⁽⁴⁾ European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016.

Map ⁽⁵⁾



⁽⁵⁾ UN, Geospatial Information Section, Serbia, April 2007.

1. State structure

The Republic of Serbia declared its independence on 5 June 2006 as the legal successor to the State Union of Serbia and Montenegro, which ended following the referendum of independence in Montenegro held on 21 May 2006 ⁽⁶⁾.

The end of the federation of Serbia and Montenegro marked the last chapter in the dissolution of the Socialist Federal Republic of Yugoslavia (SFRY) formed in 1945 and composed of six federal republics: Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia and Slovenia ⁽⁷⁾.

1.1 Constitution

The National Assembly of Serbia adopted the draft of the new Constitution on 30 September 2006, and the proposal was approved in a referendum held on 28-29 October 2006. The Constitution of the Republic of Serbia entered into force on 8 November 2006 ⁽⁸⁾.

According to the Constitution's preamble, the Autonomous Province of Kosovo and Metohija ⁽⁹⁾ is indivisible and an integral part of Serbia ⁽¹⁰⁾.

The dialogue between Serbia and Kosovo on the independence of the latter was resumed in October 2012, translating in the signature, in April 2013, of the 'Brussels Agreement' ⁽¹¹⁾.

Edita Tahiri, Kosovo's Minister for Dialogue recently stated that 'Serbia should exclude Kosovo from its constitution in order to become an EU member' ⁽¹²⁾, although the Serbian Minister of Foreign Affairs and the first Vice-Prime Minister dismissed the possibility that the constitution could be amended during the new government's mandate ⁽¹³⁾.

In April 2015, Serbia's Prime Minister Aleksandar Vučić acknowledged the need to amend the Serbian constitution, emphasising that such a review would not be related to Kosovo's independence, but to the EU accession process ⁽¹⁴⁾. On 10 August 2016, Vučić stated that although recognising Kosovo's independence would be the only immediate solution, it was not a viable option for the Serbian government ⁽¹⁵⁾.

The European Commission's 2016 Communication notes that 'constitutional reforms are needed for alignment with EU standards in some areas' ⁽¹⁶⁾.

⁽⁶⁾ OSCE, Referendum on State-Status, Republic of Montenegro (Serbia and Montenegro), 21 May 2006.

⁽⁷⁾ BBC News, Timeline: Break-up of Yugoslavia, 22 May 2006.

⁽⁸⁾ Constitutional Court of Serbia (The), Constitution of the Republic of Serbia, 2006.

⁽⁹⁾ The Autonomous Province of Kosovo and Metohija, commonly referred to as Kosovo, is the southern province of Serbia, that in February 2008 unilaterally declared independence, and proclaimed itself the Republic of Kosovo*. The Republic of Kosovo is recognized by 23 out of 28 EU Members States, 24 out of 28 NATO Member States, and 111 out of 193 UN Member States. The Government of Serbia does not recognize Kosovo* as a sovereign state, however in April 2013 the landmark Brussels Agreement was achieved within the EU facilitated dialogue on the normalization of relations between Serbia and Kosovo*. Normalization of relations between Serbia and Kosovo*, remains the key requirement in Serbia's accession negotiations to the European Union.

⁽¹⁰⁾ Constitutional Court of Serbia (The), Constitution of the Republic of Serbia, 2006.

⁽¹¹⁾ EP, At a glance, Serbia and Kosovo: Normalisation of relations, March 2016.

⁽¹²⁾ b92.net [website], Belgrade to Pristina: Include Serbia in your constitution, 26 July 2016.

⁽¹³⁾ Tanjug, Dacic: Serbia's position on Kosovo-Metohija remains unchanged, 26 July 2016.

⁽¹⁴⁾ InSerbia Network Foundation, Vucic: Serbia will have to change Constitution, 28 April 2015.

⁽¹⁵⁾ Tanjug.Exactly [website], Vucic: Government cannot and will not recognise Kosovo, 10 August 2016.

⁽¹⁶⁾ EC, EC Communication on EU Enlargement Policy 2016, 9 November 2016, p.20.

1.2 Executive branch

According to Article 122 of the constitution, the Government holds the executive power. The Government is elected by the deputies of the National Assembly which, together with the President of the Republic, form the country's executive authority ⁽¹⁷⁾.

1.2.1 President

Under constitutional law, the President recommends the candidate for Prime Minister and representatives to the Serbian National Assembly. Although the president post is primarily ceremonial, its duties include commanding the military and appointing its officers, and promulgating laws by decree ⁽¹⁸⁾.

The president is elected for a five-year mandate. The mandate may cease when the term ends, through resignation or impeachment. The mandate may also cease during state of war or emergency, and it can be reintroduced for three months following the end of either ⁽¹⁹⁾.

Tomislav Nikolić was elected the President of the Republic of Serbia in May 2012 in the second round of early presidential elections ⁽²⁰⁾.

Following the elections, and in line with the constitution, President Nikolić resigned as President of the Serbian Progressive Party (SNS). Nikolić formed the SNS in 2008, following his resignation from the ultranationalist Serbian Radical Party (SRS) in which he was a deputy since 1992 ⁽²¹⁾. His departure from the SRS was mostly motivated by the disagreement with the party leadership that did not support Serbia's accession to the European Union ⁽²²⁾.

1.2.2 Government

According to the Serbian constitution, the government system is based on the clear division of power between the legislative, the executive and judiciary branches. The system is ruled by the principle of checks and balances, and the judiciary is completely independent ⁽²³⁾.

The government holds executive power, is directly accountable to the National Assembly, and is responsible for: policy formulation, execution and enforcements of laws and other general acts of the National Assembly, regulation and supervision of the work of public administration entities ⁽²⁴⁾.

The government consists of the prime minister, one or more vice-presidents, and ministers. The National Assembly votes on the election of the prime minister, the Government's programme and members of the government. A new government is elected by majority ⁽²⁵⁾.

Members of the Government may act as deputies or members of the National Assembly, in the autonomous provinces of Vojvodina and Kosovo's assemblies, in executive councils and bodies of the local self-government bodies ⁽²⁶⁾.

⁽¹⁷⁾ Constitutional Court of Serbia (The), Constitution of the Republic of Serbia, 2006.

⁽¹⁸⁾ President of the Republic of Serbia (The), President, n.d.

⁽¹⁹⁾ President of the Republic of Serbia (The), President, n.d.

⁽²⁰⁾ OSCE/ODIHR, Republic of Serbia – Parliamentary and Early Presidential Election 6 and 20 May 2012, 31 July 2016.

⁽²¹⁾ President of the Republic of Serbia (The), Biography, n.d.

⁽²²⁾ BBC, Serb opposition leader resigns, 7 September 2008.

⁽²³⁾ Constitutional Court of Serbia (The), Constitution of the Republic of Serbia, 2006.

⁽²⁴⁾ Constitutional Court of Serbia (The), Constitution of the Republic of Serbia, 2006.

⁽²⁵⁾ Constitutional Court of Serbia (The), Constitution of the Republic of Serbia, 2006.

⁽²⁶⁾ Constitutional Court of Serbia (The), Constitution of the Republic of Serbia, 2006.

A new government was formed on 11 August 2016, following general elections held on 24 April and 4 May 2016. Aleksandar Vučić of the Serbian Progressive Party (SNS), a former member of the ultranationalist Serbian Radical Party (SRS), has been appointed prime minister for a second term. His government consists of 18 ministries, two vice-presidents and two ministers without portfolio ⁽²⁷⁾. The programme of the new government included Serbia's EU accession as a priority goal ⁽²⁸⁾.

A notable change in the new government was the appointment of Ana Brnabic, a member of the LGBT community, as Minister of Public Administration and Local Self-Government ⁽²⁹⁾.

1.3 Legislative branch: National Assembly

The National Assembly of the Republic of Serbia is 'the highest representative body and holder of constitutional and legislative power in the Republic of Serbia' ⁽³⁰⁾. It has a unicameral structure and consists of 250 deputies, elected from a single nationwide constituency using the proportional electoral system. Its deputies are elected for a four-year term. Mandates are distributed among candidate lists that receive more than 5 % of the cast votes, while national minorities lists are exempt from this threshold. A two-thirds majority is required to constitute the National Assembly.

Early parliamentary elections, called by Prime Minister Aleksandar Vučić, were held on 24 April 2016. The electoral list of six parties assembled around the Serbian Progressive Party (SNS) won a clear majority by securing 131 out of 250 seats in the National Assembly, compared to 158 seats won in the 2014 elections ⁽³¹⁾. The next elections will be held in April 2020 ⁽³²⁾.

The European Commission in its 2016 Communication noted that the 'involvement of parliament and stakeholders [...] was further enhanced', but also that 'the inclusiveness, transparency and quality of law-making and effective oversight of the executive need to be further enhanced, and the use of urgent procedures limited' ⁽³³⁾.

For further information on elections for the National Assembly, see [Elections](#).

1.4 Administration

In 2004, Serbia adopted a public administration reform (PAR) strategy, implemented through two action plans for 2004-2008 and 2009-2012. In January 2014, Serbia adopted a new PAR strategy for 2015-2017 ⁽³⁴⁾, aimed at creating of a more user-orientated administration, simplifying administrative procedures, and fostering the implementation of e-government projects and services ⁽³⁵⁾.

The Ministry of Public Administration and Local Self-Government is in charge of coordinating the implementation of the reform via the inter-ministerial PAR group, which includes other state administrative bodies, civil society and local government representatives ⁽³⁶⁾.

According to the European Commission in its 2016 Communication:

⁽²⁷⁾ Tanjug, Serbia gets new government, 11 August 2016.

⁽²⁸⁾ EC, EC Communication on EU Enlargement Policy 2016, 9 November 2016, p.20.

⁽²⁹⁾ ANSA, Serbia's new government to include openly gay minister, 8 August 2016.

⁽³⁰⁾ National Assembly of Serbia, Jurisdiction, competences and duties of the National Assembly, n.d.

⁽³¹⁾ OSCE/ODIHR, Republic of Serbia – Early Parliamentary Elections 24 April 2016, 29 July 2016.

⁽³²⁾ CIA, World Factbook (The), Serbia, Legislative Branch, last updated April 2016.

⁽³³⁾ EC, EC Communication on EU Enlargement Policy 2016, 9 November 2016, p.20.

⁽³⁴⁾ EC, IPA II 2014-2020 - Serbia - Sector Reform Contract for Public Administration Reform, n.d.

⁽³⁵⁾ EC, IPA II 2014-2020 - Serbia - Sector Reform Contract for Public Administration Reform, n.d.

⁽³⁶⁾ EC, IPA II 2014-2020 - Serbia - Sector Reform Contract for Public Administration Reform, n.d.

‘Serbia is moderately prepared in the area of public administration reform. Good progress was achieved with the adoption of the public financial management reform programme, strategies on e-government and on regulatory reform and policy-making, and of new laws on administrative procedures, public salaries and local and provincial civil servants. Serbia needs to implement its reform targets, professionalise and depoliticise the administration and make recruitment and dismissal procedures more transparent, especially for senior management positions’⁽³⁷⁾.

⁽³⁷⁾ EC, EC Communication on EU Enlargement Policy 2016, 9 November 2016, p.20.

2. Socio-political landscape

2.1 Political parties

The Serbian constitution guarantees the free establishment of political parties, except if they aim at the 'forced overthrow of constitutional system, violation of guaranteed human or minority rights, inciting racial, national or religious hatred' ⁽³⁸⁾.

According to OSCE's 24 April 2016 early elections report, 20 candidate lists ran in the parliamentary elections ⁽³⁹⁾. OSCE and IPU indicate that 12 won parliamentary seats, leading to the following mandates:

- Aleksandar Vučić – "Serbia Wins" ⁽⁴⁰⁾ - 131
- Ivica Dačić – SPS – JS – Dragan Marković Palma ⁽⁴¹⁾ - 29
- Dr Vojislav Šešelj – Serbian Radical Party - 22
- Enough is Enough – Saša Radulović - 16
- "Fair for Serbia" – Democratic Party (Nova, DSHV, ZZC) - 16
- Dveri – Democratic Party of Serbia – Sanda Rašković Ivić – Boško Obradović - 13
- Boris Tadić, Čedomir Jovanović – Alliance for a Better Serbia (LDP-LSV-SDS) ⁽⁴²⁾ 13
- Alliance of Vojvodina Hungarians (SVM) – István Pásztor - 4
- Muamer Zukorlić – Bosniak Democratic Community of Sandžak - 2
- SDA Sandžak – Dr Sulejman Ugljanin Bosniak Democratic Union of Sandzak – 2
- Green Party – 1
- Party for Democratic Action – Ardita Sinani - 1 ⁽⁴³⁾

According to the Central Intelligence Agency's factbook, in April 2016 Serbia had 111 registered political parties and citizens' associations. A list of some of Serbia's political parties can be found in the CIA's factbook ⁽⁴⁴⁾.

Minority parties

According to OSCE, 'of the eight national minority candidate lists that contested the elections, two were registered as representing the Bosniak minority, two as Hungarian, two as Russian, one as Albanian and one as Slovak'. The Democratic Alliance of Croats in Vojvodina (DSHV), representing the Croatian ethnic minority, was included in the list formed around the Democratic Party (DS) ⁽⁴⁵⁾.

⁽³⁸⁾ Constitutional Court of Serbia (The), Constitution of the Republic of Serbia, 2006.

⁽³⁹⁾ OSCE/ODIHR, Republic of Serbia – Early Parliamentary Elections 24 April 2016, 29 July 2016.

⁽⁴⁰⁾ IPU indicates that "Aleksandar Vučić - Serbia Wins" includes Vučić's own Serbian Progressive Party (SNS), New Serbia (NS), the Serbian Renewal Movement (SPO) and the Socialist Movement (PS), the Social Democratic Party of Serbia (SDS), the Party of United Pensioners of Serbia (PUPS), the Strength of Serbia Movement (PSS), the Independent Democratic Party of Serbia and the Serbian People's Party (SNP); and the "Alliance for a Better Serbia" coalition is composed by the Liberal Democratic Party, the League of Social Democrats of Vojvodina (LSV) and the Social Democratic Party.

⁽⁴¹⁾ According to the Inter-Parliamentary Union, the "Ivica Dacic - SPS - JS - Dragan Markovic Palma" coalition includes the Social Party of Serbia (SPS) and the United Serbia (JS).

⁽⁴²⁾ IPU indicates that the "Alliance for a Better Serbia" coalition is composed by the Liberal Democratic Party, the League of Social Democrats of Vojvodina (LSV) and the Social Democratic Party.

⁽⁴³⁾ April 2016; OSCE/ODIHR, Republic of Serbia – Early Parliamentary Elections 24 April 2016, 29 July 2016; IPU, PARLINE, Serbia Narodna skupstina (National Assembly).

⁽⁴⁴⁾ CIA, World Factbook (The), Serbia, Political parties and leaders, last updated April 2016.

⁽⁴⁵⁾ OSCE/ODIHR, Republic of Serbia – Early Parliamentary Elections 24 April 2016, 29 July 2016.

The following candidate lists of minority parties together captured 4.39 % of the votes and secured 11 seats in the National Assembly⁽⁴⁶⁾:

- Alliance of Vojvodina Hungarians (SVM) – István Pásztor - 4
- Muamer Zukorlić – Bosniak Democratic Community of Sandžak - 2
- SDA Sandžak – Dr Sulejman Ugljanin Bosniak Democratic Union of Sandzak - 2
- Green Party - 1
- Party for Democratic Action – Ardita Sinani - 1⁽⁴⁷⁾

The SVM, representing the Hungarian minority, participates in the National Assembly as part of the SNS-led coalition⁽⁴⁸⁾, and its party leader, István Pásztor, has been reelected as the President of the Assembly of the Autonomous Province of Vojvodina⁽⁴⁹⁾. The SVM is one of the sister parties of Fidesz of Viktor Orbán⁽⁵⁰⁾.

The Party for Democratic Action (PDD) was the only Albanian minority party participating in the 2016 elections. It represented the Albanian ethnic minority in the southern municipalities of Preševo, Bujanovc and Medveđa, bounded by Montenegro on the east, Kosovo to the west and the former Yugoslav Republic of Macedonia to the south. The PDD will participate in the National Assembly and is expected to cooperate closely with the ruling SNS to address the participation of Albanian minorities in Serbian politics, and work towards the improvement of the community's conditions⁽⁵¹⁾ through the government's Coordination Body⁽⁵²⁾.

Other Albanian minority parties that represent half of the ethnic-groups electorate boycotted the April elections over a row involving distribution of elementary schoolbooks in Albanian produced in Kosovo with an apparent political bias⁽⁵³⁾, freedom of expression, and problems pertaining to the local governance and economic prospects⁽⁵⁴⁾. The PDD is the only Albanian minority party to participate in the National Assembly since the conflict in 2000⁽⁵⁵⁾.

Bosniaks minority parties participating in the National Assembly include the Social Democratic Party of Serbia (SDP) led by Rasim Ljajić (SDP), the Party of Democratic Action (SDA) led by Sulejman Ugljanin and the Bosniak Democratic Community of Sandžak (BDZS) led by the ex-Mufti Muamer Zukorlić⁽⁵⁶⁾.

The SDP has been in the coalition with the ruling SNS since 2014, and its leader Rasim Ljajić has been appointed deputy prime minister and minister in the newly formed government⁽⁵⁷⁾.

The BDZS has announced that it will work closely with the SNS to advance the interests of Bosniaks in Sandžak. Its leader, Muamer Zukorlić, represents one of the two branches of the

⁽⁴⁶⁾ OSCE/ODIHR, Republic of Serbia – Early Parliamentary Elections 24 April 2016, 29 July 2016.

⁽⁴⁷⁾ National Assembly of Serbia, Poslanička grupa Demokratska stranka, n.d.

⁽⁴⁸⁾ The Alliance of Vojvodina Hungarians, Коалициони споразум о заједничком деловању програмском сам учешћу у влади Републике Србије, "The coalition agreement of joint programming activities and participation in the Government of the Republic of Serbia", 14 August 2016.

⁽⁴⁹⁾ Assembly of the Autonomous Province of Vojvodina, President of the Assembly, n.d.

⁽⁵⁰⁾ Politika, Orbánov referendum neće pokvariti odnose SNS-a i SVM-a, "Orbán's referendum will not spoil relations SNS and SVM", 27 July 2016.

⁽⁵¹⁾ B92, Albanian party from south ready to be part of government, 25 May 2016.

⁽⁵²⁾ Coordination Body for the Municipalities of Preševo, Bujanovac and Medveđa, Activities, n.d.

⁽⁵³⁾ Balkan Insight, Serbia sends Albanian schoolbooks back to Kosovo, 2 March 2016.

⁽⁵⁴⁾ RTS, Albanci na lokalne izbore na jugu u više kolona, 6 April 2016.

⁽⁵⁵⁾ ICG, Serbia: Maintaining peace in the Preševo Valley, 16 October 2007.

⁽⁵⁶⁾ Aljazeera, Sandžak: Ljajić slavio u Novom Pazaru, Ugljanin u Tutinu i Sjenici, 25 April 2016.

⁽⁵⁷⁾ Vlada Srbije, Potpredsednici i ministri, Deputy Prime Ministers and Ministers, Government of the Republic of Serbia, n.d.

divided Islamic community in Serbia and for being an advocate of a more autonomous Sandžak⁽⁵⁸⁾.

The SDA in Sandžak is an offshoot of Bosnia and Herzegovina's SDA, founded in 1989 by Alija Izetbegović, the first Bosniak member of the Tripartite Presidency following the Dayton Agreement in 1995⁽⁵⁹⁾.

Three parties representing the Roma minority contested the 2016 elections and did not secure seats in the National Assembly⁽⁶⁰⁾ unlike in the last mandate⁽⁶¹⁾.

A point of contention in the election of minority parties is the rule that to register a political party an ethnic minority is required to obtain 1, 000 signatures, but to dispute elections it must register 10, 000 signatures⁽⁶²⁾. This rule had a direct effect on bilateral relations with Croatia, which viewed participation of Croatian minorities in politics as essential to processing Serbia's accession negotiations with the EU⁽⁶³⁾.

2.2 Elections

The legal framework regulating the electoral system in Serbia includes the 2006 constitution⁽⁶⁴⁾, the 2000 Law on Election of Representatives (LER)⁽⁶⁵⁾, the 2009 Law on the Unified Voters Register (LUVR)⁽⁶⁶⁾, the 2009 Law on Political Parties (LPP)⁽⁶⁷⁾ and the 2011 Law on Financing Political Activities (LFPA)⁽⁶⁸⁾. Other legal bills supplementing the legal framework are the 2012 Republic Electoral Commission (RIK) Rules of Procedure⁽⁶⁹⁾, including its instructions and decisions, and the 2016 Law on Public Gathering, which is applicable to campaign events⁽⁷⁰⁾.

The Republic Electoral Commission (RIK) and 8,377 Polling Boards (PBs) comprise a two-tiered election administration. In addition, the RIK set up 166 ad-hoc Working Bodies (WBs) that provided technical and logistical support for the elections⁽⁷¹⁾.

Citizens over 18 and residing in Serbia have the right to elect and be elected⁽⁷²⁾.

According to the OSCE, the provision established by the LER that determines citizens who were 'legally incapacitated by a court decision are automatically ineligible to vote' is a 'disproportionate restriction' not in line with OSCE commitments and international standards⁽⁷³⁾.

⁽⁵⁸⁾ Deliso, Christopher, "The coming Balkan Caliphate – The threat of radical Islam to Europe and the West", Praeger Security International, 2007.

⁽⁵⁹⁾ Stranka Demokratske Akcije Sandžaka (SDA), SDA Sandžaka obilježila više od četvrt vijeka rada i postojanja, SDA Sandžak, 29 July 2016.

⁽⁶⁰⁾ Istinomer - Izbori 2016, 15. Romska Lista Srbije, "15. Roma list of Serbia", n.d.

⁽⁶¹⁾ Otvoreni Parlament, Aktuelni saziv, n.d.

⁽⁶²⁾ Otvoreni Parlament, Aktuelni saziv, n.d.

⁽⁶³⁾ EurActiv, Serbia seeks more EU accession talks despite Croatia opposition, 11 May 2016.

⁽⁶⁴⁾ Constitutional Court of Serbia (The), Constitution of the Republic of Serbia, 2006.

⁽⁶⁵⁾ Legislationonline, Law on the Elections of Representatives of the Republic of Serbia (updated as of 05.04), 2000.

⁽⁶⁶⁾ Legislationonline, Law on the Unified Voters Register, 2009.

⁽⁶⁷⁾ Legislationonline, Law on Political Parties, 2009.

⁽⁶⁸⁾ Legislationonline, Law on Financing Political Activities, 2011.

⁽⁶⁹⁾ Legislationonline, Republic Electoral Commission Rules of Procedure, n.d.

⁽⁷⁰⁾ OSCE/ODIHR, Republic of Serbia – Early Parliamentary Elections 24 April 2016, Limited Election Observation Mission Final Report, 29 July 2016.

⁽⁷¹⁾ OSCE/ODIHR, Republic of Serbia – Early Parliamentary Elections 24 April 2016, Limited Election Observation Mission Final Report, 29 July 2016.

⁽⁷²⁾ Legislationonline, Law on the Elections of Representatives of the Republic of Serbia (updated as of 05.04), 2000.

⁽⁷³⁾ OSCE/ODIHR, Republic of Serbia – Early Parliamentary Elections 24 April 2016, Limited Election Observation Mission Final Report, 29 July 2016.

2.2.1 Early parliamentary elections

Prime Minister Aleksandar Vučić of the Serbian Progressive Party (SNS) called early parliamentary elections on 24 April 2016. The election turnout was 56.07 %, similar to the turnouts in the 2012 ⁽⁷⁴⁾ and 2014 ⁽⁷⁵⁾.

According to media sources, the early parliamentary elections, which coincided with provincial elections, presented an opportunity for the SNS to consolidate its power and extend its presence at national, provincial and local levels. During the campaign, Vučić insisted that a stable majority and wide support would allow the implementation of priority reforms and the completion of negotiations of accession with the EU by 2020 ⁽⁷⁶⁾.

The SNS won 131 seats in the National Assembly ⁽⁷⁷⁾, 27 seats less than in 2014 elections ⁽⁷⁸⁾.

According to *Balkan Insight*, the pro-EU opposition remained divided despite pre-election efforts to form a coalition [composed by the Democratic Party (DS), the Liberal Democratic Party (LDP) and the Social Democratic Party (SDS)] ⁽⁷⁹⁾.

The pro-EU opposition parties represented in the National Assembly are:

- DS-led coalition - 6.02 % of casted votes – 16 seats ;
- SDS coalition of former president Boris Tadić – 5.02 % of casted votes – 13 seats;
- Enough is Enough (DJB) movement – 6.02 % of casted votes – 16 seats ⁽⁸⁰⁾.

OSCE considered the elections to generally be free and fair ⁽⁸¹⁾.

The European Commission in its 2016 Communication noted that the early national elections took place in a calm atmosphere, but also that ‘recommendations of international observers need to be followed up, including those on ensuring that campaign financing and the registration process are transparent’ ⁽⁸²⁾.

2.2.2 Presidential elections

According to Article 114 of the Serbian Constitution, the presidential elections are scheduled by the Speaker of the National Assembly 90 days before the end of the current presidential term, and the election should be completed within 60 days. The president may not be appointed more than twice. The presidential mandate ends with the expiry of the term of office, resignation or impeachment ⁽⁸³⁾.

The next presidential elections are scheduled to take place in 2017. According to Boban Stojanović, associated professor of the Faculty of Political Sciences (University of Belgrade),

⁽⁷⁴⁾ OSCE/ODIHR, Republic of Serbia – Early Parliamentary Elections 6 and 20 May 2012, Limited Election Observation Mission Final Report, 31 July 2012.

⁽⁷⁵⁾ OSCE, ODIHR, Republic of Serbia – Early Parliamentary Elections 16 March 2014, Election Observation Mission Final Report, 22 May 2014.

⁽⁷⁶⁾ EurActiv with Agence France-Press, Pro-Russians set for comeback in Serbia, 21 April 2016.

⁽⁷⁷⁾ OSCE/ODIHR, Republic of Serbia – Early Parliamentary Elections 24 April 2016, Limited Election Observation Mission Final Report, 29 July 2016.

⁽⁷⁸⁾ OSCE, ODIHR, Republic of Serbia – Early Parliamentary Elections 16 March 2014, Election Observation Mission Final Report, 22 May 2014.

⁽⁷⁹⁾ Balkan Insight, Serbia’s opposition fails to unite ahead of polls, 1 March 2016.

⁽⁸⁰⁾ OSCE/ODIHR, Republic of Serbia – Early Parliamentary Elections 6 and 20 May 2012, Limited Election Observation Mission Final Report, 31 July 2012.

⁽⁸¹⁾ OSCE/ODIHR, Republic of Serbia – Early Parliamentary Elections 24 April 2016, Limited Election Observation Mission Final Report, 29 July 2016.

⁽⁸²⁾ EC, EC Communication on EU Enlargement Policy 2016, 9 November 2016, p.20.

⁽⁸³⁾ Constitutional Court of Serbia (The), Constitution of the Republic of Serbia, 2006.

there has been speculation as to whether the ruling SNS will support President Nikolić's nomination for a second term, and about a potential pivot where Prime Minister Vučić would run for president. Stojanović says that although the scenario is unlikely, it would not be a surprise – the Democratic Party (DS) leader Boris Tadić retained decisive political power between 2008-2012 through influence in the DS even though the role of president mainly involves functions of protocol ⁽⁸⁴⁾.

The candidates who have announced their intention to run in the 2017 presidential elections include the current President Tomislav Nikolić (SNS), Ivica Dačić (SPS), Rasim Ljajić (SDP) and Dr. Vojislav Šešelj (SRS) ⁽⁸⁵⁾.

According to *Balkan Insight*, there is media speculation that the pro-EU opposition may propose a joint presidential contender, with the current Ombudsman Saša Janković the most widely acceptable candidate. Janković has neither confirmed nor denied his intention to run in the presidential elections ⁽⁸⁶⁾.

2.3 Civil society

The establishment of citizens associations and Civil Society Organisations (CSOs) in Serbia ⁽⁸⁷⁾ is governed by the Law of Associations ⁽⁸⁸⁾ while the National Strategy for an Enabling Environment for Civil Society Development (2015-2019) defines the methods of cooperation and partnership between the Serbian government and the civil-society sector ⁽⁸⁹⁾.

The main objective of the strategy is to create a policy framework to stimulate the democratic process and contribute towards a more open society. The National Strategy also provides the mechanism for information-sharing, monitoring and implementation of the benchmarks agreed by the Serbian government ⁽⁹⁰⁾.

According to the Serbian Business Registers Agency (SBRA), there are 26,942 citizen associations and civil-society organisations (CSOs) in Serbia ⁽⁹¹⁾.

In the framework of the accession negotiations, the EU provides support to the civil-society sector through funding from the Instrument for Pre-Accession Assistance (IPA II), specifically through the IPA II Civil Society Facility and Media Programme 2014-2015 ⁽⁹²⁾. Funding for this was increased in 2016 ⁽⁹³⁾.

The Office for Cooperation with Civil Society ⁽⁹⁴⁾ is the main authority responsible for facilitating dialogue between the government and CSOs. Its primary task is to improve the strategic and legal framework for CSOs and ensure their participation at all levels of decision-

⁽⁸⁴⁾ Party Systems and Governments Observatory – University of Nottingham, Early elections, formation of the government and impact of the upcoming presidential elections, 17 August 2016.

⁽⁸⁵⁾ B92, Seselj, Nikolic, Ljajic and Dacic in 2017 presidential race, 16 May 2016.

⁽⁸⁶⁾ Balkan Insight, Serbia's opposition seeks viable presidential contender, 7 September 2016.

⁽⁸⁷⁾ Official Gazette of the Republic of Serbia (The), The Law on Associations, no. 51, 14 July 2009.

⁽⁸⁸⁾ SEIO, Law on Associations, 14 July 2009.

⁽⁸⁹⁾ National Strategy for an Enabling Environment for Civil Society Development in the Republic of Serbia (The), Why strategy, n.d.

⁽⁹⁰⁾ The National Strategy for an Enabling Environment for Civil Society Development in the Republic of Serbia, Why strategy, n.d.

⁽⁹¹⁾ Serbian Business Registers Agency (SBRA), n.d.

⁽⁹²⁾ EC, (IPA II) 2014-2020 – Indicative Strategy Paper for Serbia (2014-2020), adopted 19 August 2014;

⁽⁹³⁾ The Delegation of the European Union to the Republic of Serbia, EU Increases Support for Civil Society, 25 February 2016.

⁽⁹⁴⁾ Office for Cooperation with Civil Society (The), Responsibilities, n.d.

making ⁽⁹⁵⁾. The office also supports the OCDoskop ⁽⁹⁶⁾, an interactive web platform for CSOs operating in Serbia ⁽⁹⁷⁾.

According to the 2015 Bertelsmann Stiftung's report, the misappropriation of public funds for political party financing – and distribution of these funds to politically eligible CSOs – continues to be one of the main problems in the civil-society sector ⁽⁹⁸⁾.

TACSO, the Technical Assistance for Civil Society Organisations EU-funded project, stated in its 2016 Needs Assessment Report on Serbia that 'the public perception of CSOs is deteriorating' due to the public's perception that CSOs do not solve citizens' major daily problems, together with the 'negative campaign CSOs have been exposed to in the last two years by media and government representatives' ⁽⁹⁹⁾.

See also [5.2.3 Freedom of assembly and association](#).

2.4 Media (TV, newspapers, internet)

Serbia's ranks 59th among 180 countries in the 2016 RSF World Press Freedom index, the highest-ranked country in the Western Balkans region ⁽¹⁰⁰⁾.

Freedom House ranked Serbia 87th on the list of 199 countries in terms of freedom of the press in 2016, compared to 80th place in 2015. The source classified the media landscape in Serbia as partly free ⁽¹⁰¹⁾.

The competent state authorities responsible for the media landscape in Serbia include ⁽¹⁰²⁾:

- Ministry of Trade, Tourism and Telecommunications ⁽¹⁰³⁾;
- Ministry of Culture and Information ⁽¹⁰⁴⁾;
- Public Enterprise Broadcasting Equipment and Communications (ETV) ⁽¹⁰⁵⁾;
- Regulatory Agency for Electronic Communications and Postal Services (RATEL) ⁽¹⁰⁶⁾;
- Directorate for e-Government ⁽¹⁰⁷⁾;
- Press Council ⁽¹⁰⁸⁾.

The legal framework of the media and telecommunications can be found in the e-Directory of documents on media regulation in Serbia (in Serbian) ⁽¹⁰⁹⁾.

Freedom House reports that the state of the media in Serbia declined due to the Prime Minister Vučić 'government's hostile rhetoric toward investigative journalists, reported censorship of journalists and media outlets, and a decrease in the availability of critical, independent reporting' ⁽¹¹⁰⁾.

⁽⁹⁵⁾ EC, IPA II (2014-2020) – Serbia – Civil Society Facility and Media Programme 2014-2015, n.d.

⁽⁹⁶⁾ OCDoskop, n.d.

⁽⁹⁷⁾ Office for Cooperation with Civil Society (The), Responsibilities, n.d.

⁽⁹⁸⁾ Bertelsmann Stiftung, BTI 2016 – Serbia Country Report, 2016.

⁽⁹⁹⁾ TACSO/SIPU International, Needs Assessment Report Serbia, updated 2016.

⁽¹⁰⁰⁾ Reporters without Borders (RSF), World Press Freedom Index 2016, 2016.

⁽¹⁰¹⁾ Freedom House: Freedom of the Press 2016, n.d.

⁽¹⁰²⁾ Serbia, International Telecommunications Union (ITU), n.d.

⁽¹⁰³⁾ Ministry of Trade, Tourism and Telecommunications, n.d.

⁽¹⁰⁴⁾ Ministry of Culture and Information, n.d.

⁽¹⁰⁵⁾ JP Emisiona tehnika i veze (JP ETV), O nama, "About us", n.d.

⁽¹⁰⁶⁾ Regulatory Agency for Electronic Communications and Postal Services, n.d.

⁽¹⁰⁷⁾ Directorate for Digital Agenda, Ministry of Public Administration and Local Self-Government, About us, n.d.

⁽¹⁰⁸⁾ Press Council, n.d.

⁽¹⁰⁹⁾ Strengthening Media Freedom, E-Directory of documents on media regulation in Serbia, n.d.

⁽¹¹⁰⁾ Freedom House, Freedom of the Press 2016 – The Battle for the Dominant Message, April 2016.

According to IREX 2016 Media Sustainability Index, Serbia has 818 printed outlets, 284 radio stations, 175 television stations, and 334 Internet news portals ⁽¹¹¹⁾.

More detailed lists of the main press, TV radio and Internet providers in the Republic of Serbia can be found in the BBC News profile on Serbia ⁽¹¹²⁾.

For more information, see [5.4.2 Journalists and media](#).

2.5.1. Television and newspapers

IREX notes that, following the conclusion of the television digitalisation process in 2015, an estimated 95 % of the population can access various media products free of charge. On average, and depending on the area, citizens may access up to 20 channels, including all with national coverage ⁽¹¹³⁾.

The market for print media in 2015 has fallen by 30 % compared to 2013 ⁽¹¹⁴⁾.

Despite the existence of over 1,600 registered media sources ⁽¹¹⁵⁾, the EP, quoting the European Federation of Journalists, indicates that a number of worrying trends have been observed, such as: ‘self-censorship (encouraged by job insecurity and fear of retaliation), “tabloidisation” (switching the focus from topics of public interest to entertainment and propaganda), and impunity (failure to properly investigate crimes and attacks against journalists)’ ⁽¹¹⁶⁾.

2.5.2. Internet

According to *Balkan Insight*, there is a range of public and private Internet based media in Serbia. However editorial independence, transparency of ownership and funding remain critical issues to be addressed in order to prevent political interference ⁽¹¹⁷⁾.

According to the 2016 Media Sustainability Index there are 3.6 million Internet users in Serbia, who spend the same average time on the Internet as on watching TV. Internet use is estimated at 50% percent in Serbian homes. The law in Serbia does not restrict access to the Internet, portals, social networks, applications, and content. The channels of media distribution remain apolitical and are not monopolised ⁽¹¹⁸⁾.

⁽¹¹¹⁾ IREX, Media Sustainability Index 2016 - The Development of Sustainable Independent Media in Europe and Eurasia, 2016.

⁽¹¹²⁾ BBC News, Serbia profile – Media, 5 August 2015.

⁽¹¹³⁾ IREX, Media Sustainability Index 2016 - The Development of Sustainable Independent Media in Europe and Eurasia, 2016.

⁽¹¹⁴⁾ IREX, Media Sustainability Index 2016 - The Development of Sustainable Independent Media in Europe and Eurasia, 2016.

⁽¹¹⁵⁾ IREX, Media Sustainability Index 2016 - The Development of Sustainable Independent Media in Europe and Eurasia, 2016.

⁽¹¹⁶⁾ EP, Media freedom in the Western Balkans: state of play, May 2016.

⁽¹¹⁷⁾ Balkan Insight, Serbian PM calls social media critics ‘scum’, 23 August 2016.

⁽¹¹⁸⁾ IREX, Serbia, Media Sustainability Index 2016 - The Development of Sustainable Independent Media in Europe and Eurasia, 2016.

3. Rule of Law and State Protection

3.1. Law enforcement

The Ministry of Interior of the Republic of Serbia (MUP) is responsible for administration of internal affairs and all law enforcement services. Its core responsibilities involve ensuring security, crime prevention, counter-terrorism, anti-corruption, drugs and disaster prevention⁽¹¹⁹⁾, border control, equal protection and free exercise of citizen's rights as provided in law and under the constitution⁽¹²⁰⁾. The headquarters of the Ministry of Interior are located in Belgrade, and its structure is organised according to territorial, linear and object principles of operation⁽¹²¹⁾.

The MUP administers on internal affairs in line with the constitution, laws and regulations governing the scope of its duties and responsibilities⁽¹²²⁾. Further reforms aimed at modernisation of the law enforcement institutions and competent bodies have been incorporated into the action plans for implementation of Chapter 23⁽¹²³⁾ and Chapter 24⁽¹²⁴⁾ of the EU *acquis*. The MUP is focused on the reform of human resources, general police directorate, pay system, internal control and strategic development of an IT system in the ministry⁽¹²⁵⁾.

3.1.1 Police

The Directorate of Police operates within the MUP and is responsible for law enforcement on national and local level. The Law on Police provides the legal framework for the Directorate of Police. The Government, National Assembly, and other competent judicial authorities and government bodies perform the external control of the police work, while the Directorate's Sector of Internal Control carries out the internal control of the police⁽¹²⁶⁾.

The Directorate of Police is headed by a police director and is composed of 15 units at its headquarters and 27 general police directorates at the regional/municipality level⁽¹²⁷⁾.

According to the MUP, the directorates at the headquarters are as follows:

- Department for improvement of work of General Police Directorate
- Bureau of the Police Director
- Criminal Investigations Directorate
- Directorate for International Operational Police Cooperation
- Uniformed Police Directorate

⁽¹¹⁹⁾ Mol, Ministry, n.d.; Interpol, Serbia, n.d.

⁽¹²⁰⁾ Mol, Ministry, n.d.

⁽¹²¹⁾ Mol, Organisation of the Ministry of Interior of the Republic of Serbia, n.d.

⁽¹²²⁾ Police Act (2016); The Law on Public Peace and Order (2016); The Public Assembly Act (2016); Law on Detective Activity; Law on Private Security; Law on Arms and Ammunition; Law on Ratification of the Agreement on Readmission of Persons; Residing between the EU and the Republic of Serbia; Law on Road Traffic Safety; Law on Prevention of Violence and Misbehavior at Sports Events; Law on Identity Cards; Law on emergency situations; Law on Travel Documents; Aliens Act; Citizenship Act; Regulation on fees for services provided by the Ministry of Interior; Draft Law on Foreigners; Draft Law on Asylum and Temporary Protection, Ministry of Interior of the Republic of Serbia, Laws and Regulation, n.d.

⁽¹²³⁾ Republic of Serbia - Council for the implementation of the Action plan for Chapter 23, First report on implementation of the Action Plan for Chapter 23 (for activities planned due for II quarter of 2016), n.d.

⁽¹²⁴⁾ Mol, Action Plan for Chapter 24 – Introduction – Chronology of events in the development of the Action Plan for Chapter 24, n.d.

⁽¹²⁵⁾ Mol, Reforms, n.d.

⁽¹²⁶⁾ Mol, Jurisdiction and organization, n.d.

⁽¹²⁷⁾ Mol, Organisation, n.d.

- Security Unit Protecting Specific Persons and Facilities,
- Protection Unit
- Traffic Police Directorat
- Border Police Directorate
- Administrative Affairs Directorate
- Operations Centre
- Special Antiterrorist Unit
- Gendarmerie
- Special Anti-Terrorist Unit
- Helicopter Unit
- Coordination Directorate for Kosovo and Metohija. Uniformed police directorate⁽¹²⁸⁾.

The joint EU-CoE project on ‘Strengthening the Capacities of Law Enforcement and Judiciary in the Fight against Corruption in Serbia’ (PACS) states that the Law on Police does not clearly regulate the ‘selection, competition, training, deployment, evaluation/appraisal, promotion, secondment and dismissal’ processes in the Serbian police⁽¹²⁹⁾.

The Directorate of Police has cooperated with Frontex since 2009⁽¹³⁰⁾, Europol since 2014⁽¹³¹⁾, and a working arrangement with CEPOL is under negotiation⁽¹³²⁾.

According to the Serbian MoI, the Directorate for Police Education, Professional Training, Development And Science is responsible for training police officers and manages two training centres, the Centre for Specialised Training and Professional Development, and the Basic Police Training Centre⁽¹³³⁾.

The Academy of Criminalistic and Police Studies is the higher-education institution in Serbia, which formed when the Advanced School of Internal Affairs and the Police Academy were merged. Established in 2006, it provides ‘undergraduate studies – basic academic and basic professional (vocational) studies of criminalistics; graduate studies – academic studies – master and specialist studies of criminalistics’⁽¹³⁴⁾.

In its 2015 Annual Report, the Office of the Ombudsman noted that, regardless of the progress made, the police reform activities have been contradictory⁽¹³⁵⁾.

According to the EU/CoE risk analysis report on law-enforcement corruption in Serbia, there is a generalised public perception that police officers are corrupt. Such a perception suggests officers are ‘living a life above the income of a serving police officer’⁽¹³⁶⁾. It is supported by Pointpulse’s recently published report on *The Citizens’ Opinion of the Police Force*, where 14% of the Serbians see police officers as corrupt⁽¹³⁷⁾.

⁽¹²⁸⁾ MoI, Directorates at the Ministry Headquarters, n.d.

⁽¹²⁹⁾ EC and CoE, Risk Analysis on the Current Situation with Regard to the Possibilities and Actual Extent Of Corruption within Law Enforcement, 2015.

⁽¹³⁰⁾ Ministry of Interior, Working Arrangement establishing operational cooperation between the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) and the Ministry of the Interior of Republic of Serbia, Belgrade, 17 February 2009.

⁽¹³¹⁾ EUROPOL, EUROPOL sings cooperation agreement with Serbia to fight organized crime, European Police Office (EUROPOL), 17 January 2014.

⁽¹³²⁾ CEPOL, External partners, n.d. ,European Union Agency for Law Enforcement Training (CEPOL), n.d.

⁽¹³³⁾ MoI, Directorate For Police Education, Professional Training, Development And Science, n.d.

⁽¹³⁴⁾ Academy of Criminalistic and Police Studies (The), n.d.

⁽¹³⁵⁾ Ombudsman of Serbia, Regular Annual Report of the Protector of Citizens for 2015, 15 March 2016, p15.

⁽¹³⁶⁾ EC and CoE, Risk Analysis on the Current Situation with Regard to the Possibilities and Actual Extent Of Corruption within Law Enforcement, 2015.

⁽¹³⁷⁾ Pointpulse.net, The Citizens’ Opinion of the Police Force, September 2016.

The same source also indicates that the levels of confidence in the police still divide the population, with 54% trusting the force while 44% do not ⁽¹³⁸⁾.

According to Pointpulse's survey, 72% of Serbia's citizens consider corruption in the police force is widespread. The source indicates that 76% of the respondents see traffic police as the most corrupt, followed by 67% that believe it is the border police. Special units and units in charge of administrative affairs are perceived as the least corrupt ⁽¹³⁹⁾.

3.1.2 Army

According to the Constitution of Serbia, the President is in charge of the Serbian Armed Forces (army), and of the appointment, promotion and dismissal of army officers. The constitution foresees democratic and civil control of the army ⁽¹⁴⁰⁾.

The army's main mission is to defend the country from external armed threats and it can only operate outside Serbia's border with National Assembly approval ⁽¹⁴¹⁾.

The army builds and maintains peace, in the region and globally, and provides support during natural disasters and catastrophes ⁽¹⁴²⁾. According to NATO, Serbia pursues a policy of neutrality, adopted in 2007. Serbia is not a member of NATO ⁽¹⁴³⁾.

The army acts in accordance with the legal framework governing its remit, and envisaged in:

- Law on Defence;
- Law on Serbian Armed Forces;
- Law on Amendments to the Law on Defence;
- Law on Amendments to the Law on Serbian Armed Forces;
- Law on Engagement of Serbian Armed Forces and other Defence Forces outside the Republic of Serbia borders⁽¹⁴⁴⁾;
- Law on Military Security Agency and Military Intelligence Agency;
- Law on Conscription, Compulsory Labour and Requisition;
- Law on Civilian Service ⁽¹⁴⁵⁾;
- Relevant international laws.

The army is organised according to arms, branches and services. The main arms of the Serbian Armed Forces are the Army, the Air Forces and Air Defense ⁽¹⁴⁶⁾. The army is headed by the Chief of General Staff ⁽¹⁴⁷⁾, while the Joint Operations Command is responsible for managing the operational command of the army and for preparing documents and plans for the operational units ⁽¹⁴⁸⁾. Serbia does not have compulsory military service; the army consolidates its ranks by conducting professional recruitment, voluntary calls and calling upon reserve forces that have already served in the army ⁽¹⁴⁹⁾.

In February 2016, Serbia adopted the Law on Ratification of the Agreement between the Government of the Republic of Serbia and the NATO Support and Procurement Organization

⁽¹³⁸⁾ Pointpulse.net, The Citizens' Opinion of the Police Force, September 2016.

⁽¹³⁹⁾ Pointpulse.net, The Citizens' Opinion of the Police Force, September 2016.

⁽¹⁴⁰⁾ Constitutional Court of Serbia (The), Constitution of the Republic of Serbia, 2006.

⁽¹⁴¹⁾ Constitutional Court of Serbia (The), Constitution of the Republic of Serbia, 2006.

⁽¹⁴²⁾ Serbian Armed Forces, The Armed Forces of Serbia, n.d.

⁽¹⁴³⁾ NATO, Relations with Serbia, 9 December 2015.

⁽¹⁴⁴⁾ Legal documents, Serbian Armed Forces, n.d.

⁽¹⁴⁵⁾ Ministry of Defense of the Republic of Serbia, Acts, n.d.

⁽¹⁴⁶⁾ Serbian Armed Forces, Military arms, branches and services, n.d.

⁽¹⁴⁷⁾ Serbian Armed Forces, Serbian Armed Forces structure, n.d.

⁽¹⁴⁸⁾ Serbian Armed Forces, Organizacija, Generalštab Vojske Srbije, n.d.

⁽¹⁴⁹⁾ Ministry of Foreign Affairs of the Republic of Serbia, Military service, n.d.

(NSPO) on Logistic Support Cooperation. According to Zoran Dragisic, professor at the Faculty of Security Studies at Belgrade University, quoted by the Deutsche Welle (DW), the agreement is only the confirmation of previous agreements. According to DW, the 'part of the agreement that has been most heavily criticized is the clause that gives NATO troops diplomatic status, immunity from criminal liability and taxes, and access to Serbian military facilities'. This accentuates the differences between supporters of the West and supporters of Russia. Dragisic stresses that Serbia has clearly stated that it will not join NATO ⁽¹⁵⁰⁾.

3.1.3 Security-intelligence forces

During Slobodan Milosevic's regime, the security-intelligence system of Serbia was implicated in repressive measures towards the opposition and the media ⁽¹⁵¹⁾ which culminated in the assassination of the Prime Minister Zoran Djindjic in 2003 ⁽¹⁵²⁾.

The 2015 Annual Report of the Serb Ombudsman notes that the secret security sector's reforms have not gone far enough to ensure democratic civilian oversight of its activities ⁽¹⁵³⁾.

According to the same source, there is political monopolisation of the secret service sector ⁽¹⁵⁴⁾.

Balkan Insight reported that there was political pressure to discourage investigations against high-ranking army officials ⁽¹⁵⁵⁾ and to prevent the opening of secret files from the 1990s wars ⁽¹⁵⁶⁾.

The security-intelligence system of Serbia comprises the following organisations:

- Security Information Agency (BIA);
- Military Security Agency (MSA);
- Military Intelligence Agency (MIA) ⁽¹⁵⁷⁾.

The BIA is a civil national security service formed in 2002 and has independent state-authority and legal-entity status. The Government is in charge of the appointment of BIA's director. The Law on the Security Information Agency, and the Law on the Bases Regulating Security Services of the Republic of Serbia regulate the main competencies of BIA ⁽¹⁵⁸⁾. BIA's main responsibilities include:

- Overseeing security in Serbia;
- Detection and prevention of activities aimed at undermining or disrupting order in Serbia;
- Research, gathering, processing and assessment of security-intelligence data and findings significant for security in Serbia ⁽¹⁵⁹⁾.

⁽¹⁵⁰⁾ Deutsche Welle, Serbia caught between NATO and Russia, 26 February 2016.

⁽¹⁵¹⁾ Balkan Insight, Serbian ex-Security Chief dodges journalist murder trial, 19 May 2016.

⁽¹⁵²⁾ Freedom House, Serbia – Nations in transit 2005, Executive Summary, n.d.

⁽¹⁵³⁾ Balkan Insight, Serbian Security Agency out of control, Ombudsman, 17 March 2016.

⁽¹⁵⁴⁾ Balkan Insight, Serbian Security Agency out of control, Ombudsman, 17 March 2016.

⁽¹⁵⁵⁾ Balkan Insight, Serbia's leaders find new 'enemies within', 23 February 2015.

⁽¹⁵⁶⁾ Balkan Insight, Serbian ministries block public access to war files, 8 April 2016.

⁽¹⁵⁷⁾ BIA, Law on the Bases Regulating Security Services of the Republic of, 11 December 2007.

⁽¹⁵⁸⁾ Security Information Agency (BIA) of the Republic of Serbia, Legal framework, n.d.

⁽¹⁵⁹⁾ Security Information Agency (BIA), Sphere of activity, n.d.

According to the Law on BIA, its members may not be affiliated with political parties, and do not have the right to organise or carry out strikes. Members of BIA are obliged to secrecy, which can be only waived by BIA's director ⁽¹⁶⁰⁾.

Unlike BIA, the MSA and the MIA are administrative bodies within the Ministry of Defence. The legal framework is common to both military agencies ⁽¹⁶¹⁾.

MSA and MIA's directors (if military personnel) are appointed by the president upon proposal by the minister of defence. Non-military personnel are appointed by the Government on proposal by the minister of defence. Directors manage the work of MSA and MIA and are accountable to the minister of defence. Staff in both agencies are mainly military personnel. ⁽¹⁶²⁾.

The MSA is responsible for security and counter-intelligence protection under the remit of to the Ministry of Defence and the Army of Serbia; prevention of terrorist and organised-crime activities; prevention of criminal activities; and prevention of violation of humanitarian and international law, if acts have been perpetuated by personnel of the Ministry of Defence or the army of Serbia ⁽¹⁶³⁾.

MIA is responsible for operational intelligence and diplomacy in the field of defence, involving intelligence activities, via the collection, analysis and assessment of military, military/political and military/economic data and information. (The focus is on foreign threats: the proliferation of weapons and military equipment, and terrorism) ⁽¹⁶⁴⁾.

3.1.4 Corruption

The European Commission in its 2016 Communication states that although the country has 'some level of preparation' in the prevention of and fight against corruption, 'corruption remainst prevalent in many areas and continues to be a serious problem' ⁽¹⁶⁵⁾. The Commission adds that 'the institutional setup is not yet functioning as a credible deterrent for corruptive practices', and 'a track record of effective investigations, prosecutions and convictions in corruption cases is required, including at high level' ⁽¹⁶⁶⁾.

The EU-Serbia Joint Consultative Committee's report on the rule of law and anti-corruption in the EU and negotiations with Serbia recommends that the country needs to 'improve investigation and prosecution of corruption and organised crime', by defining a 'merit-based selection of senior positions in the police and prosecutorial service' ⁽¹⁶⁷⁾.

The source writes that investigations should proceed without political interference, thus ending 'the current practice of selective prosecution of only political opponents' ⁽¹⁶⁸⁾.

⁽¹⁶⁰⁾ BCSP, Analiza pravnog uređenja obaveštajno-bezbednosnog sistema Republike Srbije, "Analysis of the legal planning of intelligence-security system of the Republic of Serbia", Prof. Bogoljub Milosavljevic, June 2016.

⁽¹⁶¹⁾ Military Intelligence Agency (VOA), Constitution and Laws, n.d.

⁽¹⁶²⁾ BCSP, Analiza pravnog uređenja obaveštajno-bezbednosnog sistema Republike Srbije, "Analysis of the legal planning of intelligence-security system of the Republic of Serbia", Prof. Bogoljub Milosavljevic, June 2016.

⁽¹⁶³⁾ Military Security Agency (VBA), Надлежност, послови и задаци, "Competencies, duties and tasks", n.d.

⁽¹⁶⁴⁾ Military Intelligence Agency (VOA), Competences, n.d.

⁽¹⁶⁵⁾ EC, EC Communication on EU Enlargement Policy 2016, 9 November 2016, p.20.

⁽¹⁶⁶⁾ EC, EC Communication on EU Enlargement Policy 2016, 9 November 2016, p.20-21.

⁽¹⁶⁷⁾ EESC, EU-Serbia Civil Society Joint Consultative Forum, Joint Report, Rule of law and anti-corruption in the EU and negotiations with Serbia, 4 February 2016.

⁽¹⁶⁸⁾ EESC, EU-Serbia Civil Society Joint Consultative Forum, Joint Report, Rule of law and anti-corruption in the EU and negotiations with Serbia, 4 February 2016.

Such measures are necessary to establish a ‘track record of investigations, indictments and final convictions in high-level corruption cases, including those relating to ruling parties’⁽¹⁶⁹⁾.

In 2015, Transparency International’s Corruption Perceptions Index ranked Serbia 71st out of 168 countries⁽¹⁷⁰⁾, compared to 78th rank out of 175 countries in 2014⁽¹⁷¹⁾.

The Anti-Corruption Agency of Serbia (ACA) is the main authority responsible for fighting corruption in the country. The ACA is an autonomous, independent state authority established in 2009, governed by the Law on the Anti-Corruption Agency⁽¹⁷²⁾.

The ACA monitors the implementation of the National Anti-Corruption Strategy 2013-2018 adopted by the National Assembly in 2013, and the Action Plan for the Implementation of the National Anti-Corruption Strategy 2013-2018 adopted by the Government in 2013, the two main instruments for fighting corruption in the country⁽¹⁷³⁾. The agency issues opinions and directives for the enforcement of the anti-corruption action plans⁽¹⁷⁴⁾.

According to the International Republican Institute’s July 2015 survey on the perception of corruption in Serbia, 85 % of the citizens stated that corruption constitutes a ‘very serious problem’ in Serbia. When questioned on how the Government deals with it, 41 % said ‘the government is doing what they can, but the problem is so severe that they are not progressing much’ and 31 % of the interviewees believes the Government is ‘just pretending to fight corruption and are actually not doing anything’⁽¹⁷⁵⁾.

3.1.5 Fight against organised crime

The Service for Combating Organized Crime (SBPOK) is the main authority responsible for fighting organised crime in Serbia. It was founded in 2011 and operates within the Criminal Police (UKP) of the MoI⁽¹⁷⁶⁾.

The SBPOK tackles drug trafficking, illegal migration and human trafficking, smuggling of weapons and explosives, international smuggling of stolen motor vehicles, kidnapping and extortion, blackmail, money laundering, corruption, counterfeiting of currencies, card payment fraud and cybercrime. The SBPOK performs its duties in accordance with the Law of Police, the Criminal Code, and the Criminal Procedures Code⁽¹⁷⁷⁾.

According to the Law on Organization and Jurisdiction of Government Authorities in Suppression of Organized Crime, the institutions responsible for the treatment of criminal cases are:

- Prosecutor's Office for Organised Crime;
- Service for Combating Organized Crime (SBPOK);
- Special Department of the High Court for Organized Crime;
- Special Department of the Appellate Court for Organized Crime;

⁽¹⁶⁹⁾ EESC, EU-Serbia Civil Society Joint Consultative Forum, Joint Report, Rule of law and anti-corruption in the EU and negotiations with Serbia, 4 February 2016.

⁽¹⁷⁰⁾ Transparency International, Corruption Perceptions Index 2015, n.d.

⁽¹⁷¹⁾ Transparency International, Corruption Perception Index 2014, n.d.

⁽¹⁷²⁾ Anti-Corruption Agency of the Republic of Serbia, Competencies, n.d.

⁽¹⁷³⁾ ACA, Report on the implementation of the National Anti-Corruption Strategy in the RS, March 2015.

⁽¹⁷⁴⁾ Anti-Corruption Agency of the Republic of Serbia, Competencies, n.d.

⁽¹⁷⁵⁾ International Republican Institute, Survey of Serbian Public Opinion, 4 July 2015.

⁽¹⁷⁶⁾ MoI, Služba za borbu protiv organizovanog kriminala, “Service for Combating Organised Crime”, Content archive from 29.08.2009 to 11.04.2016, n.d.

⁽¹⁷⁷⁾ MoI, Služba za borbu protiv organizovanog kriminala, “Service for Combating Organised Crime”, Content archive from 29.08.2009 to 11.04.2016, n.d.

- Special Detention Unit of the Detention Prison in Belgrade ⁽¹⁷⁸⁾.

Special operations and tactical units of the MoI – the Special Anti-Terrorist Unit (SAJ)⁽¹⁷⁹⁾ and the Gendarmerie⁽¹⁸⁰⁾ – are also responsible for preventing and combating terrorism. A new draft, Law on Organization and Jurisdiction of Government Authorities in Suppression of Organized Crime, is expected to be presented to the National Assembly ⁽¹⁸¹⁾.

The EC 2016 Communication on Serbia states that the country attained ‘some level of preparation’ in the fight against organised crime ⁽¹⁸²⁾. In particular, Serbia has made ‘some progress’ with the adoption of a new police law, the reorganisation of the Ministry of the Interior and the adoption of the first serious and organised crime threat assessment (SOCTA) based on Europol methodology ⁽¹⁸³⁾. In its 2015 Communication, the Commission had welcomed the establishment of new DNA and chemistry laboratories, as well as Serbia’s active contribution to international and regional cooperation, and the adoption of strategies for the fight against money laundering and terrorism financing, and financial investigation ⁽¹⁸⁴⁾. Both the 2015 and 2016 Communications mention, however, that ‘a credible track record in the fight against organised crime still needs to be established’ ⁽¹⁸⁵⁾.

Media sources have reported Serbia’s efforts to combat drug trafficking and associated violence in 2016 ⁽¹⁸⁶⁾, as well as the absence of court verdicts in high-profile drug traffickers’ trials⁽¹⁸⁷⁾.

3.2 Judiciary

According to the Serbian Constitution, the judiciary is independent from the legislative and executive branches ⁽¹⁸⁸⁾.

The Law on Courts, the Law on Seats and Territories of Courts and Public Prosecutors Offices, and the Law on Judges complete the legal framework regulating the judicial power and the remit of the courts in Serbia ⁽¹⁸⁹⁾.

Judges hold judicial power and cannot participate in political activities. The independence of judges is subordinated only to the constitution and the law. The High Judicial Council is an

⁽¹⁷⁸⁾ Article 10-15, Law on Organization and Jurisdiction of Government Authorities in Suppression of Organized Crime, Corruption and other Sever Offences, Published in "Official Gazette of the Republic of Serbia", No. 42/2002, 27/2003, 39/2003, 67/2003, 29/2004, 58/2004-Separate Law, 45/2005, 61/2005, 72/2009, 72/2011- separate Law and 101/2011 – separate Law, Ministry of Justice of the Republic of Serbia, n.d.

⁽¹⁷⁹⁾ MoI, Specijalna antiteroristička jedinica (SAJ), “Special Anti-terrorist Unit”, Content archive from 29.08.2009 to 11.04.2016, n.d.

⁽¹⁸⁰⁾ MoI, Žandarmerija, “Gendarmerie”, Content archive from 29.08.2009 to 11.04.2016, n.d.

⁽¹⁸¹⁾ Politika, Oficiri tužilaštva u državnim institucijama, “Prosecution officials in state institutions”, 21 August 2016.

⁽¹⁸²⁾ EC, EC Communication on EU Enlargement Policy 2016, 9 November 2016, p.20.

⁽¹⁸³⁾ EC, EC Communication on EU Enlargement Policy 2016, 9 November 2016, p.20.

⁽¹⁸⁴⁾ EC, EC Communication on EU Enlargement Strategy 2015, 10 November 2015, p.20.

⁽¹⁸⁵⁾ EC, EC Communication on EU Enlargement Policy 2016, 9 November 2016, p.20; EC, EC Communication on EU Enlargement Strategy 2015, 10 November 2015, p.20.

⁽¹⁸⁶⁾ MoI, U akciji „Cunami“ uhapšeno 66 osoba i zaplenjeno 5,7 kilograma narkotika, “In the operation "Tsunami," arrested 66 people and seized 5.7 kilograms of narcotics”, 11 September 2016; EUROPOL, Serbian criminal network dismantled in Spain and the Czech Republic, 9 March 2016.

⁽¹⁸⁷⁾ OCCRP, Serbia: Court accepts indictment against man labeled drug boss by PM, 23 August 2016; OCCRP, Serbia: Court quashes conviction of associate of drug lord Saric, 12 July 2016.

⁽¹⁸⁸⁾ Constitutional Court of Serbia (The), Constitution of the Republic of Serbia, 2006.

⁽¹⁸⁹⁾ Supreme Court of Cassation of the Republic of Serbia, Constitutional and legal provisions, n.d.

independent and autonomous body in charge of guaranteeing the independence and autonomy of judicial power⁽¹⁹⁰⁾.

A judge's office is permanent, except for the first appointment, when the term is three years. Judges elected for the first time are appointed by the National Assembly following a proposal of the High Judicial Council⁽¹⁹¹⁾. Permanent judges are elected by the High Judicial Council, the body also charged with the termination of judicial office⁽¹⁹²⁾.

According to the Bertelsmann Stiftung Transformation Index 2016 report, Serbia's judiciary 'operates relatively independently', however 'its functions are still restricted by political influence, inefficiency, nepotism, cronyism and corruption'⁽¹⁹³⁾.

The report also notes the legally flawed attempts to fight corruption in the legal system, such as the reappointment of judges and prosecutors who had been previously dismissed, and the lack of 'comprehensive evaluation of judges and prosecutors'⁽¹⁹⁴⁾.

The 2016 EC Communication on Serbia reports that although Serbia's judicial system 'has reached some level of preparation' and taken some steps to promote a merit-based recruitment system and harmonise jurisprudence, it is still subject to political influence. An uneven distribution of workload, a burdensome case backlog and lack of a free legal aid system are said to undermine the judiciary's quality and efficiency'⁽¹⁹⁵⁾. Progress reported in the Commission's 2015 Communication related to new rules of the evaluation of judges and prosecutors which were adopted in May 2015, and the appointment of most Court Presidents on a permanent basis⁽¹⁹⁶⁾.

Despite the adoption of the Unified Backlog Reduction Program 2013-2018⁽¹⁹⁷⁾, the ACA reported that by the end of 2015 there were 2,837,468 pending court cases, comparable to the 2,849,360 by the end of 2014. Such figures, according to the ACA, raise doubts about the scope and capacity of the reform to strengthen judicial efficiency⁽¹⁹⁸⁾.

Jelisaveta Vasilic, a member of the ACA quoted by *Balkan Insight*, indicates that although improving the rule of law and the functioning of the judicial system is a key task in Serbia's EU accession process 'more than 80 per cent of bills are adopted by urgent procedure without public debate, which is extremely bad practice'. Vasilic Council also noted that:

'Despite the small positive steps that have been made in the judiciary, the government continues to violate the presumption of innocence, citizens have no equal access to justice and the lack of transparency is omnipresent'⁽¹⁹⁹⁾.

According to the 2015 GRECO Evaluation Report on Serbia, a survey showed that 63 % of the respondents did not trust the judiciary⁽²⁰⁰⁾.

⁽¹⁹⁰⁾ Supreme Court of Cassation of the Republic of Serbia, Guarantor of independence and autonomy of judicial power, n.d. ,

⁽¹⁹¹⁾ Supreme Court of Cassation of the Republic of Serbia, Constitutional and legal provisions, n.d.

⁽¹⁹²⁾ Supreme Court of Cassation of the Republic of Serbia, Constitutional and legal provisions, n.d.

⁽¹⁹³⁾ Bertelsmann Stiftung, BTI 2016 – BiH Country Report, 2016.

⁽¹⁹⁴⁾ Bertelsmann Stiftung, BTI 2016 – BiH Country Report, 2016.

⁽¹⁹⁵⁾ EC, EC Communication on EU Enlargement Policy 2016, 9 November 2016, p.20.

⁽¹⁹⁶⁾ EC, EC Communication on EU Enlargement Strategy 2015, 10 November 2015, p.19.

⁽¹⁹⁷⁾ Supreme Court of Cassation of the Republic of Serbia, Unified Backlog Reduction Program, n.d.

⁽¹⁹⁸⁾ Anti-Corruption Council of the Government of the Republic of Serbia, Report on the Current State in Judiciary, 22 March 2016.

⁽¹⁹⁹⁾ Balkan Insight, Report laments failings in Serbian judiciary, 17 May 2016.

⁽²⁰⁰⁾ CoE, GRECO, Evaluation Report Serbia – Fourth evaluation round - Corruption prevention in respect of members of parliament, judges and prosecutors, 2 July 2015.

The National Judicial Reform Strategy 2013-2018 is the main guiding document for strengthening the independence and accountability of the judiciary in Serbia. The reform strategy is aligned to the National Plan for the Adoption of the EU Acquis (NPAA) ⁽²⁰¹⁾.

Courts system

The Law on Organization of Courts regulates the organisation of the Serbian court system, which is divided into two categories:

- Courts of general jurisdiction and
- Courts of special jurisdiction ⁽²⁰²⁾.

Courts of general jurisdiction are divided into basic, higher, appellate and the Supreme Court of Cassation. The courts of special jurisdiction include commercial courts and the Commercial Appellate Court, misdemeanor courts and the Misdemeanor Appellate Court, and the Administrative Court ⁽²⁰³⁾.

The Constitutional Court's jurisdiction stems from the constitution; the court is also the guardian and preserver of the constitution. The Constitutional Court is an autonomous and independent state authority in charge of rectifying any gaps in the protection of human rights that may result from actions taken by courts of general and special jurisdiction ⁽²⁰⁴⁾.

The jurisdiction in Kosovo and Metohija is exercised by courts in Kosovska Mitrovica ⁽²⁰⁵⁾.

⁽²⁰¹⁾ Supreme Court of Cassation of the Republic of Serbia, National Judicial Reform Strategy, n.d.

⁽²⁰²⁾ Ministry of Justice, Law on Organization of Courts, 1 January 2010.

⁽²⁰³⁾ Supreme Court of Cassation of the Republic of Serbia, Constitutional and statutory provisions, n.d.

⁽²⁰⁴⁾ Supreme Court of Cassation of the Republic of Serbia, Praksa Ustavnog Suda, "Practice of the Constitutional Court", n.d.

⁽²⁰⁵⁾ Supreme Court of Cassation of the Republic of Serbia, List of courts, n.d.

4. Security situation

Serbia occupies a strategic position in the regional security scenario of the Western Balkans, and while a regional security outlook remains stable there has been a noticeable deterioration of bilateral relations with Croatia⁽²⁰⁶⁾ and Bosnia and Herzegovina (BiH)⁽²⁰⁷⁾ since 2015. Serbia's relationship with Kosovo and Albania remains complex, and strained by recent history as well as aspirations for further regional consolidation along ethno-political lines.

In its 2016 Communication, the European Commission highlighted Serbia's constructive participation in regional initiatives and its resolve to 'improve its bilateral issues and the legacies of the past'. The Commission welcomed the signature of a joint declaration with Croatia on some bilateral issues in June 2016 as a positive development. As regards normalization of relations with Kosovo, progress was limited, but with the start of the work on the Mitrovica bridge and freedom of movement in August 2016 'momentum was regained'⁽²⁰⁸⁾. In 2015, achievements included agreements on energy, telecoms, and establishment of the Association/Community of Serb majority municipalities, in addition to some concrete results in the field of justice, civil protection integration, vehicle insurance, customs collection and IBM⁽²⁰⁹⁾.

Serbia's security relationship with Bulgaria, Hungary, Macedonia, Montenegro and Romania remains stable and, with the exception of the security challenges⁽²¹⁰⁾ posed by the ongoing irregular migration along the Eastern Mediterranean route, and the subsequent transitory route of migrants via the Western Balkan to the EU, there are no other major security challenges with potential to generate tensions within the region. The European Commission estimated that, in 2015, more than 815,000 refugees and migrants primarily from Syria, Afghanistan and Iraq passed through Serbia⁽²¹¹⁾.

Other notable security challenges involve:

- Recruitment and mobilisation of fighters from predominantly Muslim-dominated regions in Serbia (Sandžak) and its immediate neighbourhood (Bosnia, Albania and Kosovo), and their participation in wars in Iraq and Syria with terrorist groups such as the Islamic State of Iraq and Syria (ISIS)⁽²¹²⁾;
- Undocumented return of fighters and their potential to act as the catalyst for further radicalisation of Muslim communities across the region;
- Interlinks between the regional criminal and terrorists networks, and connection to the transnational terrorist counterparts;
- The spread of Wahhabism⁽²¹³⁾, influence of radicalised imams⁽²¹⁴⁾⁽²¹⁵⁾ and associated madrasas;

⁽²⁰⁶⁾ B92, Region's stability is endangered, says Serbian PM, 29 August 2016.

⁽²⁰⁷⁾ Balkan Insight, Serbia PM Srebrenica attack 'still under investigation', 29 August 2016.

⁽²⁰⁸⁾ EC, EC Communication on EU Enlargement Policy 2016, 9 November 2016, p.12.

⁽²⁰⁹⁾ EC, EC Communication on EU Enlargement Strategy 2015, 10 November 2015, p.20.

⁽²¹⁰⁾ Washington Post (The), Tracing the path of four terrorists sent to Europe by the Islamic State, 22 April 2016.

⁽²¹¹⁾ ECHO, Serbia: refugee crisis, Factsheet, April 2016.

⁽²¹²⁾ Balkan Insight, ISIS poses threat to Balkans, Ministers say, 29 July 2016.

⁽²¹³⁾ Reuters, Serbia, Bosnia raid Islamists after U.S. embassy attack, 29 October 2011.

⁽²¹⁴⁾ Reuters, Kosovo imams arrested in push to stop fighters going to Syria, Iraq, 17 September 2014.

⁽²¹⁵⁾ Radio Free Europe – Radio Liberty, Kosovo brings charges against four imams, Islamic party leader, 17 September 2016.

- Presence of a large stockpile of conventional armaments from the Balkan wars in the 1990s⁽²¹⁶⁾, which has been used for conflicts in Syria and Iraq and during the terrorist attacks in France⁽²¹⁷⁾.

The Western Balkans' Berlin Process initiated by Germany in 2014 provided the diplomatic forum for Albania, Bosnia and Herzegovina (BiH), the former Yugoslav Republic of Macedonia, Kosovo, Montenegro and Serbia to unite around the common goal of eventually joining the EU, while working towards resolution of political disputes and divisions, and strengthening of mutual cooperation through infrastructural projects rather than fomenting further political instability amid a stagnant economic situation in the region⁽²¹⁸⁾.

In its 2016 Communication, the EC highlighted that 'Serbia's leading role in the region is instrumental in improving regional ties and preserving stability. Serbia has been affected by the migration crisis and played an active and constructive role and cooperated with neighbouring countries and Member States while managing mixed migration flows'.⁽²¹⁹⁾

⁽²¹⁶⁾ EEAS, The fight against excessive accumulation and illicit trafficking of SALW and their ammunition, n.d.

⁽²¹⁷⁾ Spiegel Online International, How EU failures helped Paris terrorists obtain weapons, 24 March 2016.

⁽²¹⁸⁾ European Parliament, The Western Balkans' Berlin process: A new impulse for regional cooperation, 4 July 2016.

⁽²¹⁹⁾ EC, EC Communication on EU Enlargement Policy 2016, 9 November 2016, p.12.

5. Human rights situation

5.1 Legal context and institutional framework

The Serbian constitution guarantees fundamental human and minority rights, including freedom of thought and conscience, expression, religion, movement, assembly, association, equality, and prohibition of discrimination against national minorities ⁽²²⁰⁾. According to the Section II of the Constitution of Serbia, human and minority rights and freedoms are divided into three parts:

- Fundamental Principles (Art. 18-22);
- Human Rights and Freedoms (Art. 23-74) and
- Rights of Persons Belonging to National Minorities (Art 75-81)⁽²²¹⁾.

The constitution provides for a wide range of human rights that are in line with international standards. However, its provisions are deemed ambiguous as they do not provide sufficient guarantee for the rights ‘to adequate housing, food or water’, nor they address issues such as ‘gender equality’ and ‘discrimination against women’⁽²²²⁾.

Serbia ratified the core international Human Rights instruments – the International Convention on the Elimination of all Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the Convention Against Torture or the Convention on the Rights of the Child ⁽²²³⁾.

The main independent human rights authorities operating in Serbia are: the Commissioner for Information of Public Importance, the Protector of Citizens or the Ombudsman of Serbia, the Anti-Corruption Agency and the Commissioner for Protection of Equality. These institutions report their findings and recommendations in their annual reports, which are submitted to the National Assembly and distributed to the competent parliamentary committees. There is no formal mechanism to guarantee that their recommendations are binding to the public authorities and actors to which they refer⁽²²⁴⁾.

5.1.1 Ombudsman of Serbia

The Ombudsman of Serbia is an independent and autonomous government body, responsible for the protection and promotion of rights and liberties, especially in the field of national minority rights, children rights, rights of the disabled, rights of people deprived of liberty and gender rights ⁽²²⁵⁾. The Ombudsman is also responsible for ensuring that human freedoms and rights are protected and promoted ⁽²²⁶⁾.

The Ombudsman acts according to the constitution, the Law on the Protector of Citizens ⁽²²⁷⁾, and abides equally by ‘the ratified international treaties and generally accepted rules of international law’ ⁽²²⁸⁾.

⁽²²⁰⁾ Government of Serbia, Constitution of the Republic of Serbia, 8 November 2006.

⁽²²¹⁾ Belgrade Centre for Human Rights, Human Rights in Serbia 2015, 2016.

⁽²²²⁾ Belgrade Centre for Human Rights, Human Rights in Serbia 2015, 2016.

⁽²²³⁾ UN Human Rights, Office of the High Commissioner, Status of Verification, Serbia, updated at least every six months.

⁽²²⁴⁾ Belgrade Centre for Human Rights, Human Rights in Serbia 2014, 2015.

⁽²²⁵⁾ Ombudsman of Serbia, Role and Function, 27 May 2012.

⁽²²⁶⁾ OSCE, Law on the protector of Citizens, October 2005.

⁽²²⁷⁾ OSCE, Law on the protector of Citizens, October 2005.

⁽²²⁸⁾ Ombudsman of Serbia, Regular Annual Report of the Protector of Citizens for 2015, 15 March 2016.

According to the Ombudsman annual report 2015, the constitutionally guaranteed independence of the Ombudsman has been ‘undermined’ by the National Assembly through its attempts to control the institution’s autonomy⁽²²⁹⁾.

Referring to the role of the Ombudsman in the government’s accountability, the 2015 EC Communication stated that cooperation between the authorities and the independent regulatory bodies and the Ombudsman should be further improved⁽²³⁰⁾.

The Serbian Ombudsman has been under significant pressure from the Government and the ruling Serbian Progressive Party after the events of the 2014 Pride Parade⁽²³¹⁾. At this event the Prime Minister’s brother, the brother of the mayor of Belgrade and two military police officers accompanying them clashed with the Gendarmerie. The Ombudsman filed criminal reports against the two military police officers for assault on the Gendarmerie officers. Additionally, the Ombudsman requested access to the Military Intelligence Agency’s (VBA) documentation and information, which was rejected⁽²³²⁾. The Ombudsman later declared that he had information confirming that ‘the VBA was illegally monitoring politicians, judges and trade union activists’⁽²³³⁾. Since then, there has been a full-scale campaign against the Ombudsman, who has been criticised, insulted and even accused of being a state enemy⁽²³⁴⁾.

5.1.2 Ministry of Justice

According to the official website of the Ministry of Justice, the Ministry took over the former mandate and responsibilities of the Ministry of Human and Minority Rights, Public Administration and Local Self-Government, including of the jurisdiction in the area of human and minority rights. It also took over the role and responsibilities of the Ministry of Religion and Diaspora, thus exercising its jurisdiction in the area of churches and religious communities⁽²³⁵⁾.

5.2 General situation

According to the Belgrade Centre for Human Rights, some of the areas that raise concern and affect the overall human rights situation in Serbia pertain to: risks posed by poverty and access to social services and financial benefits; the sustainability of the health sector due to shortage of funds and health professionals; domestic violence; political pressures directed at the independent regulatory authorities, and political interference in judiciary, and influence on the media and the freedom of expression; ensuring the enforcement of the National Strategy for the Prosecution of War Crimes 2016-2020⁽²³⁶⁾; prevention of unlawful detention and torture; integration of vulnerable groups and prevention of discrimination (i.e. Roma, LGBT persons, persons with disabilities and with HIV/AIDS); ensuring state support in providing religious services in different minority languages (i.e. Vlach and Romanian minority in east Serbia); upholding the labour rights of workers⁽²³⁷⁾.

⁽²²⁹⁾ Ombudsman of Serbia, Regular Annual Report of the Protector of Citizens for 2015, 15 March 2016.

⁽²³⁰⁾ EC, EC Communication on EU Enlargement Strategy 2015, 10 November 2015, p.19.

⁽²³¹⁾ CEAS, Serbia’s Angry Leaders Turn on Ombudsman, 29 April 2015.

⁽²³²⁾ CEAS, Serbia’s Angry Leaders Turn on Ombudsman, 29 April 2015.

⁽²³³⁾ CEAS, Serbia’s Angry Leaders Turn on Ombudsman, 29 April 2015.

⁽²³⁴⁾ CEAS, Serbia’s Angry Leaders Turn on Ombudsman, 29 April 2015.

⁽²³⁵⁾ Republic of Serbia, Ministry of Justice, Jurisdictions, obligations and competences of the Ministry, n.d.

⁽²³⁶⁾ Office of the War Crimes Prosecutor, National Strategy for the Prosecution of War Crimes 2016-2020, January 2016.

⁽²³⁷⁾ Belgrade Centre for Human Rights, Human Rights in Serbia 2015, 2016.

On the general human rights situation, the Civil Rights Defenders, a Swedish international human rights organisation with office in Belgrade, states that:

‘The opening of the negotiations has not improved the situation in regards to human rights; the situation has even deteriorated in comparison to 2014, particularly in the areas of freedom of expression, independent regulatory bodies, judicial reform and national minorities.

The situation for minorities remains precarious, not least for Roma and LGBT people. [...] Serbian media is moving further away from their purpose to inform the public and is instead continuously becoming more of an obvious political tool used to influence public opinion’ ⁽²³⁸⁾.

The European Commission in its 2016 Communication noted, however, that although the legal and institutional framework for the respect of fundamental rights is in place, ‘consistent implementation across the country needs to be ensured, including as regards protection of minorities’ ⁽²³⁹⁾. The same Communication identifies the following groups as the most discriminated: ‘Roma, lesbian, gay, bisexual, transgender and intersex persons, persons with disabilities, persons with HIV/AIDS and other socially vulnerable groups’ ⁽²⁴⁰⁾.

In its 2016 human rights report on Serbia, the Civil Rights Defenders stress that political party representatives, religious representatives, extremist groups, several media outlets and individuals have increasingly used hate speech against Roma, national minorities, human rights activists and representatives of independent regulatory bodies ⁽²⁴¹⁾.

5.2.1 Freedom of expression and information

Freedom of thought and expression are guaranteed by article 46 of the Serbian Constitution, alongside with the freedom to information, ideas and speech. The same article foresees that the freedom of expression may be restricted ‘to protect rights and reputation of others, to uphold the authority and objectivity of the court and to protect public health, morals of a democratic society and national security of the Republic of Serbia’ ⁽²⁴²⁾.

According to the Belgrade Centre for Human Rights, ‘It is unclear what is exactly implied by “morals of a democratic society”’ ⁽²⁴³⁾.

The existing law does not provide specific provisions prohibiting hate speech although it is considered ‘a criminal offence to “incite” national, racial, or religious intolerance’ ⁽²⁴⁴⁾.

The European Commission in its 2016 Communication states that ‘no progress was made to improve conditions for the full exercise of freedom of expression, where Serbia has achieved some level of preparation’ ⁽²⁴⁵⁾.

The Serbian Ministry of Culture and Information ensures that freedom of expression is respected. According to its website, the Government is committed protecting the freedom of

⁽²³⁸⁾ Civil Rights Defenders, Human Rights in Serbia, updated 8 June 2016.

⁽²³⁹⁾ EC, EC Communication on EU Enlargement Policy 2016, 9 November 2016, p.21.

⁽²⁴⁰⁾ EC, EC Communication on EU Enlargement Policy 2016, 9 November 2016, p.21.

⁽²⁴¹⁾ Civil Rights Defenders, Human Rights in Serbia, updated 8 June 2016.

⁽²⁴²⁾ Government of Serbia, Constitution of the Republic of Serbia, 8 November 2006.

⁽²⁴³⁾ Belgrade Centre for Human Rights, Human Rights in Serbia 2015, 2016.

⁽²⁴⁴⁾ US Department of State, 2015 Human Rights Reports: Serbia, 13 April 2016.

⁽²⁴⁵⁾ EC, EC Communication on EU Enlargement Policy 2016, 9 November 2016, p.21.

expression through the implementation of the action plan for Chapter 23 on Judiciary and fundamental rights, and through it, also protect the safety of journalists ⁽²⁴⁶⁾.

However, NGOs and media sources state that the level of violence, intimidation and smear-campaigns ⁽²⁴⁷⁾ against independent and investigative journalists observed in 2015 has continued in 2016 ⁽²⁴⁸⁾.

According to the Confederation of Autonomous Trade Unions of Serbia and local media, political pressure occurs through smear campaigns conducted by pro-government media, which undermines media independence and is conducive to self-censorship ⁽²⁴⁹⁾. The media sources indicate that there is lack of political will to encourage freedom of expression and a number of murders of prominent journalist remain unsolved ⁽²⁵⁰⁾.

According to Civil Rights Defenders, 'the freedom of expression has deteriorated significantly since 2014, and has continued on that path over the recent period of time' ⁽²⁵¹⁾.

5.2.2 Freedom of religion

The freedom of thought, conscience and religion is guaranteed by the Constitution ⁽²⁵²⁾ and is generally respected in practice ⁽²⁵³⁾.

The US DoS 2015 Report on International Religious Freedom mentions difficulties encountered by some minority religious groups in registering and complaints of nontraditional religious groups about discrimination in the implementation of laws ⁽²⁵⁴⁾. The same source mentions youth groups denouncing minority religions and articles critical of nontraditional religious groups in the Serbian press ⁽²⁵⁵⁾.

According to Civil Rights Defenders, the Orthodox Church still has great influence in the decision-making process. Services in some minority languages are still not available ⁽²⁵⁶⁾.

5.2.3 Freedom of assembly and association

Freedom of assembly is guaranteed under article 54 of the Constitution ⁽²⁵⁷⁾ and is regulated by the new Law on Public Assembly, adopted in February 2016 ⁽²⁵⁸⁾. This new Law was introduced following an April 2015 ruling by the Constitutional Court that declared the 1992 Law on Public Assembly unconstitutional, and after an ensuing legal vacuum from October 2015 to February 2016 ⁽²⁵⁹⁾. The law has been criticised for being incomplete, not having enough safeguards against its misuse ('to promote political parties and boost their election'),

⁽²⁴⁶⁾ Ministry of Culture and Information, Zaštita i promocija slobode govora – prioritet, "Protection and promotion of freedom of speech – priority", 3 May 2016.

⁽²⁴⁷⁾ Balkan Insight, Attacks on Serbia media 'aim to cut their funds', 12 September 2016; Civil Rights Defenders, Smear campaigns must stop against investigative journalists in Serbia, 18 March 2016.

⁽²⁴⁸⁾ European Federation of Journalists, Serbian authorities must investigate the murder of Luka Popov, 17 June 2016.

⁽²⁴⁹⁾ Balkan Insight, Attacks on Serbia media 'aim to cut their funds', 12 September 2016; Confederation of Autonomous Trade Unions of Serbia, Censorship in media makes journalist resign, 25 August 2016.

⁽²⁵⁰⁾ Balkan Insight, Serbian surveillance documents on murdered journalist 'destroyed', 12 January 2016.

⁽²⁵¹⁾ Civil Rights Defenders, Human Rights in Serbia, updated 8 June 2016.

⁽²⁵²⁾ Government of Serbia, Constitution of the Republic of Serbia, article 43, 8 November 2006.

⁽²⁵³⁾ Freedom House, Serbia, Freedom in the World 2016.

⁽²⁵⁴⁾ US DoS, 2015 International Religious Freedom Report, 10 August 2016.

⁽²⁵⁵⁾ US DoS, 2015 International Religious Freedom Report, 10 August 2016.

⁽²⁵⁶⁾ CRD Rights Defenders, Human Rights in Serbia, updated 8 June 2016.

⁽²⁵⁷⁾ Constitutional Court of Serbia (The), Constitution of the Republic of Serbia, 2006.

⁽²⁵⁸⁾ ECNL, Western Balkans Assembly Monitor Project, Freedom of assembly in Serbia, 2016.

⁽²⁵⁹⁾ ECNL, Western Balkans Assembly Monitor Project, Freedom of assembly in Serbia, 2016.

and for not having implemented CSOs' objections⁽²⁶⁰⁾. According to the Civil Rights Defenders (CRD), a Swedish international human rights organisation with an office in Belgrade, the new law's drafting process was done with little experts' input and minor consultation with human rights NGOs. After the latter's reaction, some articles were improved⁽²⁶¹⁾.

NGOs, CSOs, numerous professional associations and workers may form unions, syndicates and interest associations, and are allowed to engage in collective bargaining or organised strikes⁽²⁶²⁾.

Overall, citizens enjoy freedom of assembly and association, and nongovernmental organisations generally operate freely⁽²⁶³⁾. There have been noticeable improvements, such as the organisation of the third consecutive LGBTI Belgrade Pride Parade in September 2016⁽²⁶⁴⁾ following several years without the event due to violent counter-demonstrations in 2010⁽²⁶⁵⁾.

Indoor assemblies do not require approval or notification. All outdoor assemblies have to be notified to the authorities. According to the Belgrade Centre for Human Rights, the constitution only states that citizens may assemble freely and does not guarantee this right to aliens or stateless persons⁽²⁶⁶⁾.

The constitution guarantees the freedom to join and form political, trade union and all other forms of associations, without prior approval, and regulates the ban of associations aimed at the 'violent change of the constitutional order, violation of guaranteed human and minority rights or incitement to racial, ethnic or religious hate'⁽²⁶⁷⁾.

Despite the overall positive legal framework, the Belgrade Centre for Human Rights states that associations trying to spread neo-Nazi and Fascist ideas, inciting national, racial, religious and other hate and intolerance or limiting rights and freedoms still operate in Serbia⁽²⁶⁸⁾.

5.2.4 Torture and other cruel, inhumane and degrading treatment and punishment

Serbia ratified the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in 2006 and the Ombudsman was officially designated as National Preventive Mechanism (NPM)⁽²⁶⁹⁾.

According to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the committee 'received a significant number of allegations of physical ill-treatment of detained persons by police officers', consisting of 'slaps, punches and truncheon blows, but also included striking persons with various non-standard objects', and also allegations of 'handcuffing suspects in stress positions for hours on end, the placing of plastic bags over their heads, the infliction of shocks with hand-held electric discharge devices and hitting the soles of their feet with hard objects'⁽²⁷⁰⁾.

⁽²⁶⁰⁾ EurActiv, Zakon o javnom okupljanju nepotpun, političke stranke ga zloupotrebile, 3 August 2016.

⁽²⁶¹⁾ CRD, Human Rights in Serbia, updated 8 June 2016.

⁽²⁶²⁾ Freedom House, Serbia, Freedom in the World 2016.

⁽²⁶³⁾ Freedom House, Serbia, Freedom in the World 2016.

⁽²⁶⁴⁾ Balkan Insight, LGBT activists march with politicians for Belgrade Pride, 18 September 2016.

⁽²⁶⁵⁾ BBC, Scores arrested in Belgrade after anti-gay riot, 10 October 2016.

⁽²⁶⁶⁾ Belgrade Centre for Human Rights, Human Rights in Serbia 2015, 2016.

⁽²⁶⁷⁾ Government of Serbia, Constitution of the Republic of Serbia, article 55, 8 November 2006.

⁽²⁶⁸⁾ Belgrade Centre for Human Rights, Human Rights in Serbia 2015, 2016.

⁽²⁶⁹⁾ CoE - CPT, Report to the Government of Serbia on the visit to Serbia carried out by the CPT from 26 May to 5 June 2015, 24 June 2016.

⁽²⁷⁰⁾ CoE - CPT, Report to the Government of Serbia on the visit to Serbia carried out by the CPT from 26 May to 5 June 2015, 24 June 2016.

According to the Belgrade Centre for Human Rights, between 1 October 2013 and 30 June 2015, 259 criminal reports were filed with the Basic Public Prosecution Services against 417 people claiming torture and ill-treatment, 121 of which were against police officers and prison guards. Eighty criminal proceedings were dismissed, 34 were pending, six motions for indictment were submitted and one plea bargain was concluded ⁽²⁷¹⁾.

5.2.5 Detention

In a 2015 report of its visit to Serbian jails, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) reports that the total number of inmates was of 10,600 and the overall capacity of the prison system was 9,000, showing an increase of 500 places since the 2011 visit ⁽²⁷²⁾.

The Serbian National Preventive Mechanism (NPM) has carried out more than 300 visits to places of detention in Serbia and has provided more than 1,000 recommendations to the Serbian authorities. The CPT recommends that the Serbian authorities increase the NPM's budget and consider setting up an independent unit for it within the Ombudsman structure ⁽²⁷³⁾.

The committee received allegations of 'ill-treatment in all the prisons visited'. The visit revealed a high level of violence among prisoners and intimidation especially in Sremska Mitrovica and Pančevo prisons, which are affected by chronic understaffing, illicit drug use, poor material conditions and a lack of activities ⁽²⁷⁴⁾.

According to the Belgrade Centre for Human Rights, Serbian prisons are extremely overcrowded, although the Government has adopted strategies aimed at reducing the number of remanded and convicted prisoners. Conditions at the largest prisons in Serbia – in Sremska Mitrovica, Požarevac and Niš, as well as Belgrade District Prison – are considered inhuman and degrading ⁽²⁷⁵⁾.

5.3 Specific groups

5.3.1 Ethnic and religious minorities

In its 2016 Communication, the Commission calls upon Serbia to ensure consistent and country-wide implementation of the legal and institutional framework for the protection of fundamental rights of minorities and improve the situation of Roma ⁽²⁷⁶⁾.

According to HRW, the Roma minority continued to face discrimination and harassment. Housing is a major concern. Informal settlements are demolished by the authorities, without notification or alternative accommodation. HRW adds that 'Roma in informal settlements often live in appalling conditions' ⁽²⁷⁷⁾.

⁽²⁷¹⁾ Belgrade Centre for Human Rights, Human Rights in Serbia 2015, 2016.

⁽²⁷²⁾ CoE - CPT, Report to the Government of Serbia on the visit to Serbia carried out by the CPT from 26 May to 5 June 2015, 24 June 2016.

⁽²⁷³⁾ CoE - CPT, Report to the Government of Serbia on the visit to Serbia carried out by the CPT from 26 May to 5 June 2015, 24 June 2016.

⁽²⁷⁴⁾ CoE, Serbia: ill-treatment, overcrowding, poor material conditions in prisons among key shortcomings, 24 June 2016.

⁽²⁷⁵⁾ Belgrade Centre for Human Rights, Human Rights in Serbia 2015, 2016.

⁽²⁷⁶⁾ EC, EC Communication on EU Enlargement Policy 2016, 9 November 2016, p.21.

⁽²⁷⁷⁾ HRW, World report 2016, Serbia, January 2016.

Discrimination of Roma is also visible in employment, education and health-care. The lack of personal documents restricts the Roma's fundamental human rights ⁽²⁷⁸⁾. According to a recent UNHCR survey on statelessness in Serbia, the risk of statelessness is higher among Roma displaced from Kosovo who are living in an area of Belgrade in substandard settlements. In 31 % of the sample observed (1,987 households accommodating 8,765 persons), two or more members were at risk of statelessness ⁽²⁷⁹⁾.

The Civil Rights Defenders highlights that, despite the good legislative framework, Roma (and LGBT) communities remain some of the weakest, most marginalised and discriminated groups in the country and frequently exposed to violence. The government is perceived both as a discriminator and as 'the one most responsible for alleviating the problem' ⁽²⁸⁰⁾.

On the issue of religious minorities, there are seven communities recognised as traditional religious communities. Traditional status is also granted by the government, solely in Vojvodina Province, to the Diocese of Dacia Felix of the Romanian Orthodox Church. Seventeen 17 other 'nontraditional' religious organisations are registered ⁽²⁸¹⁾. Some issues have been reported with regard to the registration process for non-traditional religions (see [5.2.2 Freedom of Religion](#)).

5.3.2 Journalists and media

The constitution guarantees freedom of the press and censorship is prohibited ⁽²⁸²⁾.

Serbia ranks 59th out of 180 countries in the Reporters Without Borders (RSF) 2016 World Press Freedom Index ⁽²⁸³⁾. RSF stated that the situation in the Serbian media had deteriorated. Reporters or media critical of the Government are publicly attacked, targeted and subjected to frequent arbitrary financial and administrative inspections. Three laws complying with European standards on freedom of information were approved with the aim of facilitating admission to the EU but were never put into force ⁽²⁸⁴⁾.

According to the Belgrade Centre for Human Rights, in 2015 there were 14 daily newspapers published in Serbia; data indicators show that circulation of newspapers dropped by 40 % in the past three years ⁽²⁸⁵⁾.

According to the Belgrade Centre for Human Rights, the number of attacks and threats against reporters rose in 2015 and 'hardly any of the perpetrators were brought to justice' ⁽²⁸⁶⁾.

On 16 June 2016, Luka Popov, a Serbian radio journalist, was killed in northern Serbia ⁽²⁸⁷⁾. The swift reaction of the authorities in the arrest of suspects was welcomed by the OSCE Representative for the Media of the Press, Dunja Mijatović ⁽²⁸⁸⁾. According to the CoE's

⁽²⁷⁸⁾ Civil Rights Defenders, Human Rights in Serbia, updated 8 June 2016.

⁽²⁷⁹⁾ UNHCR, Persons at Risk of Statelessness in Serbia, June 2016.

⁽²⁸⁰⁾ Civil Rights Defenders, Human Rights in Serbia, updated 8 June 2016.

⁽²⁸¹⁾ US DoS, 2015 International Religious Freedom Report, 10 August 2016.

⁽²⁸²⁾ Government of Serbia, Constitution of the Republic of Serbia, 8 November 2006.

⁽²⁸³⁾ Reporters without Borders (RSF), World Press Freedom Index 2016, 2016.

⁽²⁸⁴⁾ RSF, Countries, Serbia, 2016.

⁽²⁸⁵⁾ Belgrade Centre for Human Rights, Human Rights in Serbia 2015, 2016.

⁽²⁸⁶⁾ Belgrade Centre for Human Rights, Human Rights in Serbia 2015, 2016.

⁽²⁸⁷⁾ RSF, Serbia: RSF appalled by radio journalist's murder, updated 20 June 2016.

⁽²⁸⁸⁾ OSCE, OSCE Representative welcomes arrests following murder of journalist in Serbia, praises police swift action, 20 June 2016.

Platform to promote the Protection of Journalism and Safety of Journalists, the case is still pending ⁽²⁸⁹⁾.

The Serbian Ombudsman noted that the Government often identified media and reporters critical of the government as ‘mercenaries on the payroll of foreigners and tycoons, who were working against the interests of their country’ ⁽²⁹⁰⁾.

5.3.3 Human rights and peace defenders

According to the Civil Rights Defenders, the situation for human rights defenders in Serbia has deteriorated:

‘Over the last few years, several human rights defenders in Serbia have continuously been subjected to a number of human rights violations. They have been the targets of physical violence, death threats, hate speech, harassment and defamation, as well as faced imposed restrictions on their freedom of assembly. Violations most commonly target either human rights defenders individually or the organisations they work for’ ⁽²⁹¹⁾.

The same source indicates that human rights defenders in Serbia work in a hostile environment. Additionally, a ‘smear campaign’ against the Ombudsman of Serbia, Sasa Jankovic, started in 2014 and continued in 2015 ⁽²⁹²⁾ (see also [5.1.1 Ombudsman of Serbia](#)).

5.3.4 Women

The constitution guarantees the principle of equality and prohibits any form of gender-based discrimination ⁽²⁹³⁾. Serbia has ratified the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women ⁽²⁹⁴⁾.

Sexual and gender-based violence (SGV)

In 2015, 33 women were killed in domestic violence incidents, said Zorana Mihajlovic, President of Serbian Coordinating Body for Gender Equality ⁽²⁹⁵⁾.

According to the Serbian Ombudsman, between 1 January 2013 and 30 June 2014, the Serbian Social Welfare Centres (SWCs) received 5,847 reports regarding incidents of intimate partner and gender-based violence against women. The majority of the reports came from the police. In the reported period, 78 murders were identified. The victims were mainly female ⁽²⁹⁶⁾.

Data from the same source shows that victims were aged 26-64, came from marginalised groups (mainly Roma or other national minorities) and perpetrators were mainly men ⁽²⁹⁷⁾.

The Ombudsman assessed the situation and issued recommendations, as follows:

⁽²⁸⁹⁾ CoE, Platform to promote the protection of journalism and safety of journalists, Radio journalist and presenter found dead in home, updated 21 June 2016.

⁽²⁹⁰⁾ Ombudsman of Serbia, Regular Annual Report of the Protector of Citizens for 2015, 15 March 2016.

⁽²⁹¹⁾ Civil Rights Defenders, Human Rights in Serbia, updated 8 June 2016.

⁽²⁹²⁾ HRW, World report 2016, Serbia, January 2016.

⁽²⁹³⁾ Government of Serbia, Constitution of the Republic of Serbia, 8 November 2006.

⁽²⁹⁴⁾ OHCHR, Status of Ratification, Serbia, n.d.

⁽²⁹⁵⁾ Delegation of the EU to Serbia, International Day for the Elimination of Violence against Women, 25 November 2015.

⁽²⁹⁶⁾ Ombudsman of Serbia, Special Report on Protection of Women Against Violence, November 2014.

⁽²⁹⁷⁾ Ombudsman of Serbia, Special Report on Protection of Women Against Violence, November 2014.

'Violence which occurred for the first time is often interpreted as a domestic or intimate partner conflict which does not require a response from the authorities. [...]

The system [...] that murders [...] constitute the final outcome of long-lasting violence against the victim. Femicide is almost invariably preceded by multiple incidents of violence against the victim [...] without an appropriate and timely response from the competent authorities. [...]

The number of criminal reports filed with prosecutor's offices by social welfare centers, and the number of judicial proceedings initiated for the protection against domestic violence, is several times lower than the number of reports and lawsuits filed by victims themselves' ⁽²⁹⁸⁾.

Gender equality

In February 2016, Serbia adopted the National Strategy for Gender Equality for 2016-2020, aimed at reducing gender stereotypes, changing harmful cultural norms and developing new policies to promote equal opportunities for women and men ⁽²⁹⁹⁾.

The new strategy addresses the needs of discriminated, vulnerable groups of women, including Roma, rural women and women with disabilities, as well as the systematic use of gender-sensitive language. Serbia became the first country outside the EU to introduce the EU Index of Gender Equality ⁽³⁰⁰⁾.

5.3.5 Children

According to SOS Children's Villages International, about one-fifth of the Serbian population is under 18. Nearly 10 % of children live in poverty. Children face the risk of losing parental care due to unemployment, poverty, health problems and the low level of education of parents. Children with disabilities, and with HIV are also at risk in rural areas ⁽³⁰¹⁾.

Referring to Roma children, SOS Children's Villages notes:

'Roma children face disadvantages in both health and education. According to the World Health Organisation, Serbia has improved the overall health care of children by reducing the infant and under-five mortality rate. In spite of this, children of Roma origin are three times more likely to die before the age of five than non-Roma children.

Children have to go to school at the age of six or seven. However, it is estimated that a quarter of poor children do not attend primary education. Among the Roma, only 66 per cent enter school at the required age and only ten per cent enrol in secondary school' ⁽³⁰²⁾.

In a recent report, HRW states that hundreds of Serbian children with disabilities face neglect and isolation in institutions. Despite progress made in protecting the rights of children with disabilities, the routine placement of children in state institutions should be tackled by supporting their families or placing them in other family-like settings ⁽³⁰³⁾.

⁽²⁹⁸⁾ Ombudsman of Serbia, Special Report on Protection of Women Against Violence, November 2014.

⁽²⁹⁹⁾ UN Women, Europe and Central Asia, Serbia adopts National Strategy for Gender Equality, 23 February 2016.

⁽³⁰⁰⁾ UN Women, Europe and Central Asia, Serbia adopts National Strategy for Gender Equality, 23 February 2016;

⁽³⁰¹⁾ SOS Children's Villages International, General Information on Serbia, n.d.

⁽³⁰²⁾ SOS Children's Villages International, General Information on Serbia, n.d.

⁽³⁰³⁾ HRW, Serbia: Children With Disabilities Neglected, 8 June 2016.

According to a Network of Organisations for Children of Serbia (MODS), the normative framework for the realisation of child rights should be further developed, as well as the institutional framework for conducting public policies in the field of child rights. MODS calls upon the new government to adopt a National Action Plan for Children, a National Strategy for the Prevention and protection of Children from Violence, and to renew the General and Special Protocols for Protection of Children from Violence, Abuse and Neglect⁽³⁰⁴⁾.

5.3.6 Lesbian, gay, bisexual, transsexual and intersex persons (LGBTI)

According to the EC's 2016 Communication on Serbia, LGBTI persons remain one of the most discriminated-against groups in Serbia⁽³⁰⁵⁾. In its 2015 Communication, EC had welcomed the steps taken by the authorities to strengthen the protection of the rights of LGBT persons, as well as their facilitation of the pride parade in Belgrade, while stressing that 'a stronger culture of respect for LGBTI persons is needed'⁽³⁰⁶⁾.

The 2015 Ombudsman human rights report states that 'the rights of citizens with different sexual orientation and gender identity are not fully protected' in Serbia⁽³⁰⁷⁾, where, for example, same-sex marriages are not allowed⁽³⁰⁸⁾.

The Civil Rights Defenders argues that the state response to the discrimination, threats and hate speech continues to be inadequate as there is a lack of adequate implementation of legislation that explicitly refers to sexual orientation⁽³⁰⁹⁾.

According to ILGA, the Serbian NGOs Labris and Gayten-LGBT, together with the US-based National Democratic Institute, launched 'DA SE ZNA', a new online portal to report violence and discrimination against LGBTI people⁽³¹⁰⁾.

In 2010, there were major clashes between the police and hundreds of far-right supporters, who violently protested against the LGBT march⁽³¹¹⁾. On 18 September 2016 the latest annual Belgrade Pride Parade proceeded without violence, although strong security measures were set up by the Government, with thousands of riot police officers present⁽³¹²⁾.

Ana Brnabic, a member of the LGBT community, was recently appointed Minister of Public Administration and Local Self-Government⁽³¹³⁾ (see also [1.2.2 Government](#)). According to the *LGBTQ Nation*, an online magazine focused on LGBTQ news, during the 2016 Belgrade Pride Parade, Brnabic stated that 'the government will work to improve the position for Serbia's gays as well as other minority groups, who still often face harassment and discrimination'⁽³¹⁴⁾.

⁽³⁰⁴⁾ ChildPact, Serbian coalition for children urges the new Cabinet of Serbia to take measures to improve children's lives, 22 July 2016.

⁽³⁰⁵⁾ EC, EC Communication on EU Enlargement Policy 2016, 9 November 2016, p.21.

⁽³⁰⁶⁾ EC, EC Communication on EU Enlargement Strategy 2015, 10 November 2015, p.20.

⁽³⁰⁷⁾ Ombudsman of Serbia, Regular Annual Report of the Protector of Citizens for 2015, 15 March 2016.

⁽³⁰⁸⁾ Government of Serbia, Constitution of the Republic of Serbia, 8 November 2006.

⁽³⁰⁹⁾ Civil Rights Defenders, Human Rights in Serbia, updated 8 June 2016.

⁽³¹⁰⁾ ILGA, ILGA-Europe Annual Review 2016, Serbia, 4 May 2016.

⁽³¹¹⁾ Guardian, (The), Serbia police clash with far-right rioters at gay pride march, 10 October 2010.

⁽³¹²⁾ Fox News World, Police cordon off central Belgrade for pride march, 18 September 2016; Media Diversity Institute, Media Coverage of the Belgrade Pride 2016, 18 September 2016; LGBTQ Nation [website], Serbian police cordon off central Belgrade to protect pride march, 18 September 2016.

⁽³¹³⁾ ANSA, Serbia's new government to include openly gay minister, 8 August 2016.

⁽³¹⁴⁾ LGBTQ Nation [website], Serbian police cordon off central Belgrade to protect pride march, 18 September 2016.

5.3.7 Trafficked persons

According to the US DoS 2016 Trafficking in Persons Report, the Government of Serbia ‘does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so’⁽³¹⁵⁾. Issues identified in the same report relate to a lack of staff and resources, and a de-prioritisation of anti-trafficking efforts due to the increase in irregular migration, resulting in a decrease in victim identification, investigations, prosecutions and convictions⁽³¹⁶⁾.

Also the 2016 Bertelsmann Stiftung’s report states that Serbia lacks the resources and institutional framework to properly investigate and prosecute instances of human trafficking⁽³¹⁷⁾.

According to ASTRA, a Serbian civil society anti-trafficking organisation:

‘Children, particularly ethnic Roma, are subjected within the country to sex trafficking, forced labor, forced begging, and petty crime. Migrants and refugees from Afghanistan, Iraq, and Syria and from neighboring countries are vulnerable to being subjected to trafficking within Serbia. Alleged traffickers reportedly influenced some trafficking cases through bribery of the victim or judge. The Government of Serbia does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so’⁽³¹⁸⁾.

5.3.8 Refugees, IDPs and Returnees

According to the Commissariat for Refugees and Migration of the Republic of Serbia, in the aftermath of the Balkan wars in the 1990s and the breakup of Croatia and Bosnia and Herzegovina, 537,937 refugees were registered (1996 census). In June 2014 the registered number of refugees was 43,763⁽³¹⁹⁾.

In its Mid-Year Trends 2015 report, UNHCR indicates that in Serbia there were 35,309 refugees, and 220,227 IDPs protected or assisted by the UN-High Commissariat⁽³²⁰⁾. The Serbian Government indicates that many refugees departed following the NATO bombardment in 1999 and arrival of the KFOR. In 2000, more than 200,000 were registered as displaced people in Serbia, arriving from Kosovo and Metohija. It is estimated that 100,000 people received Serbian citizenship from 2001 to 2005⁽³²¹⁾.

The Danish Refugee Council indicates that Serbia hosts the largest displaced population in Europe and has been among the most affected countries by the protected refugee crisis⁽³²²⁾. According to the International Displacement Monitoring Centre (IDMC), 77 % of the registered IDPs are Serbian, and 12 % are Roma⁽³²³⁾.

Government sources indicate that the main problems returnees’ or potential returnees continue to face relate to the exercise of their basic rights, effective repossession of property, right to adequate housing, physical security, and employment, thus preventing durable

⁽³¹⁵⁾ US DoS, 2016 Trafficking in Persons Report, June 2015.

⁽³¹⁶⁾ US DoS, 2016 Trafficking in Persons Report, June 2015.

⁽³¹⁷⁾ BTI 2016 — Serbia Country Report, 2016.

⁽³¹⁸⁾ ASTRA, Anti-Trafficking Action, Trafficking in Persons Report 2016, Serbia on Watch List, 4 July 2016.

⁽³¹⁹⁾ Commissariat for Refugees and Migration of the Republic of Serbia, About us, n.d.

⁽³²⁰⁾ UNHCR, Mid-Year Trends 2015, 2015.

⁽³²¹⁾ Government of the Republic of Serbia, Izbeglice u Srbiji, “Refugees in Serbia”, n.d.

⁽³²²⁾ Danish Refugee Council, Serbia, n.d.

⁽³²³⁾ IDMC, Serbia IDP figures analysis, n.d.

solutions for their displacement, and impeding the probability and sustainability of their return⁽³²⁴⁾.

According to the IDMC, 20 % of the IDPs originating from Kosovo would be willing to return, while the least likely to return are members of Roma minority⁽³²⁵⁾.

The Serbian Commissariat for Refugees and Migration states that the agreement between Serbia and the EU on the Readmission of persons residing illegally in the EU, entered into force in 2008, in parallel with the setting up of the Council for Integration of Returnees under Readmission Agreement. In 2009 the country adopted the Strategy for Reintegration of Returnees according to the Readmission Agreement, tasking the Commissariat with facilitating reception, reintegration of returnees, promotion of positive discrimination and provision of basic living conditions⁽³²⁶⁾.

According to HRW, the 'Serbian authorities made slow progress in finding a durable solution for refugees and IDPs from the Balkan wars living in Serbia'⁽³²⁷⁾.

According to UNDP's recent pilot project on 'Reintegration of Roma returnees to Serbia', 'four out of five registered returnees under the readmission agreement are Roma' and the capacity of 'local self-governments for dealing with readmission of this scale is limited'⁽³²⁸⁾.

Through the Instrument for Pre-accession Assistance (IPA) programmes, the EU is strengthening Serbia's institutions and their capacity to achieve EU standards in migration management and reintegration of returnees upon readmission⁽³²⁹⁾. Serbia is also a member of the Migration, Asylum Refugees Regional Initiative (MARRI) which addresses migration-management issues and promote closer cooperation in the Western Balkans⁽³³⁰⁾.

⁽³²⁴⁾ Commissariat for Refugees and Migration of the Republic of Serbia, Повратак избеглица и neresheni problemi u drzavama porekla, "Return of refugees and unsolved problems in the countries of origin", n.d.

⁽³²⁵⁾ IDMC, Serbia IDP figures analysis, n.d.

⁽³²⁶⁾ Commissariat for Refugees and Migration of the Republic of Serbia, About us, n.d.,

⁽³²⁷⁾ HRW, World report 2016, Serbia, January 2016.

⁽³²⁸⁾ UNDP, Supporting reintegration of Roma returnees in Serbia, 13 July 2016.

⁽³²⁹⁾ EU Delegation to the Republic of Serbia, IPA centralised programmes, Project Number 09: Support to the implementation of strategies for IDPs, refugees and returnees, n.d.

⁽³³⁰⁾ EC, (IPA II) – Indicative Strategy Paper for Serbia (2014-2020), 19 August 2014.

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Terms of Reference

1. State structure – 4 pages

- 1.1 Constitution
- 1.2 Executive branch
 - President
 - Government
- 1.3 Legislative branch
 - Parliament (assembly, senate?)
- 1.4 Administration

2. Socio-political landscape (= level of democracy) – 7 pages

Note: General statements about the socio-political landscape (for example, crackdown on political activists) can be made, but no detailed references to human rights violations as this will be covered in chapter 5. Human rights situation – Cross-link statements to chapter 5).

- 2.1 Political parties
- 2.2 Elections
- 2.3 Opposition/ Armed groups
- 2.4 Civil society (ngo's, freedom of speech, freedom of assembly and association, labour rights and conditions)
- 2.5 Media (TV, radio, newspapers, internet)

3. Rule of Law and State Protection – 8 pages

Note: General statements about the rule of law and availability of state protection (for example, unlawful detention) can be made, but no detailed references to human rights violations as this will be covered in chapter 5. Human rights situation – Cross-link statements to chapter 5).

3.1. Law enforcement (include information about: Capacity to protect civilians; Corruption; Abuse of power; accountability mechanisms to deal with these issues - where relevant)

- 3.1.1 Police
- 3.1.2 Army
- 3.1.3 Intelligence/Security forces
- 3.1.4 Corruption / fight against organised crime

3.2 Judiciary (include information about: Capacity to protect civilians; Corruption; Abuse of power; Internal mechanisms to deal with these issues - where relevant)

- 3.2.1 Courts system (state courts, religious courts, military courts, etc.)

Capacity and Judicial integrity

4. Security situation (general, regional) – 3 pages

- 4.1 Short description of the (regional) situation
- 4.2 Amount/ Level of violence (chronology of main incidents)
- 4.3 Actors in the conflict (security forces, armed opposition groups)
- 4.4 Areas of control/influence
- 4.5 Impact of the violence to the population

5. Human rights situation – 8 pages

- 5.1 Legal context (relevant legislation: constitution, treaties, citizenship, etc.)
- 5.2 General situation (arbitrary arrests, detention, torture, disappearances, situation in detention facilities, deportation/refoulement)
- 5.3 Specific groups (e.g., ethnic/religious minorities, journalists, human rights defenders, children, women, LGBT, victims of trafficking, returnees, etc.)

6. Reintegration of returnees – 1 page

Annexes (EASO)

A. Bibliography

B. Terms of Reference



Publications Office

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