Open Parliament Newsletter

PARLIAMENTARY INSIDER

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ABOUT THE OPEN PARLIAMENT INITIATIVE

The Open Parliament Initiative has been monitoring the work of the Serbian Parliament every day since 2012. The Open Parliament collects and publishes data on the Parliament's work and results and deals with the analysis of various processes from the perspective of transparency, accountability and participation.

The main goal of the Open Parliament Initiative is to increase transparency and accountability of the work of the Parliament, to inform the citizens about the work of the Parliament and to establish regular communication between citizens and their elected representatives. Our work is based on the values contained in the international Declaration on Parliamentary Openness, and the Open Parliament took part in the development of this initiative.

Since January 2018, the Open Parliament team has increased the focus of this initiative's activities on democratism and accountability in the conduct of MPs and the work of the institution.

The Federal Foreign Office of the Federal Republic of Germany has been supporting the Open Parliament Initiative since August 2018, including drawing up the newsletter. The views expressed in the newsletter are the views of the Open Parliament team, but they do not necessarily reflect the views of the donor.

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INTRODUCTORY REMARKS

WHAT MARKED THE WORK OF THE ASSEMBLY IN THE FIRST HALF OF THE YEAR?

At first glance, from the beginning of the New Year to the end of May, in their addresses, the MPs were trying to correct mistakes that the European Commission had pointed out last year. Sitting were scheduled on time, the MPs had the opportunity to ask questions to the executive, and the plenum was held only on Tuesdays, Thursdays and Fridays. This still did not shroud the fact that it was easy to organise all this in a practically one-party system, nor the fact that those six Albanian and Bosnian MPs who were not a part of the regime hardly uttered a single word in recent months. The spring session was marked by the first step towards changes to the Constitution in the field of justice, as well as by the adoption of two laws in the area of human rights – the Law on Gender Equality and amendments to the Law on the Prohibition of Discrimination.

During the spring and extraordinary sessions in the 2021 plenum, the MPs worked for 47 days: they spent three days in the plenum in January, six in February, 17 days in March, 12 in April, and nine in May. A total of three extraordinary sittings were held, one special and 13 regular sittings. From the beginning of January to the end of May, the MPs adopted 71 laws. As many as 11 public hearings were held, and MPs had the opportunity to ask questions to members of the Government every last Thursday of the month.

New judges were elected in January and five international agreements were ratified. Even the Women's Parliamentary Network met, a meeting on Serbia-America relations was held, and several ambassadors visited the Parliament.

In February, the Law on Social Cards was adopted aiming to contribute to a fairer distribution of social assistance. The Law had been awaited for years, its implementation had been postponed several times, and when it was adopted, it was talked about for a day. By the way, in February, the MPs systematically repeated that Serbia knew nothing about Jasenovac until President Vučić allowed discussions on this topic. Predrag Gaga Antonijević made the film "Dara from Jasenovac", and everyone who says that this film brings nothing new is the enemy who wishes for the downfall of Serbia and the oblivion of crimes.

In March, the MPs passed the Law on Climate Change, ratified six international agreements, discussed a number of HR solutions and one report on the work of the Energy Agency. On the other hand, insults and threats against journalists, non-governmental organisations and even European officials, still resound loudly and cannot be forgotten because they have been continuously repeated day by day. The month of March was marked by an almost absurd session of the Administrative Committee which showed all the pointlessness of the Code of Conduct adopted at the end of last year. The MPs accused of violating the Code explained to their party fellows that they had not violated anything, that the complaints against them were malicious and aimed at discrediting them politically, so, with general approval, the Committee ultimately rejected all five complaints as unfounded.

In the last two weeks of April, the Serbian Parliament was marked by awkward speeches by the United Serbia MPs, in which they tried one by one to discredit all those who accused their party leader Dragan Marković Palma of inducing women and underage girls into prostitution. While asking a parliamentary question, the United Serbia MP Života Starčević, read an alleged official note from 2014 in which it is claimed that the leader of the Party of Freedom and Justice Dragan Đilas had beaten up his wife. The whole address sounded quite unbelivable.

The inter-party dialogue began in April, both the one mediated by the European Parliament, and the one "without foreigners", with the mediation of the Assembly and the presence of the President of Serbia. The first one part took place online, the parliamentary parties presented their proposals and gave only formal statements about it. The second part was more dynamic, at least when it comes to the number of participants. The only thing we could hear afterwards though was that the atmosphere had been constructive and that everyone expected some solutions.

In April, the Administrative Committee issued the first warning to Serbian Progressive Party MP Srbislav Filipovic for violating the Code of Conduct for MPs. If the Committee had previously overlooked the use of the word "Shiptar" in the Assembly, the fact that people were accused of treason, conspiracy, overthrowing the state and stealing, by rejecting complaints, it still could not let "fascists and Nazis" slide. According to the Code, the Committee issues a warning, and no other punishment is foreseen, but this decision should however be seen as a precedent that shows that MPs cannot say whatever comes to mind to denigrate a political opponent without any reaction. This was the ninth complaint for violation of the Code submitted to the Administrative Committee by the Open Parliament, and the first one to end with a reprimand.

In May, members of the Committee on Constitutional Affairs determined that the proposal to change the Constitution submitted by the Government was "submitted by an authorised proponent and in the prescribed form." There was no discussion and the report was sent to the Assembly for adoption. When the MPs adopt the initiative to change the Constitution, the drafting of changes follows, so there is a possibility that public debates will be held on concrete solutions. As announced, the amendments to the Constitution will refer to the manner of electing judges and prosecutors in order to ensure their independence.

In May, amendments to the Law on Culture, the Bill on Precious Metal Objects, amendments to the Law on Prevention of Doping in Sports were adopted, and several international agreements were ratified. All almost unanimously, without awkward questions, with a lot of praise for the ministers. Throughout the debate, constant criticism of the non-parliamentary opposition could be heard, and it was also noticeable that expressions such as "tycoon, thief and yellow scum" have become commonplace, but at least there were no accusations of treason, preparation for assassination of the president or fascism.

The MPs voted in favour of the amendments to the Law on the Prohibition of Discrimination, as well as the new Law on Gender Equality, which had been announced for years. Admittedly, the discussion did focus on those laws, but much more on other topics – accusations that the United Serbia leader and MP Dragan Marković Palma organised parties with prostitutes where even underage girls were procured, media reports claiming that the son of the Serbian president was involved in business with so-called football supporter groups; on opposition leaders who, according to MPs, "want to regain power just to steal", but also on the successes of the current government, which "revived Serbia in just nine years".

2021 A month in the Parliament JANUARY

28. Thanks to the President and the Government, Serbian people received the vaccine and lives a normal life now, and the biggest problem with the coronavirus is that wedding receptions are forbidden. These are, in short, impressions from the sitting at which the MPs controlled the work of the Government by asking questions to the ministers on the last Thursday of the month. Prime Minister Ana Brnabić included vaccines, economic progress and excellent moves made by her Government in every single answer. The coronavirus was the main topic, and the leader of the United Serbia, Dragan Marković Palma, connected it with the fight against the "white plague" and asked the Crisis Response Team to at least allow people to throw wedding parties with 150 guests. MPs continued to ask questions to ministers from their own parties and ministers continued to give too long answers.

2021 A month in the Parliament FEBRUARY

9. The Assembly of Serbia passed the Law on Social Cards, a kind of map on social benefits with the aim of making them more equitable. The discussion on that Law was an opportunity for several hundred thousand social assistance beneficiaries, who on average receive less than one hundred euros a month from the state, to hear several times "how economically stable the state is, how this is the golden age of the Serbian economy and how much worse everything would be without the wise policy of President Aleksandar Vučić".

10. During the discussion, it seemed that the task of the Serbian Progressive Party MPs was to insinuate not only the connection of the recently arrested criminal group with the opposition, but also to suggest that everyone together planned the assassination of Vučić. Aleksandar Mirković, the MP of the Serbian Progressive Party said that he was "particularly worried about the behaviour of one part of the opposition, that is trying in every possible way to relativise the danger in which President Aleksandar Vučić is. The statements given by the bully and Ljotić's disciple, Dragan Đilas and the former MP Boško Obradović aim to equalise Aleksandar Vučić and his family with certain clans, mafia in Serbia and in that way directly put a target on their backs."

25. Words like crooks, thieves, criminals, thugs, traitors – are still part of the Assembly vocabulary, and still there are no warnings nor punishments. What is positive and also unchangeable is the everlasting love and admiration for the President of Serbia. We counted that the name of Aleksandar Vučić was mentioned more than a hundred times in the most positive context during a three-day sitting and a discussion on five international agreements and laws on determining the origin of property and the special tax. The sitting will be remembered by the phrase "the only free leader in the Balkans". This is what the Minister of the Interior Aleksandar Vulin said about the President: "Aleksandar Vučić is the only free leader in the Balkans. The only one. The only one who dares to tell the truth to the European Union and to the entire international community and to his people. The only one. Aleksandar Vučić had the foresight and courage to tell his people what no one has ever told them – you have to save money and you have to work. The only free leader in the Balkans. That is why he can defend the country from the consequences of the migrant crisis, that is why he can strengthen his country, that is why he can protect Serbs no matter where they lived, because he had the courage to be free."

2021 A month in the Parliament MARCH

3. On the second day of the sitting, the election of the 31 new judges passed, as usual, without a single word about the new judges. At the beginning, the MP Jelena Žarić Kovačević told the young judges that they must respect the laws. The judiciary must be independent, but the question is of whom, added Milenko Jovanov. "I cannot accept that the judiciary is independent if it is independent of the Government of Serbia, but at the same time dependent on foreign governments. I cannot accept that an independent judge attacks the Government or Vučić in the media every day but then stands before the foreign embassies like a dog and wags his tail when they let him at the reception and give him three canapés and two cocktails."

9. Following the agenda of the Second Sitting, among other things, there were discussions on the election of members of the Council of the Anti-Corruption Agency and the report of the Energy Agency. However, the regime's media linked the investigative journalism network KRIK with the recently arrested criminal clan, and the discussion in the plenum changed. The Serbian Progressive Party MP Srbislav Filipović spoke about KRIK like this: „We condemn and call names, regardless of the Code, as no Code can forbid us to use the right expression against those who planned the assassination of the President of the Republic, because they are the worst scum and bandits in Serbia." The Speaker of the Assembly, Ivica Dačić, and the other chairmen did not even formally invite the MPs to stick to the agenda, and in a one-party Assembly, there is no one to call for a violation of the Rules of Procedure.

16. Frequent violations of the Code of Conduct for MPs, through insults at the expense of dissidents and the absence of reaction from the Speakers – marked this sitting of the Assembly. Although on the first day of the debate on the Law on Climate Change, it seemed that the MPs would really talk about the agenda, it did not last for long. The head of the parliamentary group of the ruling Serbian Progressive Party, Aleksandar Martinović, opened the season with a series of accusations and untruths against the non-governmental organisation CRTA and the KRIK portal.

16. "Go find out, my dear fellow MPs and, you, Serbian citizens, where the headquarters of this CRTA [organisation] are. Do you know where their headquarters are? In Dedinje. The villa in which they are located, can hardly be compared, I think, to the facilities in which the embassies of the most powerful countries in the world are situated. Apartments in which heads of non-governmental organisations, opponents of the hated, despotic Vučić's regime live have each 150, 200 or who knows how many square metres.", said Martinović. After his performance, everything seemed to have been allowed. However, the focus of this specific hate speech shifted the next day to one of the leaders of the opposition, Dragan Đilas, and the alleged evidence that he was hiding money in Mauritius. After each address, the deputy Speaker Elvira Kovač simply thanked the MPs

2021 A month in the Parliament APRIL

8. The Assembly elected the Judge Jasmina Vasović as the President of the Supreme Court of Cassation. It can be seen from her biography that she has knowledge and experience for that position, although this brings up the question why she is the only registered candidate for that position. Everyone could have applied, I don't know why they did not, said the President of the High Judicial Council, Dragomir Milojević, at the session. Apart from the official biography and words of encouragement, nothing could be heard about Jasmina Vasović during the six hours of the debate. It seemed that the real topic of the session was the interview given to the weekly NIN by the Judge of the Court of Appeals, Miodrag Majić.

8. The Serbian Progressive Party MP Milenko Jovanov said to Majić that "we will neither invite him nor would like to see him. Frankly speaking, he disgusts us!". The MP Marko Atlagić said that "the Judge Majić comes to the scene and releases these people who, I repeat, in the most monstrous ways tortured and killed Serbs and other non-Albanians in the vicinity of Gjilane".

13. Hate speech was also widespread at the seventh sitting, when the election of judges and HR changes in the composition of the permanent delegations and members and deputy members of the committees were on the agenda. This time, the leaders of the opposition non-parliamentary parties were "on the carpet". "Of course, the destroyers of Serbia are personified in the character and wrongdoings committed by Dragan Đilas, Boris Tadić, Vuk Jeremić. Everything they did was illegal and anti-constitutional." Said the MP of the ruling party Milanka Jevtović Vukojičić, while Marko Atlagić emphasised that "Dragan Đilas's regime left the country economically, infrastructurally, industrially totally devastated, and today we are at an enviable level in these fields. That same regime of Đilas and Jeremić left behind our country with no international reputation."

16. The Committee on Constitutional and Legislative Issues has taken the first step in the process of changing the Constitution in the field of justice. At the session of the Committee held on April 16th, the proposal to change the Constitution was considered, after which the Decision on initiating activities in the procedure of changing the Constitution was made, concerning the implementation of activities encompassing various forms of debates on Constitutional changes, in order to provide an opportunity to hear different opinions and suggestions.

21. Although they still claim that the budget for 2021 was flawlessly planned, only four months after its adoption, at the Ninth Sitting, the MPs supported the rebalance. Despite criticism voiced by the Fiscal Council, the MPs said that the economic policy was excellent, and that Serbia was less indebted than France, Spain or Greece. Nearly each one of the MPs repeated that all citizens of age would be twice paid 30 euros and that the retired would be also paid an additional 50 euros.

21. The non-parliamentary Party of Freedom and Justice issued a statement during the debate, asking why the state increased the public debt by another 3.5 billion euros with this rebalance. The Minister of Finance Siniša Mali answered from the parliamentary rostrum. Is there anything you did for the citizens of Serbia that remained, or did you just filled up your pockets and Dragan Đilas's pockets?" Well there is not. So spear us your lectures about borrowing policies." Nevertheless, he did not deny additional borrowings.

2021 A month in the Parliament MAY

5. There were four laws and three international agreements on the agenda of the Tenth Sitting. However, the MPs all of a sudden took a trip down memory lane and remembered that in ancient times, the current leader of the People's Party, Vuk Jeremić, was the head of diplomacy, so they spoke about international agreements with reference to Serbia's foreign policy. The United Serbia MP Života Starčević reminded his fellows about "one extremely reckless harmful initiative launched by Vuk Jeremić before the International Court of Justice in The Hague, which caused great damage to our country". Luka Kebara, the Serbian Progressive Party MP said that Vuk Jeremić "had sunk our diplomacy to the level of the most ordinary playschool, a kindergarten".

6. Members of the Committee on Constitutional and Legislative Issues held another session at which they discussed the Proposal for changing the Constitution of the Republic of Serbia in the area of justice. The Committee determined that the Proposal was submitted by the proponent authorised by the Constitution and in the prescribed form, and sent a report to the National Assembly. The procedure further requires that a plenum be convened and that, in principle, the Proposal be considered, after which a process concerning individual provisions in amending the Constitution would be entered into.

18. At the Twelfth Sitting, the Law on the Subway was presented by the Minister of Construction Tomislav Momirović. Since 1971, every government has talked about the subway, but this one, says the minister, will really make it. He presented with plans for the first three subway lines to MPs, promised that the citizens would choose what the stations would look like, and predicted a completely new perspective for Belgrade. During the day, there was a lot of talk about the economic successes that every government has achieved since Aleksandar Vučić came to power.

19. The debate on two anti-discrimination laws – the Law on Gender Equality and the Law on the Prohibition of Discrimination was led in a special atmosphere because they were defended before the MPs by Minister Gordana Čomić, who was, until the last convocation, a member of the opposition and often criticised Democratic Party. Hence, not many excessive praises for the Minister were heard, but the debate occasionally sounded as if there were opposition in the Parliament.

19. When it comes to the Law on Gender Equality, representatives of non-parliamentary right-wing parties and organisations, as well as some MPs of the ruling party, most often spoke in public in recent days. They mostly referred to the fact that there is no category "gender" in the Constitution, but only "sex", but they were given the answer "that there is no beer in the Constitution, but there is a Law on Beer". The Law, as explained, should prohibit discrimination on the basis of gender, i.e. on the basis of imposed social norms attributed to the male or female gender. There were a lot of words about the names of occupations in the female gender, for which some words have always existed in the Serbian language, while some are new and sound graceless.

20. In addition to good discussion and support in the voting, several opposition parties, as well as the President of the Parliamentary Committee on Judiciary, Vladimir Đukanović, asked the President of Serbia not to sign the mentioned laws.

PARLIAMENT IN NUMBERS

Statistical review of the work of the 12th Convocation by May 31, 2021

COMPOSITION

97% MPs belong to the ruling majority

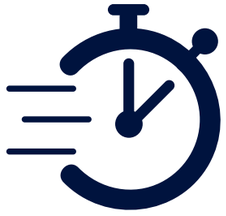
2/3 MPs hold this position for the first time

LEGISLATIVE ACTIVITY

72 days of legislative activity

121 adopted laws

98% of adopted laws were proposed by the Government



URGENT PROCEDURE

3% of all laws (including new laws, amendments to laws and ratifications of international agreements) were adopted under urgent procedure.

5% of new laws and amendments to laws (excluding international agreements), were adopted under urgent procedure.

OVERSIGHT

6 sessions of the "MP Question Time" held, i.e. every last Thursday of the month

12 public hearings were organized. Public hearings were attended mainly by representatives of authorities, there were no inconvenient questions for the organizers, and the civil sector, when present, often did not participate in the discussions. Out of the 12 hearings held, seven were dedicated to discussing the amendments to the Constitution in the field of justice.

38% of all sessions of parliamentary committees lasted less than 10 minutes

KEY NOVELTIES

- The regular spring sitting was marked with the initiation of the first step to **change the Constitution of the Republic of Serbia** to ensure independence of the judiciary. The Committee on Constitutional and Legislative Issues considered the Proposal in general in April and decided to recommend the Assembly to begin with the process of constitutional change. The Plenum will consider this Proposal at a Special Session scheduled for June 8.

- After the adoption of the **Code of Conduct for MPs** in late 2020, **ten complaints** were submitted against MPs for violation of the Article 8 that, among other, stipulates that an MP is obliged to be aware of the fact that his/hers speech must not incite hatred and violence. All complaints were rejected with the exception of the last one. The last complaint was resolved with reprimand against an MP for using expressions like "fascist" and "nazi" with the intention to insult his political oponent, although previously rejected complaints in certain cases referred to the usage of the same type of language.

- Just four months after the adoption, **the budget for 2021** was once again before the MPs. Rebalance was adopted in a day, after it was subsequently listed on the agenda, with the proposal to be adopted under urgent procedure. Amendments regulated a new set of measures to support the economy and citizens.

- **Reports of independent bodies and institutions for 2020 were submitted to the National Assembly during the spring sitting**, including reports of the Commissioner for the Protection of Equality, Ombudsman, Commissioner for Information of Public Importance and Protection of Personal Data, Fiscal Council, State Audit Institution, Regulatory Authority for Electronic Media and Gouvernors' Council of the National Bank of Serbia. Although, National Assembly has the obligation, in compliance with its Rules of Procedure, to discuss these reports within a 30 days deadline, by the time this issue was published it had not been done.

- MPs elected in May **Milorad Vukašinović as a member of the Council of the Regulatory Authority for Electronic Media**. We emphasize that Slobodan Cvejić resigned in December 2020, and the Committee for Culture and Information initiated the procedure for proposing the candidates even three months after the expiration of the legal deadline.

Interview

Katarina Golubović (YUCOM): The Code is not crucial for a decent Assembly – the Rules of Procedure should be applied first

Before the Assembly of Serbia hastily adopted the Code of Conduct for MPs in December, the Open Parliament expressed its opinion on that, demanding that the proposal be withdrawn. Since the Code was nevertheless adopted as it stands, it left numerous questions as to how and whether it would be applied at all. We sought some answers from the President of the Lawyers' Committee for Human Rights (**YUCOM**), Katarina Golubović, because if there were jurists from the opposition in the Assembly, they would have pointed out the problems of the adopted solution during the discussion.

OP: The Code was adopted hastily, there was no wider discussion, and it remained unclear when the working groups worked on changes to the original 2014 proposal. How do you assess the entire process and the fact that the Code was adopted precisely in this almost one-party Assembly?

KG: The news that the Code would be adopted by the end of 2020, as well as that the reports of independent institutions and the European Commission on Serbia's progress would be discussed in plenum, was announced by the Speaker of the Assembly at the EU Convent plenary session held on December 17th. The plans were easily fulfilled, given that there are only seven opposition MPs in the Assembly. Thus, we certainly got three positive statements on our way to the EU, which is also mentioned in the introductory part of the Code. The second question is whether the citizens are getting a new, more decent, Assembly. Not really, if the Open Parliament needs to invite a jurist outside the parliament to discuss it. The basic value of the Assembly is democracy in pluralism. If we do not have basic, fundamental values, any additional evaluations and assessments are wrong.

Here is the proof. If there were enough opposition jurists in the parliament, they would have probably said that if the Code was adopted to prevent violence, it did not have to be adopted at all, because violence is prohibited by the Rules of Procedure in article 107. In fact, in accordance with the Rules of Procedure, the Speaker and the competent committee impose more diverse and much harsher penalties. So, the lie that a "decent assembly" requires a Code is repeated by those who imposed fines exclusively on opposition MPs, while they were in the parliamentary benches.

In addition, nowadays in the Assembly, MPs are not being attacked, but rather members of the "extra-parliamentary opposition", censorious citizens, disobedient representatives of institutions... However, the Rules of Procedure prohibit that, too, only the Speaker of the Assembly does not apply it, as it would have to be applied against MPs of the ruling party.

OP: Which members of the Code are in your opinion the "weakest link" that you find inapplicable?

KG: The Code is a set of values. It is not a question of whether something is applicable, it is a question of how something can be read.

OP: In the discussion on the Code, it seemed that the MPs of the Serbian Progressive Party were in fact threatening the non-existent opposition, former and future peers, stating that they would never allow violence in the Assembly that they had experienced primarily from the movement Dveri, but also from pro-European parties. Do you see the Code as another means of dealing with political dissidents or as an instrument for strengthening parliamentary integrity?

KG: The Code is adopted for the citizens. For example, it prescribes the availability of MPs to citizens, and we have heard almost nothing about that in the discussion. The Code prescribes additional rules on conflicts of interest. Therefore, there are elements for this Code that serve to strengthen integrity. However, the discussion itself actually shows that those who adopt the Code and who should implement it have not understood this very important "innovative" part. Citizens can insist on a closer and more direct MP-citizen relationship, but the launch of this instrument to strengthen parliamentary integrity will again depend on promotion led by the NGO sector.

OP: The words "liar", "thief", "tycoon", "traitor", "jerk", "thug" and many others are spoken every day in the Assembly by the ruling majority. No speaker in this autumn session stopped such a speech, much less issued a warning. As the Speaker of the Assembly, Ivica Dačić, has recently said, now that the Code has been adopted, that will not be happening. How realistic is it to expect that citizens or NGOs will submit reports due to hate speech, i.e. how realistic is it to expect that the Committee headed by Aleksandar Martinović will react to such reports? And if they do not react, what could be the next step?

KG: It is realistic to expect that NGOs submit complaints for hate speech, because they did the same to the Commissioner for the Protection of Equality, but this institution did not deal with the speech of MPs due to immunity. In that sense, the House of Human Rights urged that the Code must enable at least one channel for citizens to initiate proceedings in the case of hate speech of MPs. The Committee has a clear deadline for acting on the application and it will show whether there is a sincere political will to implement it and, at least as stated in the introduction, bring us closer to the European Union.

OP: How are the codes, if any, applied in the countries of the region and, to your knowledge, does it suffice for the European Union representatives to see that Assembly fulfils an obligation only formally or will they seek compliance with the OSCE standards?

KG: In European integration processes, the form is evaluated, but the effect is appreciated. As far as ethics and codes are concerned, different solutions exist in codes in the region and have been applied for a decade. For example, there are codes without sanctions, but also codes with very severe sanctions, such as deductions in salary in certain percentage, exclusion from the session, and even revocation of the mandate. Due to disproportionate sanctions against opposition politicians, the Hungarian Parliament was brought before the European Court, for example, as it was determined in this case that fines of around 200 euros imposed on opposition politicians were disproportionate to the Code and thus represented a violation of freedom of expression.

Interview

Marijana Savić (NGO "Atina"): Gender equality is not constituted on a 40 percent quota of female MPs

"There will be no progress in the state of human rights in any area, in the economy or economics, until Chapters 23 and 24 are taken seriously in Serbia, as fundamental values that we advocate in the negotiations with the European Union, more precisely, until the situation in the judiciary will have been regulated. Personally, I do not believe in the sincere intentions of the Serbian Parliament to improve the position of women in society, but I do believe that the dialogue with the legislator should continue," said for the Open Parliament Marijana Savić, director of the NGO "Atina", an organisation that advocates equal treatment of all male and female members of society.

OP: When, as someone who comes from the non-governmental sector and deals with human rights and the position of women, you hear that the Women's Parliamentary Network met in the Assembly last week and came to some conclusions, does that news matter to you?

MS: No, it doesn't, that news really has no weight because there is no trust in the Parliament. What should be first gained, it is confidence in that political institution, as well as in all institutions that should implement laws and policies. That trust was lost many years ago and serious steps are really needed to re-gain it. We really need a partnership with all participants in society who are interested in certain topics, followed by the implementation of everything that has been adopted and done so far. Institutions should show determination, **they should stop the bad practice of relativisation**, not only of violence, but of also other important topics that concern all citizens. Poverty is just one of those topics. It must be noted that the fundamental diseases of our society, and persistent barriers such as corruption and nepotism also affect the inequality of women.

OP: You have mentioned relativisation. After the conference, the message of the president of the Women's Parliamentary Network, Sandra Božić, was that we should not talk about "violence against women" because a woman is reduced to the position of an object, but that we should adopt the expression "violence towards women". Is this important?

MS: This is an example of the relativisation of everything that happens to women every day. It is a classical denialism repertoire. Let's ask women who suffer violence whether it is more important for them to use the preposition "**against**" or "**towards**", or to receive support, certainty, understanding and help. Such "linguistic dilemmas" are there to divert the dialogue, which does not exist anyway, to some unimportant topics, without talking about the essence. This topic should not be taken lightly.

OP: We have heard several times from officials that women in Serbia are institutionally protected, but that this was not enough. Yet, it commendable that there are 40 percent of female MPs who have seats in the Assembly and who make decisions. As the Prime Minister Ana Brnabić recently emphasised, the number of women who are the head of cities and municipalities increased. Is it a possible path towards the improvement of women's position in society?

MS: No, it isn't. **Gender or any other type equality is not a number that should be reached or a quota that should be achieved.** It should actually be the belief that all male and female citizens living in this country are equal and the desire to annihilate all places of inequality. It is a deep conviction that all lines of discrimination should be erased and the ways in which we will all participate in decision-making should be affirmed. We can see here that it is not affirmed, because making decisions means being transparent and accountable for the adopted solutions. Enabling citizens to participate in decision-making processes, informing them and enabling them to be informed, all this represents the basis and foundation for equality. The fact that there will be 40 or 60 percent of female MPs who got seats in the Assembly by someone's decision, doesn't mean much.

OP: Does that mean that not much can be expected from the newly re-announced Law on Gender Equality?

MS: **We do not expect changes for the better.** Something extraordinary should really happen in order to restore at least the expectation that the law will be implemented. Given the way this version is being drafted and the extent to which interested parties are being consulted, nothing indicates that it will be different than before.

OP: Do you remember any example when the legislator listened to some recommendations of the non-governmental sector? Do they consult you?

MS: It is one thing to consult and another to accept the experience of organisations, civil society, academic institutions or institutions at the local level that face various problems on a daily basis.

When we talk about gender equality, violence or social policy, or about situations in which victims of domestic violence or human trafficking find themselves, laws are mostly created from the top. A working group composed of people who do not have experience in dealing with this problem is formed, and the experiences of those who deal with it authentically are not taken into account. I do not believe that we will get a new instrument by law that is supposed to help us monitor what the state is doing on that issue. However, NGO "Atina", as well as a number of other women's and feminist organisations, participates in all discussions about solutions concerning women and girls, their economic position. We are working to promote a better social position of women because it is the only way for them to regain control over their lives and to fight for equality.

OP: Therefore, we should by all means participate in talks with legislators?

MS: All this reminds us how important it is to defend the state from the authorities. It has become a great threat, to playact a dialogue, to obtain legitimacy from the civil sector and then to continue as if nothing had ever been agreed. Until responsibility is assumed and consequences borne, there can be no progress. Also, there will be no economic progress or gender equality if we do not make decisions to close Chapters 23 and 24 in the EU accession, which refer to the rule of law. There will be no progress until people understand the correlation between the rule of law and an independent judiciary, a strong fight against corruption and organised crime, a public administration and police reform. Without that, we can't go anywhere.

Interview

Mirko Popović (RERI): The Law on Climate Change has been poorly written and has come too late

"The Law on Climate Change has been poorly written, the legislation of the European Union has been only partially transposed, and the essence is that it actually protects the biggest polluter in the country – the Electric Power of Serbia (EPS)", said Mirko Popović, programme director of the Renewables and Environmental Regulatory Institute (RERI). In an interview with the Open Parliament, he analysed the basic provisions of the Law, which should be passed by the Serbian Parliament by the end of the week.

OP: The Law on Climate Change is the first item on the agenda of the new sitting of the Serbian Parliament. Since we have not had such laws so far, isn't that good news?

MP: This is essentially a new systemic law that regulates certain issues that have not been regulated so far, but it mostly regulates what has already been done and should have been put in the Law a long time ago. I will remind you that there was a public debate on this Law at the beginning of 2018. I think that there is no good news in Serbia, but we can say that there are certain elements for which it is good that they will finally be legally regulated. It can be said that this is a step forward, but it comes 20 years too late. We pass laws late, when our political rulers go to Brussels and someone there "twists their arms", and then they say they will "do something". It's like when you pressure a child because he has three bad marks, then he gets a better grade in one subject, and decides to tackle the other two later. We are awfully bad students.

OP: The Bill seems to have been written rather imprecisely, especially for those who are not very knowledgeable in this area. The introduction states that it "regulates the system for limiting greenhouse gas emissions and for adapting to changed climatic conditions." What does that actually mean?

MP: These are two essential areas of action when it comes to combating climate change. A system

for limiting greenhouse gas emissions, the so-called mitigation, which means reducing emissions primarily of carbon dioxide (CO2), and then of other gases. These are direct measures that contribute to the reduction of emissions at their source and refer to emissions caused by human activity. This adjusting to changed climatic conditions is called adaptation, and means: long-term adaptation to a different reality in which we now live. Unlike mitigation, which should involve short-term cuts, adaptation is a longer-term process of aligning with what is our reality.

OP: Will this be another one of those laws that is claimed to be well written, but where there are doubts whether it will ever be implemented?

MP: This Law is terribly poorly written and it will not be possible to implement it without the adoption of at least twenty by-laws, so I doubt that it will be implemented at all. Unlike the usual story that we put things in words well, but that we are poorly implementing the regulations, we are talking here about the transfer of one important element of the European Union regulations. The regulation refers to key instruments for reducing greenhouse gas emissions, i.e. to CO2 emissions trading, reporting, monitoring and verification. With this Law, we have not transferred the provisions related to the greenhouse gas emissions trading, which was the idea at first. This Law has been drafted for years, initially it was called the Law on Reducing Greenhouse Gas Emissions, which was a more appropriate name for it. To call something the Law on Climate Change – it looks like playing God, and the only thing that has to do with God and this Law is that Serbia is behaving like the [proverbial] unfortunate person who was late when God was handing out smarts. The previous name was better, because the name Law on Climate Change has no meaning. Climate change is a natural phenomenon and cannot be regulated not even by a "powerful and most successful country in Europe such as Serbia". It emanates from the meaningless name that the Proponent does not intend to create a system of emissions trading, which is the basic tool for reducing carbon dioxide emissions in the EU.

OP: Could you, please, explain to us what emissions trading means?

MP: This means that CO2 emitting operators pay for each tonne of gas emitted.

OP: Does that mean that a polluter can emit as much CO2 as he wants if he pays?

MP: No, this Law did not regulate that. This Law creates the basic elements – a strategic and planning framework that is incomplete, a system for operators to report on emissions, the method of monitoring and verification process. It is only one segment of the overall system. We have partially transposed the EU legislation tendentiously, so that the biggest polluter and the biggest emitter of CO2 in the country remains protected and that its pitiful and slack business would not even accidentally be jeopardised. The EPS is the key brakeman when it comes to the adoption of this Law. In fact, the EPS, is like someone who doesn't expresses any will, does not exist, who has long been captured by the private interests of the ruling elites. The idea of this Law is not to introduce a system of emissions trading in Serbia. But I don't want to be malicious. It's good that at least in this way permits for greenhouse gas emissions are introduced, as well as a system of monitoring and verification. That is the only positive change.

OP: If we know that this is an otherwise complicated topic and that a good part of the citizens do not understand how much pollution affects our everyday life and health, and if we know that we are otherwise quite uninterested in environmental issues, at first glance passing such a law sounds like something is actually moving from a standstill?

MP: Unfortunately, this is not the case. This Law should have been passed at the beginning of the century, because the intention of the Proponent is to be gentle towards large emitters of gas. They should first be taught how the system functions and then entered to the emissions trading system. It's too late for that, way too late. The Law should have been passed in 2003, so that emitters would learn the rules by now and we would have entered the emissions trading system a long time ago.

Croatia, for example, has done a lot in the field of energy efficiency and the introduction of renewable energy sources in households by using the funds collected from the CO2 tax.

OP: In the field of ecology, we are also worst rated when it comes to negotiations with the EU, which have already slowed down completely?

MP: The government signed the Green Agenda for the Western Balkans in November and committed to climate neutrality by 2050, because they probably had not read what they signed or did not care. We have joined the achievement of the EU's goals when it comes to the fight against climate change, and the EU has been asking us to do that for years. We committed ourselves to that by signing the Paris Agreement, and the first step made by the Republic of Serbia was to use trickery to deceive the UN and plant a false document about the intended contribution to reducing greenhouse gas emissions, by including emissions from Kosovo, and then excluding them later in the output calculation, and show how we reduced the emission. It's pure trickery.

OP: There is a Green Parliamentary Group in the Assembly, which met a few days ago, and announced that it would submit amendments, although it was not announced what they will refer to. Civil society also formally participated. Does that sound like a step forward to you?

MP: First of all, I don't believe that the current Assembly, which has truncated legitimacy, has the capacity to pass this Law at all. You said that the citizens didn't understand what it was about, do you think that the MPs understand? That initiative of the Green Parliamentary Group also made sense when there were some people sitting in the Parliament who knew something about this topic, such as Gordana Čomić or Sonja Pavlović. Now I don't believe that these people have the capacity or intention to read this Law.

OP: One provision states that a National Climate Change Council will be established, which will consist of the Government and non-governmental sector representatives and experts.

MP: It has already been established, it already exists, just like the Anti-Corruption Agency. It's been around since 2014, but doesn't do a thing.

OP: What are your main objections, which parts of the Law will not work?

MP: This Law establishes a strategic and planning framework, but it does also regulate the adoption of a low-carbon development strategy. That document has already been drafted. It has not been adopted and I would like it to never be adopted, but it was at a public hearing, the Bill was made. The strategy was made for the period from 2030 to 2050, so the Law regulates an issue that will be on the agenda in two or three decades. So when will a new one be made? Second, this Law does not recognise the National Energy Climate Plan as a planning document in the field of climate change. It's like saying you have a car, everything works great, it just doesn't have an engine. The National Energy Climate Plan is a document which is a key public policy tool in the EU for achieving climate neutrality, it is a key document. This toothless strategy of so-called low-carbon development is nothing, they actually knocked out the teeth of that strategy by saying that it serves to identify the recommended directions of low-carbon development. Well, the strategy should set goals, define how much CO2 emissions will be reduced by 2030 or 2050, and not just identify the recommended directions. Such a strategy is doomed not to be implemented. And if the National Energy Climate Plan is not included in this law, this strategic framework will be meaningless, as it does not recognise the national contribution to reducing gas emissions, which Serbia is obliged to submit to the UN Framework Convention on Climate Change this year, before the next climate summit in Glasgow.

When it comes to emission permits for larger facilities, this is also unspecified. The Law talks about permits before putting plants into service, and it is not clear what will happen to the old facilities. The same system is being introduced for air traffic operators as major polluters, with the postponement

of implementation until 2023, if the law is valid at all then, if someone does not put it out of force.

A system of monitoring how much each operator emits and a verification system are being introduced, these are key innovations that still mean that we will not go backwards after that. We will take small steps forward until someone says: from tomorrow on you can no longer burn coal. Think what you'll do then. We'll live in a kind of a 19th century romance, as electricity restrictions will be imposed and we'll have power cuts. That is the most realistic scenario that can happen to us.

OP: There is no doubt that the Law on Climate Change will be passed, although no serious discussion on it is expected. The procedure is being followed, there was a public debate, the civil sector was involved. Several public hearings were organised in this convocation of the Assembly. It seems that this very Assembly is rectifying what the EU reproached?

MP: We have signed the Stabilisation and Association Agreement with the EU and it contains the obligations of the signatory parties. We cannot shift the responsibility to the EU. The European Parliament made numerous remarks in its report, but we can ask them why they support "bad students". The EU must do more, launch a mechanism to determine responsibility for why Serbia is wasting millions of EU taxpayers' money. Is anyone asking them what they are spending the money on? We elected this Government, the citizens voted for these people, and they will vote again, so it is our responsibility.

OP: You said that you didn't expect much from this composition of the Parliament, but do you expect another law to be passed in the area you are dealing with?

MP: There is a package of laws that should have been adopted a long time ago. These are primarily laws related to environmental impact assessment and their harmonisation with the EU directives. We were supposed to fulfil that by January 2019. I expect the percentage of sulphur in liquid fuels to be regulated, harmonisation with the directive on criminal offenses and on liability for environmental damage. I also expect the Government to adopt a decree on public participation in the adoption of plans and programmes relating to the environment, because that document was prepared a year ago.

ANALYSIS

Law on Social Cards – a magic wand for repairing the social welfare system or something else?

Author: Danilo Ćurčić, A11 Initiative for Economic and Social Rights

The reform of the social welfare system, is one of the topics of which has been discussed for years, especially in the part related to cash social benefits (cash social assistance, increased cash social assistance and one-time assistance, etc.) and other financial benefits that belong to the population policy sector (child allowance). Thus, the amendments to the Law on Social Welfare[1] and the Law on Financial Support to Families with Children[2], stand out as necessary in order to adapt the social welfare system to the needs of the poorest.

Nonetheless, the adoption of the Law on Social Cards has been a key measure of the reform of the social welfare system for some time, as it would enable faster exchange of data between the competent state bodies that keep records of conditions important for exercising social welfare rights.

1 Official Gazette of the Republic of Serbia, no. 24/2011.

2 Official Gazette of the Republic of Serbia, no. 113/2017 and 50/2018.

As stated in the exposé for the new composition of the Government of the Republic of Serbia: "the priority reform in terms of better targeted social benefits is reflected in the work on social cards that represent a unified insight into data on current and potential beneficiaries." At the same time, it is emphasised that "[social] cards will [enable] citizens who are in the most difficult economic situation to be more visible in the system, in order to exercise their rights to the necessary support in a timely and effective manner".[3]

Today, the Assembly of Serbia will start the debate on the long-awaited Law on Social Cards. It seems that this Law has completely reformed the social welfare system and that all problems have been solved. At least it seems so to anyone who follows the news coming from the authorities in the Ministry of Labour, Employment, Veterans and Social Policy.

In this text, we will try to answer the question what is regulated by this brief Law and how all this will affect the procedure of exercising rights in the field of social welfare.

Introductory provisions - matter regulated by law, aim and purpose of data processing

The Law defines that it regulates the establishment and maintenance of a single register called the Social Card, as well as the content of this register, the manner of access, processing and storage of data within this register. Furthermore, the aim of the Law is to establish a single and centralised record of the socio-economic status of individuals and persons related to them. This goal should enable the administrative bodies in charge for decision-making in the social welfare system to better perform data processing in order to determine the facts necessary for the exercise of rights and services from the social welfare system. All this is done for the sake of greater efficiency, fairer distribution of social benefits and proactivity of administrative bodies that decide on rights and services from the social welfare system.

Indeed, when we know that over the years we have been talking about an increasing number of social assistance beneficiaries, that the Republic Institute for Social Welfare writes about in its annual reports, and about a decreasing number of employees in the social welfare system, it seems that faster data exchange in electronic form will increase efficiency and, ultimately, resolve requests for exercising the right to financial social benefits in less time.

In accordance with the principles of personal data protection and obligations from the Law on Personal Data Protection, which is the umbrella law in this area, article 4 of the Law on Social Cards precisely defines the purpose of data processing. There are five different issues that determine the purpose of processing:

- determining the socio-economic status of the individual and persons related to him/her;[4]
- automation of procedures and processes related to actions in the field of social welfare;
- creation of social policies through determining the socio-economic status of the individual and persons related to him/her and the wider community;
- prevention of poverty and elimination of the consequences of social exclusion, and
- conducting statistical and other research in the field of social welfare.

3 Programme of the Government of the Republic of Serbia of the candidate for Prime Minister Ana Brnabić, October 28th, 2020.

4 Determining "related parties" is a special issue addressed in this text in the part concerning potential problems in the application of the Law on Social Cards.

Authority for establishing the Social Card, protection of personal data and other "technical" issues

Article 5 of the Law on Social Cards prescribes that this single register shall be established and maintained by the ministry in charge of social issues, while technical support in establishing, maintaining and ensuring data security and safety shall be performed by the Office for Information Technologies and E-Government.

According to article 11 of the Law on Social Cards, *users of data* from the Social Card shall be centres for social work, local self-government units that perform entrusted tasks in the field of social welfare (such as the Secretariat for Social Welfare of the City of Belgrade or other bodies), the ministry in charge of social issues, the provincial secretariat in charge of social affairs, as well as other state administration bodies and institutions.

The second paragraph of this article explicitly stipulates that, in the processing of personal data, users of data from the Social Card shall act in accordance with the umbrella law – the Law on Personal Data Protection.

Moreover, according to this Law, the natural person to whom the data relate has the right to insight and the right emanating from the realised insight, through the e-Government Portal, in accordance with the law governing the protection of personal data. It should be noted here that the Law on Personal Data Protection, as the umbrella law, places the right of access to personal data in a much wider context than article 11, paragraph 3 of the Law on Social Cards. This is primarily perceivable in the part concerning the manner of exercising the "right to insight" and "the right emanating from the realised insight ".

Thus, according to the umbrella law, this right, defined by the term "access to data", can be exercised regardless of the fact whether it is implemented through the e-Government Portal or in any another way. Persons whose data are processed by the Law on Social Cards are beneficiaries of the rights and services of the social welfare system and potential beneficiaries of this system, that can correctly be assumed to be less able to use the e-Government Portal. Therefore, the right to insight and rights emanating from the realised insight referred to in article 11, paragraph 3 should be interpreted as an additional, special right, which, in addition to the one provided by the Law on Personal Data Protection, is regulated by the Law on Social Cards. Any other interpretation would be contrary to the Law on Personal Data Protection and would open a discussion on whether it is set in accordance with the principle of unity of the legal order from the Constitution of the Republic of Serbia.

The single register we are talking about – the Social Cards, has been established on the basis of data taken from the records in the field of social welfare kept by the relevant ministry, as well as the registers kept by other state bodies. These include: data from the Central Population Register, registers of the organisation for mandatory pension and disability insurance, registers of the Ministry of the Interior on vehicles, weapons, readmission, registers of the National Employment Service on payments of cash benefits and payments of temporary and special benefits. Furthermore, this article stipulates that data from the registers of the Tax Administration and the Republic Geodetic Authority be taken into the Social Cards.

In order to maintain and update the Social Cards, the Law stipulates the exchange of the data contained in the above-mentioned records and registers. However, there is a dilemma: if it is a data exchange – how can it be two-way, i.e. how is it ensured that the data from the Social Cards can be exchanged and disclosed by transferring or submitting to the operators of records and registers that exchange data with the Social Cards. The Law on Social Cards does not provide answers to these questions.

In article 16, the Law envisages the *creation of reports in the Social Cards*, which can be pre-defined or defined at the request of the Social Cards' beneficiaries. These reports serve to present "data relevant to determining the socio-economic status" of a beneficiary or a potential beneficiary of the social welfare system at the level of the wider community, i.e. city, municipality, administrative district of the province and the republic, and an overview of the rights that an individual used or still uses, as well as effects of social welfare measures.

The second paragraph of this article stipulates that in this way the preparation of reports on beneficiaries who are at risk of natural and other disasters will be ensured. However, it remains unclear how these reports will be compiled and what they will be used for. No relevant provisions on this can be found in the legal text.

A cuckoo in the nest of the Law on Social Cards – the procedure for creating and submitting notifications

In the part entitled "Procedure for creating and submitting notifications" referred to article 17 of the Law on Social Cards, we finally come to an explanation of the purpose of such a wide exchange of data established by the new Law. This article prescribes the procedure in cases where inconsistencies in data on the beneficiary or related persons are determined. Then a notification on data inconsistency is created (it may not be completely clear who creates the notification – whether it is automatically created within the Social Maps or by a ministry or by a third party) and contains instructions to the data beneficiary that it is necessary to check data by viewing and retrieving data from official records, documentation and public documents, that it is necessary to make a decision at the request of the party or that it is necessary to initiate proceedings ex officio because it has been found out about the facts of significant impact on the exercise, change or termination of social welfare rights.

Article 17 of the Law on Social Cards prescribes the following:

"If during the data processing there is a discrepancy of data on the beneficiary, i.e. related persons, a notification shall be created and sent to the records in the field of social welfare referred to in article 12, paragraph 1 of this Law.[5]

The notification on non-compliance of data referred to in paragraph 1 of this article shall also contain an instruction to the data beneficiary that it is necessary to:

1) *Perform data verification by inspecting and taking over data from official records, documentation and public documents;*

2) *Make a decision at the request of the party;*

3) *Initiate proceedings ex officio, because the facts of significant influence on the exercise, change or termination of social welfare rights have been found out."*

That is why the process of forming and submitting notifications can be considered key to understanding what the Social Card actually is.

To answer this question, we must return to the basic concepts defined by the Law on Social Cards. Here, the term individual states that it is a person who is a beneficiary of rights and social welfare services and a person in the process of exercising rights. This is, hence, a person who has exercised the right to social assistance or a person who is trying to exercise the right to social assistance.

5 According to the Law on Social Cards, these are data that are taken from the records in the field of social welfare kept by the Ministry in accordance with the law.

To simplify everything, we will imagine two people with similar life circumstances.

One is John, who lives in a common-law union with his partner and one child, has been unemployed for a long time, although he regularly reports to the clerk in the National Employment Service, has a tumbledown house in which he lives, does not own property of greater value. John has been a beneficiary of the social welfare system since 2009, when he fell into poverty that he is still struggling with. *John is*, as the Law on Social Card says – a beneficiary of rights and services from social welfare, i.e. *an individual whose personal data is collected and processed.*

On the other hand, Jack has a wife and two children, lives in the basement of an abandoned building, is unemployed, poorly educated, without regular income, ill and due to his lack of information has not yet submitted a request for social assistance. According to the provisions of the Law on Social Welfare, *Jack will not be an individual to whom the law applies until he submits a request for exercising the right to financial social benefit*.

Now that we have met John and Jack, let us return to the provision of article 17 of the Law on Social Cards.

As seductive and beautiful as it may sound, initiating the procedure ex officio, which is provided for in article 17, paragraph 2, item 3 of the Law on Social Cards, is not possible in Jack's case. The social card does not contain information about Jack, he is neither a beneficiary nor a person in the procedure for exercising the rights from social welfare. He is just a poor man who needs social benefit.

On the other hand, the moment when John's partner gets a job in a store, when he goes to Germany "as an asylum seeker", or when he receives a gift of greater value, during the data processing there will be a discrepancy between the beneficiary, our John, and the provision of article 17, paragraph 2, item 3 will be activated by creating a notice of non-compliance which warns that John receives social benefit for two days, two weeks or a month longer than he is entitled to.

This provision of the Law leaves us the opportunity only to conclude that the Law on Social Cards is passed not for the proclaimed better targeting of a larger number of people in poverty who will be entitled to cash social benefits, but for the abolition or suspension of benefits in cases in which the beneficiaries "skip" the threshold for exercising the right to financial social benefits due to a certain life situation. Nevertheless, it will be possible to achieve better targeting in cases that concern beneficiaries who have previously been denied a request for social assistance, but who subsequently met the conditions for exercising social welfare rights due to the new life circumstances. The percentage of these cases in the practice is still unknown.

Furthermore, this provision will additionally strengthen the obligation stipulated in article 97 of the Law on Social Welfare obligating the beneficiaries to report changes, which could affect the right they exercise. This article of the Law on Social Welfare stipulates, inter alia, that the beneficiary of the right to financial social assistance is obliged to *report to the Centre for Social Work any change relevant for the recognised right within 15 days from the day the change occurred*.

The key reason for passing this Law is to *reduce abuse* regardless of their quantity, which is clear from the explanation of the Law. Incidentally, the Prime Minister once spoke about this abuse, mentioning cases where social assistance beneficiaries "come in an Audi to get social assistance" (not knowing or not caring that the amount of social assistance for an individual does not suffice to cover the cost of full tank of any Audi, even the smallest one). The explanation states that the adoption of the Law on the Social Cards will enable "a fairer distribution and reduction of abuses, efficiency in work and proactivity of public administration bodies." It is further stated that abuses are prevented in the part concerning the exclusion of all those "who are 'mistakenly' included in the rights from the system".

When a new perspective of the provisions of the Law on Social Welfare is added to article 96 it is clear that the *automatic review*, i.e. the creation and submission of notifications under article 17 of the Law on Social Cards significantly "tightens" the conditions provided by the Law on Social Welfare. These provisions stipulate that the Centre for Social Work reviews the conditions for exercising the right to financial social assistance in May, based on the income of beneficiaries realised in the previous three months", except for those beneficiaries who are able to work, who receive social assistance in Serbia nine months during the calendar year. This fact brings us back to the field of respecting the constitutional principle of unity of the legal order, because the law in the field of special processing of personal data in the social welfare system encroaches on the rights from the social welfare system itself, which are regulated by the Law on Social Welfare.

At the very end – which personal data does the Law on Social Card collect and process?

Almost all of them.

By roughly listing the data stored in the Social Cards, which are also referred to in articles 7 – 10 of the Law on Social Cards, we can find at least 135 different data!

There are data ranging from general, such as personal number, place of residence, citizenship, occupation, marital status, place of marriage (it is unclear why this data is important), all the way to data on movable property, paid pensions and other cash benefits, social assistance payments, health status, number of household members, ethnicity, data on domestic violence, disability, etc.

Data on "related persons" are collected, and according to the Law on Social Cards, they are all persons who "have a closer or distant kinship, i.e. property relationship, with an individual who is a beneficiary of the social welfare system, which has an impact on the exercise of rights". More precisely – in addition to the circle of related persons and relatives already defined according to national regulations, a former partner is also included.

While after reading the new Law, the verses of the popular song "Be Careful Who You Love" occupy our mind as one's partner's income can cancel one's social assistance, we can only hope that by the announced start of the application of the Law on Social Cards – March 1st, 2022, there will be enough time to create and submit a notice that the legal text is inconsistent with both laws the matter of which it touches – the Law on Social Welfare and the Law on Personal Data Protection.

SELECTION OF SUMMARIES OF LAWS

LAW ON CLIMATE CHANGE

Summary

The Law on Climate Change regulates the greenhouse gas emissions (hereinafter: GHG) limiting system, adaptation to changed climatic conditions, adoption and implementation of a low-carbon development strategy and a programme of adaptation to changed climatic conditions.

This Law establishes a system for monitoring and verification of GHG emissions, regulates the conditions and procedure for issuing permits for GHG emissions, for approving monitoring plans, monitoring, reporting, verification and accreditation of verifiers, as well as other issues of importance for limiting GHG emissions and adapting to changed climate conditions.

This Law applies to GHG emissions caused by human activity and sectors and systems exposed to the effects of climate change. The Bill explicitly states that its goal is to establish a system aiming *to reduce GHG emissions in a cost-effective and economically efficient manner, thus contributing to reaching the scientifically necessary levels of GHG emissions in order to avoid dangerous global climate change and adverse climate change impacts.* The Proponent does not explain who this approach of economic cost-effectiveness and efficiency refers to, and fails to explain whether such an approach is in collision with reaching scientifically necessary levels of GHG emissions that would ensure avoiding dangerous climate change and adverse effects of climate change. In article 3 of the Bill, the Proponent replaces the term "limitation of GHG emissions" referred to in article 1 with the phrase "reduction of GHG emissions in a cost-effective and economically efficient manner", which are two fundamentally different approaches to solving global warming problem and eliminating the anthropogenic impact on climate change.

This Law also establishes a mechanism for reporting and verifications of GHG emissions, in accordance with international obligations accepted primarily through the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement, which the Republic of Serbia ratified in 2017. The Law does not provide for the introduction of a system of carbon dioxide (CO2) emissions trading, which is the basic mechanism for combating global warming and reducing GHG emissions in the European Union. The Law does not introduce any financial obligations for operators of plants that emit GHG, which is essentially the main economic incentive to invest in new technologies. In that sense, this Law does not harmonise the Republic of Serbia with the system of emissions trading in the EU, but only with the system of reporting, monitoring and verification of emissions.

The GHGs covered by this Act are: carbon dioxide (CO2), methane (CH4), nitrous oxide (N2O), fluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF6), which is no different from the GHGs established by the existing Law on Air Protection.

Key novelties

Strategies and plans in the field of climate changes

The Law on Climate Change determines the planning and strategic documents in this area: the low-carbon development strategy, the action plan for the implementation of the strategy and the programme of adaptation to the changed climate conditions. In doing so, the Proponent fails to include in the planning documents the National Energy and Climate Plans, the drafting of which has already been envisaged by the amendments to the Energy Law.

Just as emissions trading is a key instrument of EU climate policy, national energy and climate plans (NECPs) are a key public policy tool for implementing the EU Energy Strategy and planning in climate and energy policy.

The development of a climate strategy is not possible, and the strategy cannot be effective if it is not in line with the NECP. The Energy Community has recommended to the member states that the process of drafting the NECP begin in 2018, but Serbia has not yet commenced that process, nor has the Law on Climate Change included this document in the planning documents of climate policy.

In the provisions related to the content of the strategy, using carefully chosen, but resolute words, the Proponent avoids giving the strategy a key place in defining the goals and directions of climate policy development, but limits it to *identifying the recommended direction of low-carbon development* and identifying appropriate measures necessary to achieve *different directions of low-carbon development*. In this way, the Proponent establishes a legal framework for the non-binding nature of the strategy.

The Proponent of this Law has completely ignored the fact that the Bill on the Low Carbon Development Strategy with an action plan had already been drafted even before this Law arrived in the parliamentary procedure. A public debate on the Strategy Proposal was held in December 2019 and January 2020. As stated in the Strategy Proposal, this document determines the path until 2030 and proposes a range of possibilities until 2050. The Proponent of the Law on Climate Change has provided a legal framework for drafting a planning document that has already been completed, for the next 20 to 40 years. On the contrary, the NECP should be drafted in the period immediately following the adoption of this Law, but the Proponent has not even recognised this document as a planning document in the field of climate change.

Moreover, the Proponent failed to explain and determine the place of the Nationally Determined Contributions to Reduce GHG Emissions, documents that the signatories of the UNFCCC are obliged to prepare and submit to the Secretariat of the Convention before the next climate summit, in November 2021.

The programme of adaptation to changed climatic conditions, the drafting of which has been envisaged by this Law, is an analytical document with the principle objective to determine the long-term impacts of climate change and affected sectors, goals and desired changes that should be achieved in order to adapt to changed climatic conditions. The Law on Climate Change establishes the obligation to harmonise with the Programme for Adaptation to Changed Climate Conditions public policy documents in the sectors most affected by climate change, as well as planning documents at the provincial and local level.

Nevertheless, the Proponent fails to inform the legislative body that the First National Plan for Adaptation to Changed Climate Conditions in the Republic of Serbia was drafted back in 2015, and to explain whether this document is still in draft form or has been adopted?

National Climate Change Council

This Law establishes the National Climate Change Council as an advisory body to the Government, for a period of 5 years, with the possibility of re-election. Nonetheless, in this Law, the Proponent did not establish the role, tasks and responsibilities of the Council, although they described it as one of the important institutes for reaching a social consensus on climate change issues.

In this case as well, the Proponent fails to explain that in 2014, the Government of the Republic of Serbia already formed the National Council for Climate Change in the form of a Decision determining its tasks. It remains unclear whether the existing Council will be dissolved and a new one formed on the basis of the Law on Climate Change.

Policies and measures to limit emissions from GHG sources

The Law on Climate Change introduces the obligation to make available data on CO2 emissions from new passenger vehicles. Sellers who place new passenger vehicles on the market will be obliged to display in a clearly visible way the label on fuel economy and CO2 emissions of that vehicle.

Policies and measures to limit emissions from GHG sources are, in this Law, limited only to passenger cars.

Monitoring, reporting and verification of GHG emissions from plants/facilities and aeronautical activities

One of the key innovations brought by the Law on Climate Change is issuing the **GHG emission permit to the plant/facility operator**. New plants/facilities in which the activity that leads to GHG emissions is performed, shall have the obligation to obtain a permit for GHG emissions. Along with the request for obtaining a permit, the plant/facility operator is obliged to submit a GHG monitoring plan from the plant. Although in the explanation of the Bill, the Proponent states that the obligation to obtain a permit applies to the operator of the plant in which *certain types of activities are performed*, the provision stating that the permit must be obtained ***before putting into service*** leaves a dilemma about the obligation of old plants/facilities emitting GHG to comply with this Law.

This Law also establishes the obligation to approve GHG emission monitoring plans for aircraft operators. The provisions of this Law relating to aircraft operators shall apply from January 1st, 2023.

In accordance with this Law, the operator shall be obliged to document, implement and maintain written procedures for data collection and use in monitoring and reporting on GHG emissions, with an efficient control system, which should enable the preparation of GHG emissions and tonne-kilometres reports, without misrepresented data and in accordance with the monitoring plan. The operator shall be obliged to submit a verified report on GHG emissions to the Environmental Protection Agency, i.e. to the Directorate for Air Transport (in the case of aircrafts) by March 31st of the current year, with a verification report for the previous calendar year, for the air traffic sector facilities.

The Law also regulates the procedure for the verification of the GHG emissions report submitted by the operator. The verification shall be performed by a verifier, accredited by the Accreditation Body of Serbia.

National GHG emissions monitoring and reporting system

The management of the national inventory of GHG emissions is not a novelty in the regulations of the Republic of Serbia because the management of the national inventory has already been determined by the Law on Air Protection. Management and establishment of the GHG inventory, according to the Law on Climate Change, is the responsibility of the Serbian Environmental Protection Agency, which has been the case so far. This Law stipulates that the GHG Inventory Report shall be an integral part of the State of the Environment Report in the Republic of Serbia, and that the Agency shall prepare the GHG inventory with provisional data for the previous year by July 31st of each year.

LAW ON GENDER EQUALITY

Summary

In Serbia, the Law on Equality of the Sexes has existed since 2009. It was adopted with the goal of achieving equality among women and men and establishing a policy of equal opportunities, as well as taking measures to prevent and eliminate gender based discrimination. Taking into account gender equality data from the last few years, the aforementioned act failed to fulfill its purpose.

For years, Serbia has been consistently getting negative evaluations and recommendations from relevant international bodies regarding gender equality. Each of the last few reports by the European Commission on Serbia's progress points to gender equality problems, whereas the report for the year 2020 explicitly states that there is a "serious delay" in adopting a Law on Gender Equality. In addition, the bodies of the United Nations – Human Rights Committee, Committee on Economic, Social and Cultural Rights and The *Committee* on the Elimination of *Discrimination* against Women, repeatedly drew attention to deficiencies and opportunities for improvement.

After the election in June 2020, a new Ministry of Human and Minority Rights and Social Dialogue was formed. Its jurisdiction and competency includes gender equality, so the next step was creating a final draft Law on Gender Equality.

During the first three months of 2021, four social dialogues on the subject of the draft Law were held, and a special working group was formed – which convened twice. Public consultations were held and a report was prepared. The text of the draft Law, finalized as previously described, was published on February 26, together with a form for submitting suggestions and comments. As announced by the Ministry, 16 completed forms arrived with a total of 139 suggestions for amendments. Submitted proposals were discussed at the meeting of the special working group. During that meeting, their evaluation and implementation in the draft of the Law was performed. Finally, the Ministry published a report on the conducted public hearing, which explained the approach taken in relation to all received comments that were not adopted.

The process of public consultations and public hearings indeed took place very rapidly. While that is not necessarily a good approach to the regulation of socially sensitive issues such as gender equality, the exceptional transparency of the process and the involvement of the civil sector are praiseworthy. What stained the overall impression was most certainly the introduction of changes in the draft Law, which were not the subject of the public hearing. The changes were made after the report on the conducted public hearing was published, and before the draft Law was submitted to the National Assembly. The Ministry did not comment on this issue.

Key novelties

General observations

The subject that this Law is to regulate is by nature very complex, more so in a society that has nowhere near satisfactory standards regarding gender equality. Also, the Law regulates not only equality, but touches on related issues, such as discrimination, violence, health care, etc.

The overall impression is that the Proposers had a visible intention to conduct a transparent procedure. They also intended to incorporate into the Law the recommendations of international bodies and civil society organizations that are active in the field of gender equality.

However, certain issues remain open and insufficiently addressed. The law abounds in broad principles and general declarative rules. These, given the insufficiently developed mechanisms for their implementation and the sanctioning of non-compliance with the obligations prescribed by the Law, in many ways appear more as recommendations than as legal norms.

Definition of gender equality

Considering that the Law introduces this term for the first time, here we will lay out the definition of gender equality in the sense of this Law. During the preparation of the draft Law, this definition was amended (more specifically expanded), in accordance with the proposal submitted by UNICEF during the public hearing. This proposal referred to the definition of gender equality accepted by the UN.

"Gender equality implies equal rights, responsibilities and opportunities, equal participation and balanced representation of women and men in all areas of social life, equal opportunities for realization of rights and freedoms, use of personal knowledge and abilities for personal development and development of society, as well as equal benefit from the results of the work, taking into account the different interests, needs and priorities of women and men when adopting public and other policies and deciding on rights, obligations and law-based provisions, as well as constitutional provisions."

Terms used in the Law

In the introductory provisions, in Article 6, the Law specifies the meaning of 25 terms. This article is important as it introduces some new terms or provides more precise guidelines for those already in use. For example, thanks to the suggestion of civil society organizations, the concept of multiple discrimination was introduced. A concept used when unjustified distinctions are being made on the grounds of two or more personal characteristics.

Balanced representation of women and men is determined in the range of 40-50%. Thus, wherever the Law mentions ensuring balanced gender representation, it means that it is necessary to ensure that the participation of women (or men) is at least 40%. In its report on Serbia in 2019, the UN Committee recommended that this quota be 50%. The notion of gender mainstreaming is established – including the gender component in all public policies, plans and practices, as a means for achieving and improving gender equality.

Unpaid housework is defined, including unpaid housekeeping, child care, care for elderly and sick family members, work on agricultural properties. This definition is also important, especially bearing in mind that the Law attempts to introduce statistical monitoring of these activities as well as the exercise of certain rights from this type of work.

Measures and statistics

At the very beginning, the Law proclaims the policy of equal opportunities and determines the measures that are applied for accomplishing gender equality. These measures are divided into general and special. General measures are prescribed by law and other general acts. Adoption and implementation of special measures is the responsibility of public authorities and the employer. Special measures are divided into those implemented in cases of significant gender imbalance, incentive measures and program measures. What is significant is that they will be an integral part of mandatory reporting on the state of gender equality by employers and public authorities.

Mandatory classifications of all statistical data recorded by public authorities and employers by sex and age are introduced, in those areas in which measures prescribed by the Law are implemented.

Data on unpaid housework is specified as part of the official statistics of the Republic of Serbia. The obligation of public authorities (it is not specified which exactly) to publish this data on an annual basis is foreseen. The goal is for the data to be used by producers of official statistics in order to evaluate their work as a part of the gross domestic product (GDP).[6]

6 The Statistical Office of the Republic of Serbia proposed an amendment to this article and instead of the obligation to publish this data on an annual basis, it proposed a relevant period of ten years. The Ministry remained reticent about the proposal. It was not adopted in the final text of the Bill, but the Statistical Office of the Republic of Serbia was asked to specify the explanation of the proposal.

Planning acts

Five planning acts on the subject of gender equality are foreseen by the Law, the adoption of which is within the competence of various entities.

The National Strategy for Gender Equality, at the proposal of the Ministry responsible for human rights, is adopted by the Government. The strategy is an umbrella document that is adopted for a period of ten years and establishes the foundations of public policy and the strategic direction of its development.

The Action Plan for the implementation of the Strategy is also adopted by the Government for a period of two years at the proposal of the ministry. This document determines more precisely the implementation of the measures prescribed by the Strategy, as well as the manner of cooperation between the social partners in the field of gender equality. Action plans of local self-government units are also mentioned in the Law, but they have not been elaborated in more detail.

Special measures related to gender equality within the annual plans and programs of public authorities and employers are the obligations of all these entities with more than 50 employees and contractors.[7] The segment of the plan and program related to gender equality must contain a brief assessment of the situation, a list of special measures that are to be implemented, the reasons for determining the measures, the time of implementation, etc.

The Risk Management Plan is adopted by public authorities in accordance to the rulebook to be issued by the Ministry. The idea behind this act is to cover areas that are particularly at risk for violating gender equality and to take preventive measures to eliminate these risks. This act is the single instance where adoption and implementation is the responsibility of the head of the public authority.

Reporting to the Ministry is to be a subsequent obligation for each of the listed acts. However, there is noticeable inconsistency both in the obligations and in the misdemeanor provisions prescribed for the violation of these obligations.

Public authorities and civil society

The Law prescribes an obligation for public authorities to monitor the achievement of gender equality in those areas of social life within the scope of their responsibility. As previously mentioned, they have the obligation to publish and monitor special measures to promote gender equality. In those institutions that have management and supervisory bodies, a balanced gender representation in these bodies is ensured. This balance is ensured by the body responsible for appointing the members of the management and supervisory bodies.

Public authorities are also required to cooperate with civil society organizations in order to promote gender equality, through proposing and adopting measures, joint fight against discrimination, promotion of gender equality and other activities specified in the Law itself. The field of cooperation between public authorities and associations has been significantly expanded in the text of the Law (in relation to the text of the draft Law) at the initiative of the Team for Social Inclusion and Poverty Reduction of the Government of Serbia.

7 Although a proposal was made during the public debate to have 50 full-time employees, the Ministry acted correctly while rejecting this proposal. Vulnerable groups that are protected by this Law, among others, are those who are often employed through temporary and occasional work contracts, copyright agreements, etc. So it would be completely unjustified to ignore them in calculating the quota to establish an obligation for the employer to prescribe measures to improve gender equality.

Areas in which gender equality improvement measures are implemented

15 areas in which general and special measures from the Law will be implemented have been enumerated and defined in more detail. In the following, these areas are listed. Those that attracted the most attention during the public hearing are featured in the text bellow.

- Labor and Employment Sector
- Health and Social Care Sector
- Education, Upbringing, Science and Technological Development Sector
- Information and Communication Technologies and Information Society Sector
- Defense and Security Sector
- Traffic Sector
- Energy Sector
- Environmental Sector
- Cultural Sector
- Public Information Sector
- Sports Sector
- Engagement in Management and Supervisory Bodies Sector
- Political Activity and Public Affairs Sector
- Reproductive and Sexual Rights Sector
- Access to Goods and Services Sector

Labor and employment sector

The Law proclaims equal treatment and equal opportunities for women and men, both in job pursuit and availability, as well as when it comes to exercising the right to work. Employees are guaranteed equal pay for the same work or work of the same value.

It is important to point out the evaluation of the total value of unpaid housework (as defined by the Law). In addition to keeping statistics and processing data on the evaluation of this type of work in the GDP, the Law also prescribes the possibility of health insurance for the person who performs this work. At the proposal of the Ombudsman, given during the public hearing, a provision is introduced that stipulates the following: a person who does not have health insurance on some other basis acquires the right to health insurance based on unpaid work at home. Although this significant change is positive from the aspect of the idea it advocates, it is not clear how it will be implemented in practice. This especially taking into consideration that health insurance is an area that is strictly regulated by special laws and that such a provision in the Law will not have legal force until implemented in the health insurance legislation. Having in mind that the Proposer refused numerous suggestions during the course of the public hearing because they were not within the scope of the Law – the adoption of this Ombudsman's proposal is unusual. This will be a merely declaratory provision until the necessary changes are made in relevant acts.

The issue of prohibiting gender inequality during pregnancy and child care leave from work was especially addressed. The employer is obligated to return the employee to the same or equivalent job after absence due to pregnancy, child care, adoption, foster care and guardianship. Such absences cannot be a reason for denying any employment rights, such as promotion, professional development and the benefits from all improvements in working conditions. The time that the employee was absent from work for the above reasons will not be taken into account in the work performance assessment in the total time period in which the performance is assessed.

The Law prohibits termination of employment by the employer on the grounds of gender, pregnancy, maternity leave, leave for child care, as well as due to initiated proceedings for protection against discrimination or harassment.

Health and social care sector

The article covering this area is rather short and concise, and has undergone some changes since the original text, disregarding comments received from the civil sector. Namely, this article in the draft Law held a special stance on regulating the issue of alimony funds. In its comments during the public hearing, the Autonomous Women's Center proposed amendments to this article, in order to specify alimony funds and to cover health issues in the field of family planning, bio-medically assisted reproduction, abortion etc. (all in accordance with recommendations of the UN Committee on the Elimination of Discrimination against Women). In its response, the Ministry was not too extensive, it was only stated that the area is not within the competence of this Law and that no financial resources have been provided for the implementation of alimony funds. This has been completely removed from the draft Law.

This article has therefore remained declarative in nature, as it only establishes the principle of equality and prohibits discrimination. Penal provisions prescribe a penalty for a responsible person in a public authority who does not apply the prescribed measures to ensure equality (from 5.000,00 to 150.000,00 dinars).

Education and information technologies sectors

In the text of the draft Law, the field of information technologies was annexed to the former one - education, upbringing, science and technological development. Although the Ministry initially rejected the proposal of the Autonomous Women's Center to separate these two sectors, the text of the draft Law did so. Gender equality will be incorporated into educational and scientific programs in various ways (through teaching materials, textbooks, research). An obligation to use gender-sensitive language, to affirm gender equality and to protect against discrimination is also prescribed.

Special emphasis is given to the promotion of this field among girls and women. The law lists certain measures such as funding from public funds for programs in this area that contribute to gender equality, retraining and additional training of women, through and for the purpose of digital literacy of women and improving their socio-economic position.

Public information sector

This area provoked certain controversies during the public hearing. The Commissioner for the Protection of Equality made critical remarks in her Opinion, and so have the Ministry of Culture and Information and the civil society organizations.

The Law stipulates that the media must not contain information that incites discrimination, as well as that it is forbidden to express hatred towards a certain gender, belittle, act based on prejudice, etc. It is also stated that the media are obligated to use gender-sensitive language and contribute to promotion of gender equality.

The first problem to be identified is the establishment of an obligation for a "public information agency" that is not a legal entity. Public information agencies are by definition only the media, so the Proposer's intention is to extend non-discrimination obligations to all media. Therefore, the terminology is inconsistent and used incorrectly, and certain changes need to be made. The Proposer had the same observation in the report on the public hearing, based on the comments of the Ministry of Culture and Information, but the text of the draft Law did not deviate from the original solution.

Also, probably due to a technical error in the number and name of the article, it is not clear which penal provision refers to the sanctioning of illegal behavior in this field.

Given the omnipresence of gender inequality, as well as the use of gender stereotypes and discrimination in all media, this field must be regulated much more precisely.

Reproductive and sexual rights sector

For the article regulating this area, there were also several amendment proposals during the public hearing. The Ministry, as the Proposer, found only one acceptable. That proposal was aimed at the introductory paragraph in which the field of application of measures implemented by the ministries responsible for education, upbringing and health was slightly expanded. The measures will be implemented with paying special attention to the position of individuals belonging to vulnerable social groups, which is an amendment made at the suggestion of the Autonomous Women's Center.

The same article also prescribes obligations for public authorities that operate in the health and social care sector. They are to implement special measures for monitoring, support and improvement of sexual and reproductive health, organize and implement programs to prevent and overcome the problems of early pregnancy and partnerships with minors, and implement special measures for early detection of diseases.

The UN Population Fund proposed an amendment to expand the aforementioned tasks to bodies in charge of education and upbringing, in addition to bodies mentioned above. The Proposer, after consultations with the Ministry of Education, Science and Technological Development, rejected this proposal.

The proposal of the Autonomous Women's Center to include the accumulation of statistical data on pregnancies of minors and the obligation of health workers to report these pregnancies to the social services and the police in the listed obligations of public authorities, was also rejected. The reasoning of the Proposers is that these matters are not within the scope of the Law.

Gender equality in management and supervisory bodies

This issue is regulated by the Law in several places. It covers cases of management and supervision by the employer, as well as in public authorities and in institutions pertaining to the area regulated by the Law, which are established by state bodies. In all cases, the Proposer stipulates gender balance and the obligation for the appointing authority to take special action when there is a significant gender imbalance. However, a penal provision for failing to comply is provided only for institutions in the field in which the measures from the Law are applied (e.g. cultural and sports institutions).

This was pointed out by the Commissioner for Equality in her Opinion, additionally referring to the significant problem of palpable gender imbalance in management and supervisory positions in public authorities. In the research conducted by the Commissioner in 2017, worrisome data was collected. According to that data, women are managers of public companies established by local self-government in only 15.5% of cases, and the representation of women in supervisory boards is 28.9%, while women are chairwomen of supervisory boards in only 16.9% of cases.

Given this situation and the nature of the provisions regulating this issue, it is not entirely clear why the sanction is prescribed only for non-compliant institutions, nor why no deadline has been established for the application of these rules.

Use of gender sensitive language

Among the terms defined in the introductory provisions is the term "gender sensitive language". The definition states that this is a language that promotes gender equality and affects the consciousness of those who use that language in their personal and professional lives. Furthermore, in the areas of education (in textbooks, teaching aids) and public information (in the media), the Law imposes an obligation to use gender-sensitive language.

During the public hearing, UNICEF proposed that the obligation to use gender-sensitive language be introduced in the official correspondence of public authorities, which was partially adopted by the Proposer. An amendment to the article has been introduced, which prescribes the obligation to monitor the achievement of gender equality for public authorities and the use of gender-sensitive language in the names of jobs, positions, titles and occupations.

Although the Law does not provide direct sanctions or measures for those who do not use gender-sensitive language, it should be expected that in accordance with these provisions, the use of terms for titles and occupations in the female gender will be encouraged and established in the future.

Prevention of gender - based violence

A separate article of the Law explicitly prescribes the prohibition of any form of violence based on sex, sex characteristics, and gender, in public and private spheres. It also prescribes the obligation to report such violence for every person, public authority, employer, association and institution. The Police Administration and the Public Prosecutor's Office are obligated to inform the Center for Social Work about the reported violence.

General and special support services for victims of violence are prescribed as well. The former includes psychosocial assistance, free social and health care, as well as free legal aid. In general, it is determined that public authorities are obligated to provide these services, making them easily accessible to all victims of violence. They are to be provided in an adequately equipped space by

specially trained employees (but no specific manner to achieve this is foreseen).

Specialized services for victims of violence include: a confidential phone line via a free national SOS telephone that will not be recorded, safe and free accommodation for victims of violence and their children regardless of their place of residence, performing specialist examinations, providing psychological support, contraceptive care and protection from sexually transmitted diseases.

The Law also provides programs for working with perpetrators of violence. The aim of this provision is for the above-mentioned persons to adopt a non-violent behavior model and to prevent the recurrence of criminal offenses. In line with the proposals from the civil sector, it is clearly stated that these programs cannot be organized in the same bodies as support and protection programs for victims of violence and their children, and that individuals working with victims or reporting violence cannot participate in working with perpetrators of violence..

Financing of services in the field of prevention of gender-based violence

This area would not ask for a special paragraph if the content of the relevant article of the Law was not changed without explanation after the public hearing, and before the text of the draft Law was submitted to the National Assembly. It is stipulated that financial resources for the implementation of programs for individuals who have committed violence will be provided *from the budget of the Republic of Serbia.*

The same goes for the allocation of funds for the implementation of specialized services for victims of violence. In addition to the national budget, these funds are also provided from the budget of the autonomous province and the budget of the local self-government unit.

None of this would be disputable if the amendment to this article hadn't been done very last minute. Regarding the source of funding, it is explicitly stated that funds for safe and free accommodation for victims of violence and their children, as well as funds for providing free support to victims of violence are provided *by the local self-government unit*. The question that arises is the justification of such a financial exemption and the potential threat to the service of providing accommodation in a safe house, which is one of the most important forms of support for victims of violence.

Considering the manner this change was implemented (without any social dialogue or informing the public in general) and its timing, the justification for introducing this provision, and the way it ended up in the draft Law, is unknown.

The Autonomous Women's Center reacted with a press release, stating that the Law discriminates against victims and favors perpetrators, but any response from the Ministry as the Proposer of this Law is still unavailable.

Competences of institutions and state authorities

Public authorities and bodies responsible for creating, implementing, monitoring and improving policies for achieving gender equality are: The Government, ministries, the coordinating body for gender equality, the bodies of the autonomous province, the bodies of local self-government units and other public authorities, organizations and institutions.

The formation of the coordinating body for gender equality and the council for gender equality at the autonomous province level is worth noting. Also, the formation of commissions for gender equality in the assemblies of local self-government units and councils for gender equality in the administrative bodies of local self-government units.

Public authorities with more than 50 employees and contractors are obligated to appoint one of their employees as an individual in charge of gender equality. This individual monitors the implementation of measures for the promotion of gender equality within the scope of the body, cooperates with gender equality bodies; prepares reports, data and analyses, which are then submitted to the bodies responsible for gender equality, etc. Having in mind the amount and complexity of duties designated for this individual, a proposal was made to create a new job opening. However, the Ministry did not accept it, explaining that there are not necessary financial means available.

Penalties

Penal provisions are categorized according to subjects of misdemeanors into those related to employers, public authorities, political parties and trade unions. Certain inconsistencies and technical discrepancies regarding these provisions have already been addressed in the previous analyses of individual articles.

Penalties for employers range from 50,000.00 to 2,000,000.00 dinars and are mostly provided for various violations of the prohibition of discrimination and failure to submit data and reports. The fine for the responsible person is prescribed in the range of 5,000.00 to 150,000.00 dinars. For the same violations, the entrepreneur will be fined from 10,000.00 to 500,000.00 dinars.

When it comes to public authorities, fines for responsible persons range from 5.000,00 to 150.000,00 dinars. Violations also mostly refer to violating of the prohibition of discrimination, not divulging or not keeping records, not reporting gender-based violence, etc.

Political parties will be fined from 50,000.00 to 2,000,000.00 dinars if they do not ensure balanced gender representation when proposing candidates for Members of Parliament and local councilors, if they do not adopt a four-year action plan with special measures to promote gender equality and if they do not prepare and submit a report to the Ministry on the number of women and men in management and supervisory bodies. The same is stipulated for trade unions, except for the first violation related to the election process.

LAW ON AMENDMENTS TO THE LAW ON PROHIBITION OF DISCRIMINATION

Summary

In 2009, with the adoption of the Law on Prohibition of Discrimination, the legislative and institutional framework for combating discrimination in Serbia was established. The Law establishes an independent state body - the Commissioner for the Protection of Equality, responsible for handling cases of discrimination. In addition, several mechanisms of protection are provided for victims of discrimination. Even after more than ten years of this law being in force, experience shows that discrimination in Serbia is still very much widespread. The existing protection mechanisms are not adequately or sufficiently used. Furthermore, during the negotiations on Serbia's membership in the European Union, it was noted that the existing solutions of the Law on Prohibition of Discrimination do not achieve the standards of the common legacy and that it is not fully harmonized with the relevant legislation.

In 2018, the Ministry of Labor, Employment, Veterans' Affairs and Social Affairs started the process of drafting the Law on Amendments to this Law, and the Government submitted the Law Proposal

on Amendments to the Law on Prohibition of Discrimination to the Assembly in February 2019. This Law proposal never reached the agenda of the National Assembly. After the election and formation of the new Government, it was withdrawn from the parliamentary procedure. At the end of 2020, the newly formed Ministry of Human and Minority Rights and Social Dialogue started preparing amendments to the Law based on the text prepared by the previous competent ministry, and after a public hearing held in March 2021, a new text of the Law Proposal on Amendments to the Law on Prohibition of Discrimination was determined.

Key novelties

Introduction of new personal characteristics representing grounds for discrimination

The Law on Prohibition of Discrimination defines discrimination and discriminatory treatment as *any unjustified distinction or unequal treatment, i.e. omission (exclusion, restriction or giving priority), in relation to individuals or groups as well as to members of their families or persons close to them, openly or covertly, which is based on personal characteristics.*

Although the list of personal characteristics is not exhaustive, meaning discrimination may occur in the case of unjustified distinction or unequal treatment based on another personal characteristic that is not explicitly stated in the Law, the Proposer of the Law has identified certain grounds that need to be explicitly included in the Law. For this reason, the amendments to the Law expand the list of personal characteristics by unambiguously prescribing gender, gender characteristics and income levels as personal characteristics on which discrimination is based.

Introduction of new forms of discrimination

New forms of discrimination have been added to the already prescribed - direct and indirect discrimination, violation of the principle of equal rights and obligations, calling to account, associating to discriminate, hate speech and harassment and degrading treatment. The Law proposal adds additional forms: harassment on the basis of sex and gender, inciting to discrimination and segregation.

The proposed amendments to the Law introduce for the first time the notion of segregation. It is defined as any act by which a natural or legal person separates without objective and reasonable justification another person or group of persons on the basis of personal characteristics. Segregation is considered a severe form of discrimination.

The Law proposal also defines the term sexual harassment as any verbal, non-verbal or physical unwanted behavior that aims to or violates the dignity of a person or their personal identity, and which causes fear or creates a frightening, hostile, degrading, humiliating or offensive environment.

The definition of indirect discrimination in the Law proposal is harmonized with EU regulations.

Extending the list of situations considered severe forms of discrimination

The legislator recognizes certain cases of discrimination as particularly dangerous and qualifies them as severe forms of discrimination. Age and segregation have been added to the hitherto recognized grounds of discrimination that are considered severe forms of discrimination. Additionally, the Law used to recognize discrimination based on sexual preference as a severe form of discrimination. The proposed changes change this term, and one of the severe forms of discrimination is considered to be discrimination based on sexual orientation.

Also, within the existing severe forms of discrimination, discrimination of two or more personal characteristics was divided into multiple (the impact of multiple characteristics can be differentiated) and intersectional discrimination (the impact of multiple characteristics cannot be distinguished).

Specifying the obligations of employers and public authorities when implementing special measures in protection against discrimination

Special measures are various legal and other measures that are taken in order for certain social groups that are de facto in a subordinate position, to achieve actual equality. The introduction of these measures is not considered discrimination.

The amendments to the Law stipulate the obligation of employers to take the necessary measures in the prescribed cases to achieve equality of individuals who are in an unequal position.

Public authorities that prepare regulations or public policy documents for the exercise of the rights of socio-economically disadvantaged persons are obligated to make an assessment of the impact of compliance of regulations or policies with the principle of equality.

Introduction of new special forms of discrimination

The previous legal solution prohibited the denial of rights and the enabling of benefits in relation to gender or due to gender reassignment. This is supplemented by the prohibition of discrimination on the grounds of gender, gender identity as well as due to the adjustment of sex to gender identity. In addition, discrimination on the grounds of pregnancy, maternity leave, childcare leave or special childcare is prohibited.

Another novelty brought by the Law proposal is the introduction of housing discrimination as a special form of discrimination. This type of discrimination exists when, on the basis of personal characteristics, an individual or group of individuals is denied or hindered access to housing support programs, when they are denied the exercise of housing rights, etc. It is also prescribed that housing discrimination includes a situation when a legal or natural person refuses entry into a contract on a lease or use of a housing unit with a potential contractual party on the basis of personal characteristics or presumed personal characteristics of that party. The significance of this provision is reflected in the fact that it is unequivocally prescribed that discrimination is possible in the private sphere - in the process of concluding a lease agreement or using an apartment when the lessor is a natural person.

Specifying the provisions on the manner of election and competences of the commissioner

The institution of the Commissioner for the Protection of Equality has been entrusted by law with certain powers important for the prevention of discrimination. The Commissioner is elected by the National Assembly by a majority vote of all deputies, at the proposal of the committee responsible for constitutional issues. The Commissioner's term in office is five years, and the same person may not be elected more than twice.

The amendments to the Law specify that the Assembly will start the procedure of electing a new Commissioner three months before the end of term, and that until the election of the new Commis-

sioner, that function will be performed by the Commissioner whose term in office is ending. It is also prescribed that the Commissioner will appoint an assistant who will replace him in case of absence or inability to work. The goal of these new provisions is to overcome the problems in the functioning of the institution that arose in practice. In 2020, the Commissioner's term in office ended before the National Assembly elected a new candidate, which resulted in a six-month delay in the work of this institution.

The amendments to the Law specify the competencies of the Commissioner. The most important amendment consists in enabling the Commissioner to join as an intervener in a court procedure initiated by a discriminated individual. The consent of the Prosecutor is necessary for the Commissioner's interference. An exception is when it's a procedure for the protection of a group of individuals, with the additional condition that the Commissioner assesses that this is a procedure of strategic importance.

Amendments to the provisions on the protection procedure before the Commissioner

Proceedings before the Commissioner for the Protection of Equality are initiated by a complaint submitted by: an individual who considers that he has suffered discrimination; an organization dealing with the protection of human rights; another person, in the name and with the consent of the person who has suffered discrimination. The novelty brought by the Law proposal is the possibility for associations or organizations dealing with the protection of human rights to file a complaint on behalf of a group of individuals whose rights have been violated without the consent of individuals forming the group. The condition is that the violation relates to an indefinite number of persons connected by a certain personal characteristic.

Another novelty in the Law proposal is the possibility for the inspection to file a complaint in the name and with the consent of the individual whose right has been violated.

The Law proposal specifies the reasons why the Commissioner will not act on a complaint. Moreover, the Commissioner is obligated to notify the complainant in writing when he decides not to act upon the complaint. When the conditions for acting on the complaint are in fact met, the Commissioner submits the complaint to the person against whom the complaint is filed (hereinafter: complainee), within 15 days from the day of receipt of the complaint. The amendments to the Law specify that the Commissioner will determine the factual situation by inspecting all relevant evidence and taking statements from both the complainant and complainee, as well as from other individuals if necessary.

In order to facilitate the parties' proving the facts in anti-discrimination proceedings, both before the courts and before the Commissioner, the Law proposal stipulates that, with regard to those facts for which they bear the burden of proof, the parties will be able to use data from both the Registry Book and administrative registers.

The novelty brought by the Law proposal is the possibility for the Commissioner to suspend the procedure on the complaint in the case when the complainee removes the consequences of the actions due to which the procedure is being conducted. The prerequisite for this suspension is the assent of the complainant that the consequences have been removed, which he can give within 15 days from the day when the Commissioner informed him by letter about that possibility. In case he does not agree or does not declare, the Commissioner continues the complaint procedure.

The previous legal solution enabled the Commissioner to propose a conciliation procedure before undertaking other actions in the procedure. Opposed to that, the Law proposal provides the possibility for the Commissioner, during the entire procedure and before issuing an Opinion, to propose a negotiation to reach an agreement. In case the negotiation is successfully completed, the complaint procedure is suspended. If the negotiation fails, the complaint procedure continues. For the complainant, the negotiation is free of charge.

The Commissioner and the courts are obligated to keep records on protection against discrimination procedures

In order to review the situation in the field of protection against discrimination, the Law proposal introduces the obligation of the Commissioner to keep electronic records on protection against discrimination. The records contain data on cases arising in the work of the Commissioner as well as data on final judgments and court decisions.

Courts of general jurisdiction are obligated to record final judgments in civil and criminal proceedings related to discrimination, and misdemeanor courts are obligated to keep records of final judgments and decisions made in misdemeanor proceedings due to violation of the provisions on prohibition of discrimination. The courts will be obligated to submit these judgments and decisions for the previous year to the Commissioner no later than March 31 of the current year. The records will contain data broken down on the grounds of discrimination, the provisions of the law to which the violations relate, etc.

Fines for misdemeanors stipulated by the law are increased

The Law proposal stipulates fines for misdemeanors specified by the Law, which are higher than before. Instead of a fine ranging from 10.000,00 to 50.000,00 dinars, officials who act in a discriminatory manner, responsible persons in a legal entity as well as natural persons will be fined in the range of 20.000,00 to 100.000,00 dinars. Legal entities and entrepreneurs will pay a fine of between 50.000,00 and 500.000,00 dinars instead of 10.000,00-100.000,00 dinars, as previously stipulated.

Extending the reasons for punishing discrimination based on sexual orientation

According to the previous legal solution, misdemeanor liability existed only in the case of inviting an individual or group of individuals to publicly declare their sexual orientation, as well as in the case of preventing their expression of sexual orientation. The Law proposal stipulates that any other discriminatory conduct on the grounds of sexual orientation is also punishable.

New grounds for fining discrimination against children

Until now, fines for discriminating against children were possible if the basis of discrimination was marital/extramarital birth, gender, income, social status, activities or beliefs of parents. The Law proposal adds new punishable grounds for discrimination against children to the existing ones, namely: health condition, disability, sexual orientation, gender identity, gender characteristics, ethnic origin and nationality.

LAW ON METRO AND THE CITY RAILWAY

Summary

The need for the adoption of the Law on Metro and the City Railway arose due to the realization of the Belgrade Metro project. The beginning of the project realization is planned for the end of 2021, and it is being implemented by the Ministry of Construction, Transport and Infrastructure. In order to speed up the project implementation process, it is necessary to pass a law that will regulate this matter. The Law defines regulatory, technical and other conditions for safe traffic. This includes the concept and elements of metro infrastructure regulation, metro system safety, metro system infrastructure management, passenger transport, city railway, and finally supervision and penal provisions.

Key novelties

Conditions for safe, orderly and reliable traffic

The Law prescribes what is necessary to attain in order to manage the infrastructure of the metro system, the way in which the transport of passengers is performed, what conditions must be fulfilled by the employees and other. The concepts of the Law are defined and the elements of the metro system are regulated. In terms of infrastructure, the railway and station infrastructure are regulated. Also, the provisions of this Law define the energy subsystem, signalization, metro system management as well as the procedure for issuing permits for the use of the subsystem.

Metro system security

Regarding the segment of the Law related to the safety of the metro system, a safety management system of the metro system, as well as its basic elements, are stipulated. Supervision of this system is also foreseen, including the procedure before the body responsible for issuing and revoking certificates for individuals who operate the metro system. It also prescribes the health and traffic conditions that employees in the metro system must meet, and the obligations of the manager in case of traffic accidents and incidents.

Metro system management

The management of the metro system implies the construction of infrastructure, the method of construction, maintenance, organization and regulation of traffic, station management, reconstruction and protection of metro infrastructure.

Passenger transport by metro system

Public transport of passengers in the metro system is performed by the metro system manager who has fulfilled the conditions for performing passenger transport. This Law stipulates the manner of providing public transport services and providing information on public transport services for passengers in the metro system. Also, assigning of the performance of communal activities of urban and suburban passenger transport by subway is foreseen.

City railway

The provisions of this Law also apply to the functioning of the city railway as well as to the city railway which is functionally separated from the public railway infrastructure.

Supervision and penal provisions

Supervision over the implementation of this Law is performed by the Ministry of Construction, Traffic and Infrastructure, inspection supervision is performed through the Republic Inspectorate for Railway Traffic, while supervision over passenger transport is carried out in accordance with the law regulating communal activities. Penal provisions are provided for economic offenses and misdemeanors committed against this Law.

In case you have missed

Why the President of the Assembly warned the MP Atlagic for insulting speech, but remained silent towards representatives of the executive? In the episode no. 55 of #CoupletChorusRebuttal listen to what kind of discussion in the plenary was provoked by the speech of the Saip Kamberi in the Albanian language.

On the twentieth anniversary of Slobodan Milošević's arrest, encouraged by the broadcast of the series The Family (Porodica) describing his last days at large, the MPs of the Socialist Party of Serbia offered the citizens their vision of recent history. Listening to Đorđe Milićević and Toma Fila in episode no. 61. of the #CoupletChorusRebuttal, one might simply wonder why Milošević was arrested at all.

Ahead of the opening of the 7.7-kilometer bypass around Belgrade, in the presence of Serbian President and Chinese Ambassador Chen Bo, listen what kind of support is coming from the Parliament in the episode no. 65. of #CoupletChorusRebuttal.