

YUCOM 2019–20, No 07–08

Introduction
Free Legal Aid
Protection of Human Rights in 2019 – current issues
Most significant projects
Publications – new editions
Other activities, cooperation and contribution

Y07–08

Annual Report



Kingdom of the Netherlands



YUCOM
Lawyers' Committee
for Human Rights

YUCOM 2019-20

ANNUAL
REPORT



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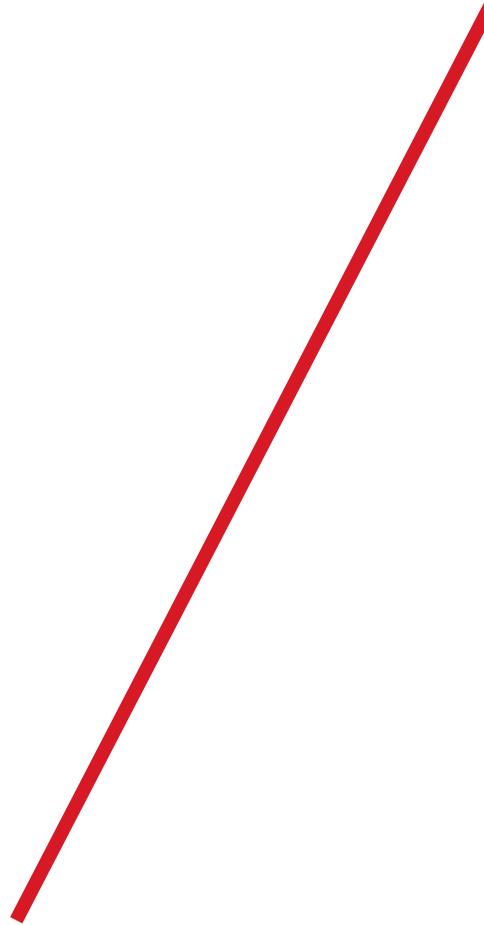
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Kingdom of the Netherlands







YUCOM 2019-20

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01

Introduction

Not much time has passed according to the calendar since February 2019, when we presented our last annual report. That is just over 450 days. According to measuring of time by YUCOM, that includes 21 printed publications, 9 of which printed in 39,000 copies, 419,405 citizens reached by our text *“What does the introduction of a state of emergency mean for the people in Serbia?”*, strengthening of our team by 2 new lawyers, who, together with the rest of our legal staff have provided legal advice and information to citizens in 995 instances.

The state of emergency has changed the way we present our work, but not the work itself. The number of citizens that addressed YUCOM at the beginning of the state of emergency showed the significance of the independent points of trust that are quickly and easily found by the citizens in the times of urgency, where they can request explanation of the legal situations.

As pioneers and synonymous of provision of free legal aid, we registered for provisions of support and aid in October 2019. This “extraordinary” annual report precisely describes justifiability of the position in the system of aid providers. It includes the overview of the support and aid provided by YUCOM during one year outside of the system of the Law on Free Legal Aid, and during the first six months of application the Law, with special emphasis on the support during the state of emergency.

During 2019, we were the target through attacks on the possibility of specialized work of our attorneys. We brought the fight against internal pressures to the international level. The trust and support in the fight for access to justice for the citizens of Serbia were

provided by the biggest and the oldest bar associations worldwide and in Europe and explained the significance of the attorneys - human rights defenders.

Relying on the standards of the Council of Europe, we criticized the reforms of criminal legislation. We lost that battle because competent state officials publicly downplayed the role of the Council of Europe through their statements and actions. Such an approach was punished by the first harsher EU Progress Report of the Republic of Serbia prepared in May. Once again, this year, we gave significant contribution to writing of that report. Double standards of Serbia in respect of the Council of Europe were shown with adoption of the law that would enable investigation in the cases of the missing babies. The meetings with the Department for Enforcement, addresses to the Committee of Ministers, assistance of the organizations from Strasbourg, previous work with the Ministry of Justice, media campaign and other conversations with the parents of the missing babies led to the results. The new and improved law was adopted immediately before dismantling of the National Assembly, because of initiation of the election campaign, under the pressure of the decisions of the Council of Europe, parents and the public.

The beginning of 2019 was also marked by the information that the plans within Chapter 23 were changed (through so-called revision of the Action Plan for Chapter 23) and there was no time to discuss that with non-governmental and professional organizations. From the fight for “time” in January 2019, we ended up fighting for adoption of our proposals. Series of consultations within the Working Group for Chapter 23 have led to the latest

version of the Revision of the Action Plan in June 2020. However, the fight continues ...

Our work does not start and finish in Belgrade. Due to long-term joint efforts of the professional associations and experts, at the time when constitutional reforms were suspended, with the help of the Supreme Court of Cassation, we started working on strengthening of confidence of the citizens in the judiciary. Within the project Constituencies for Judicial Reform in Serbia implemented in 15 towns, from Vranje in the South to Sombor on the North, we started communication between judiciary and citizens about the most sensitive topics: length of the proceedings, enforcement, and prosecutor's office. In addition, we keep returning to these courts, with the increased number of visits. Judges, prosecutors, attorneys and professors spoke openly on the legal topics off-line and on-line, via otvorenaratpravosuda.rs. Our impact on opening of the courts is also proven by the fact that during the state of emergency, we were granted access to so-called "Skype trials" at request, within less than 24 hours throughout Serbia.

For the first time, the heads of the integrated judiciary in Mitrovica welcomed an organization from Belgrade and presented their work results. With the intention to facilitate access to justice for the citizens of Kosovo, we presented the findings of the first analysis of work results of the integrated judiciary both in Pristina and Belgrade, before the President of the Republic, Ministries and members of the High Judicial Council.

The state of emergency interrupted the initiation of the joint work with 10 free legal aid services, to be used by YUCOM to help the inhabitants of Roma substandard settlements from Leskovac and Lebane to Vršac and Sombor, by solving the problems we identified by the latest comprehensive research.

We supported the work of the following independent institutions through constructive criticism: Commissioner for the Information of Public Importance and Personal Data Protection, the Protector of Citizens, local protectors of citizens. We have urged for the leading and key persons of these institutions to be the people with integrity, and we have cooperated with them on informing the citizens through preparation of the guidelines, monitoring of compliance with the rights of persons

deprived of freedom and protection of human rights of all the citizens.

The deterioration of the status of Serbia in the report by the Freedom House, from the status of partially consolidated democracy to the group of countries of hybrid regime, means that the organizations such as YUCOM need to work harder on bringing of the institutions back on track. Moreover, only during the preparation of this annual report did we realize how difficult it was to list all numerous activities we had in a year behind us. Work on protection of human rights and fundamental freedoms never ends. At the time when right-wing movements strengthen under the protection of the governments worldwide, including Serbia, and they attempt to draw the entire societies backwards, it is particularly important to defend some rights that were acquired long time ago. Precisely for that reason, our focus will be on the human rights defenders.

President of the
Lawyers' Committee for Human Rights - YUCOM
Attorney Katarina Golubović, PhD





In memoriam

Biljana Kovačević Vučo (1952–2010) Founder and the first President of YUCOM

Defender of human rights, anti-war activist, fighter for modern Serbia. In 1997, she founded the Lawyers' Committee for Human Rights - YUCOM, the Yugoslav Lawyers' Committee for Human Rights, known to the public for defending of the Pride Parade, the rights of Roma, persecuted journalists and public figures, and the initiative to declare July 11 Srebrenica Remembrance Day.

She represented victims of human rights violations before national and international bodies (UN Human Rights Committee and European Court of Human Rights). She was the representative of journalist Bodrožić in the only case against Serbia won before the UN Human Rights Committee. She was a member of the team of YUCOM experts and lawyers who won 2 cases before the European Court of Human Rights. Often exposed to threats due to her dedicated fight for human rights, she had the broad support of the world's most recognized international NGOs such as Amnesty International, Front Line, Urgent Action Fund for Women's Human Rights.

They said about Biljana:

Sonja Biserko: „...In a small circle of human rights activists, Biljana was a favorite colleague and friend. She exuded charm, serenity and enthusiasm for everything she did. She motivated her associates and all of us who were close to her. The strength of her will and the integrity of her personality were reflected in the ease with which she confronted all the attacks and threats...“

Svetlana Lukić: „...Biljana Kovačević-Vučo was the first class human material. She showed that both during the regime of Milosevic and in so-called democratic Serbia. I had an impression that for her, like for many of us, it was somehow easier in the 90s when the demarcation line between the good and evil was clear, bloody and without different shades. Not then nor later, could anything significant happen without the input or at least a comment of Biljana Kovačević-Vučo. This does not refer only to war cries, but also to Šešelj's law on information and university, political prisoners, mostly Albanians in Serbian prisons, fight for the amnesty of the young men who fled the country in order to avoid participation in Milošević's wars...“

...Biljana Kovačević-Vučo was not a kind of person to make easy deals, unlike others, she knew that there were no easy deals between the executioners and the victims, between marauders and those that have fallen. She knew that the first, then the second, followed by the third concession were a shortcut to cowardice, and even shorter shortcut to what would lead to complicity...

...Her actions obliged us, pushed us where we would have rather not gone, because we needed a break, in order to take some air in order to survive. She did not stop to take air, just as she did not make any pauses while speaking, and she spoke quickly, passionately and intelligently. She would pause only when there was a difficult word on the tip of her tongue that could have offended someone, and she most frequently spoke of the people who chemically presented pure deceit, dishonesty and cruelty...“

Vesna Pešić: „...Many of us were immensely involved in human rights and anti-war activities, while the wars were roaring, we attacked nationalists and all the governments so far. Among us, Biljana was special, because she was the greatest witch of all the witches. I will not be wrong if I say that she never pulled her shoulders down or stayed silent about the matters that were important for her. She did not calm down with the excuse that everything was losing sense. She tried to create the sense in things...“

Borka Pavićević: „...I see her entering the garden and yelling from the entrance, expelling all the fears,

civic and small-town type compromises, it was the friendliest of all the yellings, the one you are glad to hear, beautiful words of a beautiful, smart and daring woman, her words, without consultations, without outwitting, without watching or analyzing everything around, truthful and correct words, belonging to her the head of Athens, righteous and eager for justice. Demanding and responsible words. The words of empathy towards the dead and towards the living. That is why it was so good to see her and hear her. That is why it was always so precious to be with her, full of force...“





02

Free
legal
aid

There were two significant events in the period covered by the report of the Lawyers' Committee for Human Rights: initiation of the application of the Law on Free Legal Aid on October 1, 2019, and proclaiming of the state of emergency due to the pandemic of Covid-19 on March 15, 2020. This segment contains statistical data on the provided free legal aid for the relevant period, as well as the overview of the significant problems experienced by the citizens who addressed us during 52 days of the state of emergency.



Natalija Šolić, attorney-at-law and coordinator of free legal aid team at YUCOM

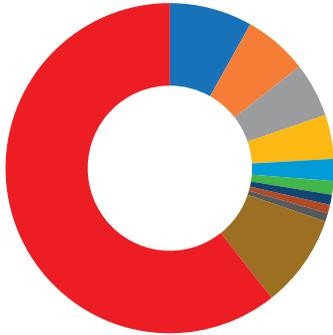
1. Free legal aid provided until the beginning of the application of the Law on Free Legal Aid

October 1, 2018 - September 30, 2019

By providing free legal aid during 2018 and 2019, we tried to answer all the questions and requests addressed to our legal team, guided by the same goal as in all previous years - to enable as many citizens as possible unhindered access to justice. The obstacles were the same, social, civic, economic, family and other statuses, but once again, we successfully overcame them and helped a high number of citizens in exercising and protecting of their rights.

In the period covered by this report, a total of 643 citizens addressed YUCOM, who asked us for help

SOCIAL GROUPS



8.14	social protection seekers
6.31	children
5.32	persons with disabilities
4.32	persons deprived of their liberty
2.16	war veterans
1.33	displaced persons and returnees
1	human rights defenders
0.83	Roma people
0.83	Persons belonging to national, religious or ethnic minorities
9.13	other vulnerable groups
60.63	general public

and expressed their trust in us by letters, telephone calls, e-mails, through social networks or personally. As always, we provided legal aid not only to socially vulnerable categories of persons, which are usually associated with the provision of free legal aid, but also to all those whose human rights were threatened or violated. We also provided legal assistance to those persons who were starting some interesting topics and showed by their example all the errors and shortcomings of the system and used their example to provide the guidelines on what needed to be corrected in order to protect certain rights. In addition, persons who had hired lawyers, as well as the lawyers themselves on behalf of their clients, applied to us for legal aid. Once again, citizens were referred to our legal aid by judges, centers for social work, certain institutions, as well as by journalists.

Our statistics for this period show that the provision of legal aid was mostly focused on providing legal advice (57.05%) and general legal information (29.07%) needed by the citizens to protect and exercise their rights not only before domestic, but also before international courts and institutions.

We also provided legal aid in drafting of urgencies or complaints in 31 cases, and the legal team took 23 cases to represent them before the regular courts, but also before the administrative bodies, the Constitutional Court and the European Court of Human Rights.

In relation to social groups, we received the most requests from citizens from the category “general public” (60.63%), while the other categories include: seekers of social protection (8.14%), children (6.31%), persons with disabilities (5.32%), persons deprived of liberty (4.32%), war veterans (2.16%), displaced persons and returnees (1.33%), human rights defenders (1%), persons of Roma nationality (0.83%), as well as members of national, religious or ethnic minorities (0.83%), and other vulnerable groups (9.13%).

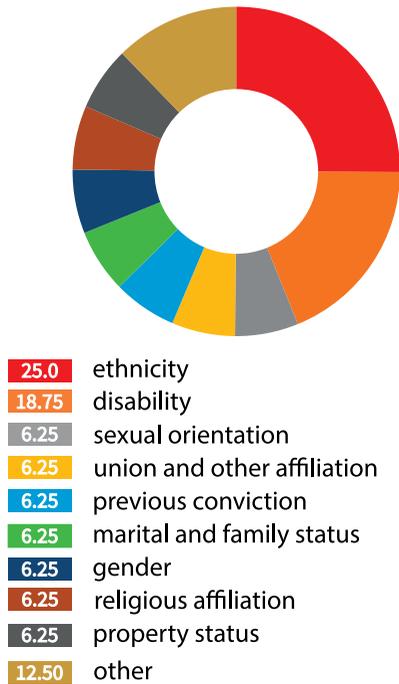
Still, some applicants for free legal aid appear in 2 or more different social categories at the same time, e.g. persons with disabilities or persons of Roma nationality are most frequently also the persons who have the need to exercise the right to social protection, which is an important indicator of the multiple threats to the rights of these persons and

ENDANGERED HUMAN RIGHTS



12.32	Right to good administration
9.86	Children's rights
9.15	Right to a fair trial
8.8	Right to peaceful enjoyment of possessions
7.75	Right to a trial within a reasonable time
7.39	Right to work
5.99	Right to health care
5.63	Right to an effective remedy
3.87	Violation of the principle of non-discrimination
29.24	Other

VIOLATION OF THE PRINCIPLE OF NON-DISCRIMINATION



still incomplete systemic response not adapted to the needs of these social groups.

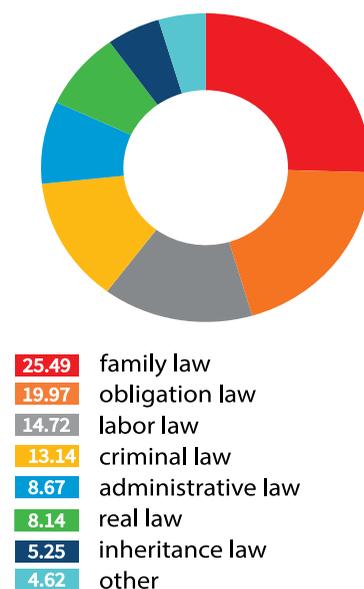
According to the age group, the largest number of submitted requests for free legal aid is from citizens belonging to the age group 26-45, but the number of addresses of persons aged 46-65 has also increased, while the division by gender is no longer equal - women (55.68%) and men (44.32%).

In relation to the threatened human rights, the most requests referred to: violations of the right to good administration (12.32%), the rights of the child (9.86%), the right to a fair trial (9.15%), the right to peaceful enjoyment of property (8.80%), the right to trial within a reasonable time (7.75%), the right to work (7.39 %) - within which problems with concluding and extending of employment contracts, contracts on temporary and occasional jobs, issues related to sick leave, maternity or maternity leave were singled out. This is followed by the right to health care (5.99%), and the right to an effective legal remedy (5.63%).

Within the violation of the rules on prohibition of discrimination, the most common violations are based on nationality (25%), disability (18.75%), sexual orientation (6.25%), trade union or other affiliation (6.25%), previous convictions (6.25%), marital and family status (6.25%), gender (6.25%), religion (6.25%) and property status (6.25%).

In this period as well, we had an increase in requests regarding the threat to the right to peaceful enjoyment of property. The focus was on the protection of rights in enforcement proceedings. The enforcement and security procedure itself and frequent amendments to the provisions of the Law on Enforcement and Security had until then created certain ambiguities and doubts regarding the rights and obligations of all participants in enforcement proceedings, deadlines, legal remedies, powers of public enforcement officers, collection of costs and other issues. However, the Law on Amendments to the Law on Enforcement and Security ("Official Gazette of the RS", No. 54/2019) of July 26, 2019, created additional confusion, having in mind primarily its scope, the validity of the provisions of the previous laws in this area, but also some new elements that it introduced. All amendments were integrated into the existing Law on Enforcement and Security ("Official Gazette of RS", No. 106/2015, 106/2016 - authentic interpretation, 113/2017 -

BRANCH OF LAW



authentic interpretation and 54/2019 in force since January 01, 2020) which caused a lot of attention, first of all with its provisions where the Principle of Proportion was more clearly regulated and the “Right to Home” was practically recognized. This novelty envisages that for all debts arising from utility and related activities, where the principal amount of the debt does not exceed the amount of 5,000 EUR in dinars, and it refers to only one real estate, it cannot be sold in the execution procedure. In addition, new restrictions are envisaged when it comes to enforcement on pensions, salaries and other incomes, changes in legal remedies and conditions under which appeals and complaints are filed. However, although these amendments have brought about certain problems in practice, there are still some ambiguities among citizens, primarily regarding whether this exception to the principle of proportion and the right to home is unconditional and whether the home is really protected in a way that is represented in the law. There were also ambiguities about other novelties, which, in addition to the efficiency of the enforcement procedure, which is its essence, should at the same time more widely respect the rights of the enforcement debtor and third parties by public enforcement officers. Regardless of the amendments, there were still the issues of citizens regarding the collection of costs and tariffs of public enforcement officers, and there are visible differences in the approach in practice. Precisely due to all the doubts and new provisions of the Law on Enforcement and Security that the citizens were interested in, but also due to not-knowing about their rights and obligations, we created a guide “My rights in enforcement procedure”, where we presented the most important phases of enforcement procedure, rights and obligations of all participants, and presented some of the most common situations that citizens encounter and thus tried to bring the rules of enforcement procedure closer to ordinary citizens.

When we look at the statistics according to the field of law in which we provided legal aid, it looks like this: on the top of the list family law (25.49%), then contracts and torts (19.97%), labor law (14.72%), criminal (13.14%), administrative (8.67%), property (8.14%) and inheritance law (5.25%).

According to the type of procedures in which legal aid was provided, we distinguish the following categories:

Litigation (142 cases), non-adversarial (28 cases), administrative (93 cases), and a large number of problems were observed in criminal proceedings (57 cases)

CERTAIN CASES OF PROVIDING FREE LEGAL AID



When it comes to specific cases of representation, our chart shows that there are cases of child custody (28.75%) and failure to pay alimony (26.25%), domestic violence (22.50%), cases of deprivation of legal capacity (8.75%), and citizens also complained about harassment at work (8.75%) and hate speech (2.50%).

As can be seen from the statistics, citizens still have a great need for free legal aid, not only due to their economic, but also due to social vulnerability and their decreasing trust in the institutions.

Strategic representation is one of our most important activities. Through certain cases that YUCOM lawyers take to represent (mainly in the field of discrimination, mobbing, protection from violence, hate speech, etc.), we notice systemic shortcomings, influence the change of the current practice of courts in certain matters and change regulations by submitting legal initiatives. It is through these cases that we best see the current attitude of the judiciary in general towards a particular matter, i.e. the protection of basic human rights.

YUCOM's legal team consists of 8 legal experts, 4 attorneys and 4 lawyers.

2. Free legal aid provided from the beginning of the application of the Law on Free Legal Aid until the introduction of the state of emergency

October 1, 2019 -
March 15, 2020

After the entry into force of the Law on Free Legal Aid, associations were significantly limited the possibilities of providing free legal aid. In accordance with the new framework and obligations prescribed by the Law on Free Legal Aid, YUCOM, as a registered provider, also compiled statistics for the period from the entry into force of the Law on Free Legal Aid on October 1, 2019 until March 15, 2020, and it is as follows:

The total number of citizens who addressed YUCOM in order to exercise their right to free legal aid is 304. According to the territorial affiliation, the largest number of persons - seekers of free legal aid and support are from Belgrade (151), while other seekers are from other cities in Serbia (Niš, Novi Sad, Jagodina, Vršac, Kikinda, Čačak, etc.). Applicants for free legal aid, both domestic and foreign nationals, contacted us from abroad, mainly for advice and information on the application of regulations or interpretation of the provisions of international treaties.

The most common form of free legal support is provision of general legal information (192 in total for the period), while in the area of free legal aid, 55 pieces of legal advice were provided and 12 urgencies were written. Among the citizens who contacted us, a total of 15 were referred either to another civil society organization or to independent institutions (the Protector of Citizens). A total of 15 persons were referred to local self-government units in order to exercise the right to free legal aid, but, except in one case, we did not receive feedback whether they exercised that right. In one case, YUCOM filed a complaint against the local self-government unit due to failure to make a decision within the legal deadline, in connection with the exercise of the right

to free legal aid of a person who was in the process of deprivation of legal capacity. After the appeal was filed, the local self-government unit approved the request and referred the user to an attorney.

Legal fields in which free legal aid or support was requested and provided are:

Family law (67), criminal law (64), law of contracts and torts (51), labor law (43), property law (19), constitutional law (19), administrative law (11), inheritance law (9), financial law (1), other (13).

Specific areas that stood out were business capacity (7), domestic violence (6), guardianship (6) and harassment at work (2).

As usual, the citizens addressed us by phone, e-mail, regular mail, through social networks and in person, but also through the portal Open Doors of Justice.

However, it is important to emphasize that none of the persons who contacted YUCOM were referred by local self-government units, more precisely not on the basis of the Decision granting the right to free legal aid in terms of the provisions of the Law on Free Legal Aid. All persons were referred to our legal team based on the verbal recommendation of various bodies (centers for social work, courts, other civil society organizations, etc.), according to the model of functioning of provision of free legal aid before the entry into force of the Law on Free Legal Aid.

We also note that, according to available data, in many local self-government units, services for provision free legal aid had not been established yet, and some of the established services did not have the prescribed forms - forms of the request for free legal aid. There were also services in which not all officers underwent the mandatory training. As a special problem, we noticed the unavailability of forms - forms for free legal aid in prisons and social care institutions. Some of the services were not even informed that the Law on Free Legal Aid had entered into force, although they already had a well-established practice of provision of free legal aid. We received this information directly from the citizens who contacted us. Some citizens complained that they had been verbally rejected by local self-government units on several occasions, citing lack of training of the officials, and then a lack of forms.

Some of the persons referred to local self-government units are also prisoners who complained about inadequate access to health care, and they were given the forms for free legal aid and the forms for addressing

of the Protector of Citizens. We also assisted the mentioned persons by filling out the form. According to available information, one person who addressed the local self-government unit of Niš - Palilula, citing torture, was rejected.

In general, all the citizens who contacted us received general legal information that in order to exercise the right to free legal aid, they could address the legal department of the local self-government unit.

3. Free legal aid provided during a state of emergency

March 15 - May 6, 2020

On March 15, 2020, the Government of Serbia declared the state of emergency in the effort to prevent the spread of COVID-19. The Government adopted a number of bylaws imposing severe restrictions on human rights, especially freedom of movement, which had a significant impact on the enjoyment of other human rights. Lawyers' Committee for Human Rights - YUCOM, as a provider of free legal support, provided support by e-mail since the beginning of the state of emergency, at the request of the clients. On the other hand, due to the great need to clarify new legal situations for the citizens of Serbia, the writing of legal-informative blogs was organized through our website www.otvorenavratapravosudja.rs.

YUCOM's legal team received a significant number of questions from the citizens regarding numerous topics that include possible violations of various human rights, such as the right to legal certainty, the right to a fair trial, the right to work, and many other human rights. Citizens contacted YUCOM individually, as well as on behalf of larger groups.

52 days after its introduction, the state of emergency was lifted by the decision of the National Assembly on May 6, 2020, at the session at which the Law on validity of regulations adopted by the Government during the state of emergency with co-signature of the President of the Republic was also adopted and confirmed by the National Assembly. This Law prescribes which regulations of the Government cease to be valid, and which remain in legal force until the adoption of the relevant laws.

Below we present specific legal situations that arose during the state of emergency.

4. Specific situations during the state of emergency

Labor rights during the pandemic of Covid-19

The most common issues the citizens addressed YUCOM with were their labor rights (36%). Due to the measures to suppress COVID-19, the Government adopted the Regulation on the organization of work of employers during the state of emergency, which obliges employers, if possible, to organize work from home. The Government's promise to pay employers three months of the minimum wage came only after almost two weeks. By then, some employers had already laid off their employees (15 cases), while others had sent them on unpaid or paid leave (8 people). Until the end of the state of emergency, 22 people contacted us regarding the termination of their employment contract, and 47 persons addressed us regarding unpaid or paid leave from work.

Employees with chronic diseases who belong to a high-risk group for the development of severe symptoms of COVID-19 also contacted by YUCOM (seven people), as well as other employees who were concerned about the lack of safety measures at their workplaces (6 cases). In one case, a group of public utility workers contacted YUCOM in connection with an employee who developed COVID-19 symptoms after contact with his wife who was in mandatory self-isolation upon returning from abroad.

This case led to YUCOM's recommendation to the Crisis Team to allow persons who were in contact with the infected individuals to obtain a certificate of self-isolation, in order to regulate their labor rights, which was accepted.

Return of Serbian citizens to Serbia in the light of closed border crossings

Numerous Serbian citizens contacted YUCOM after sudden closure of all border crossings on March 20, 2020, as a result of which they were prevented from returning to the Republic of Serbia. In accordance with the Decision on closing of all border crossings

for entry into the Republic of Serbia, entry may be temporarily enabled with the permission of the competent state body, and in accordance with national interests and for humanitarian reasons. However, the Decision does not specify the competent authority. This led to the conflict of competences between the Ministry of Foreign Affairs and the Ministry of Internal Affairs, since both ministries would declare that it was not within their competence to decide on this matter, thus delaying the return of Serbian citizens to Serbia.

People trapped at airports and transit countries were told to send the Ministry of Foreign Affairs the information needed to compile lists and organize their return to Serbia. However, many Serbian citizens were denied entry to Serbia by the Serbian border police, without the possibility of using any legal remedy. Although a special Commission for issuing permits was established, it is competent exclusively for foreigners, but not for the citizens of Serbia.

YUCOM wrote to the border police about this problem and established cooperation with the Protector of Citizens of the Republic of Serbia in order to speed up their return, because many claimed that they lost their jobs abroad and that, due to delays, they did not have more money to pay for accommodation and food, and that they did not even have health insurance. According to available information, the citizens who contacted YUCOM managed to return to Serbia.

Prosecution of persons who violated the decision on self-isolation

Frequent changes in bylaws during the state of emergency contributed to creation of legal uncertainty. The Decision on proclamation of the disease COVID-19 caused by virus SARS-CoV-2 as contagious disease was changed 15 times since its adoption on March 10, 2020, until the end of the state of emergency on May 6, 2020. The result was not only a higher number of citizens prosecuted for the crime of failing to comply with health regulations during the epidemic, but it also hampered the efforts to combat the virus. The article of the Decision relating to the mandatory self-isolation of fourteen days for the persons arriving from countries where there were outbreaks of the virus was first introduced on March 14, 2020. By March 24, 2020, the order of self-isolation covered about 20,000 citizens, while criminal charges were filed against 518 persons for violation of self-isolation, while detention was ordered for about 100 persons.

Some of the citizens who were detained by the police for violating mandatory self-isolation claimed that they had never been informed of the obligation when crossing the state border. In some cases, citizens were arrested after unknowingly admitting to the police that they had left the house during the period in question. According to the current laws, the sanitary inspector should have informed them of the verbal decision, given them the minutes to sign, provided them with a copy of the minutes. Some passengers crossing the border received a leaflet with recommendations, others a binding verbal decision and a copy of the minutes, and others were not told or given anything. One of the reasons for that may be the lack of sanitary inspectors at the border crossings, as well as the absence of timely instructions from the competent ministries. Although the reason for ordering detention in all cases was the possibility of repeating the crime, i.e. possible exposure of the public to the contagious disease, there is no information on whether any of the defendants were tested for Covid-19. In at least one case, the defendant's defense counsel stated in a statement for the media that the detention was determined on the basis of the minutes on the pronouncement of the verbal decision, which did not have a date, official stamp or signatures.

One part of the citizens contacted YUCOM on behalf of the citizens who were arrested for violating mandatory self-isolation (13 cases). One person claimed to have been arrested at a police station while applying for new documents, one to have been arrested after police told him he could go out and buy groceries, and one to have been arrested after helping set up a temporary field hospital. In some cases, claims were made on the social networks that doctors reported people who were arrested after they came in person to get emergency medical care, because they could not reach anyone via phone to receive timely instructions. At least one person, who was in self-isolation, contacted YUCOM due to the impossibility to establish contact with the health institution for emergency medical care, but YUCOM has not been informed of the outcome.

YUCOM, as a provider of free legal support, also received a significant number of questions related to mandatory self-isolation (12%), among others, regarding food delivery, attending funeral of spouses, changing the address of residence, obtaining emergency medical care, etc. However, most citizens contacted YUCOM because they were not sure whether they had an obligation to be in self-isolation or not. Many questions were related to employment, because employees were afraid that they would lose their job without a proper document that would prove

their obligation to stay at home. Although the Law on General Administrative Procedure enabled them to request the issuance of a written decision, this was difficult in practice due to uncertainty regarding the body responsible for issuing it.

YUCOM informed the Crisis Team about the problems in practice and sent proposals to the Crisis Team on how to quickly and efficiently issue solutions to provide legal security of citizens, which the Ministry of Health began to apply.

Additionally, after our proposal, the Ministry of Health opened an e-mail address through which citizens could request a written confirmation of mandatory self-isolation, whether they came from abroad or simply were in contact with people with Covid-19 at home or in the office.

Support through monitoring of Skype trials

One of the key issues concerning the right to a fair trial was the introduction of criminal trials via Skype. Although this possibility is not provided by the Criminal Procedure Code, soon after the introduction of this practice, and at the request of the Serbian Bar Association, non-governmental organizations and professional associations, the Government legalized it by adopting the Regulation. One of the key issues of the “Skype” trials was the lack of public presence in the courtroom, as well as questionable possibility of conducting a confidential conversation between the defendant and his defense counsel.

YUCOM sent a request to the courts that were expected to hold “Skype” trials, asking them to allow us to observe them through the application, after which we started monitoring these trials. The response of the courts was different, and some courts only allowed our observers direct access to the courtroom, but not via Skype. In the courts where YUCOM was granted access, detention of all persons was lifted as early as April 15. The Directorate for the Execution of Criminal Sanctions informed YUCOM that on the day of the cessation of the state of emergency on May 6, 2020, there were 17 persons in custody, who were charged with at least one other criminal offense in addition to the criminal offense under Article 248.

Confirmation of the pronounced measure of isolation at home

YUCOM was addressed by a citizen who travelled around Serbia and visited monasteries right before

the declaration of the state of emergency, and who was informed by the officials of the Ministry of Internal Affairs by phone a few days after the end of the trip that he was obliged to undergo house isolation for 28 days. As stated in the verbal notification of the Ministry of Internal Affairs, the reason for this measure was that the passenger in the bus in which he was traveling became ill with COVID-19. Apart from the telephone notification, he was not served with a written decision on the imposed measure, nor was he contacted by any other competent institution. A few days before the expiration of 28 days, he contacted the Ministry of Internal Affairs for the purpose of issuing a certificate, but he was instructed to contact the sanitary inspection. The sanitary inspection sent him to the Ministry of Internal Affairs again, stating that he was not in the records of the sanitary inspection, i.e. that no measure had been imposed on him. After that, he contacted the Ministry of Internal Affairs, which informed him again that he was obliged to remain in isolation at home. Having in mind the procedure on the website of the Ministry of Health, YUCOM instructed him to submit a request. The response of the sanitary inspector who refused to issue the certificate states that he was not on the records of persons who were in contact with persons suffering from COVID-19, and that the inspection at the Center for Disease Control and Prevention of the City Institute of Public Health Belgrade showed that he was not under epidemiological surveillance. In addition to the obvious problem of coordination between all competent bodies and institutions, the omission of the sanitary inspection is evident, since they did not add the applicant to the list of contacts of the patient, and issued him a certificate. This is not the only case where someone is “not in the system”, but in the past, these were mostly citizens who were on the list of people who entered the country. Then, in the absence of sanitary inspectors at the border who would inform the citizens about the obligation of self-isolation in a form of a verbal decision, the Ministry of Internal Affairs checked the compliance with the measure many citizens were not even informed of at the border.

This is a person who did not leave the country, but encountered a COVID-19 patient, and whom the Ministry of Internal Affairs added to the list based on the list of bus passengers, without informing the sanitary inspection or the City Institute for Public Health. YUCOM identified this case as a systemic shortcoming, whether it was due to poor communication between state bodies or poor

record keeping. On this occasion, we also sent the letter to the Ministry of Health, to which we have not received a response until the conclusion of writing this report, but the person finally received the requested confirmation from the sanitary inspector after the YUCOM's intervention.

Misdemeanor liability for violation of the prohibition of movement

One person also addressed YUCOM with the question whether he had the right to appeal the judgment of the misdemeanor court by which he was convicted for violating the prohibition of movement during the curfew. On the one hand, the Regulation on the deadlines in court proceedings during the state of emergency stipulates that deadlines do not run during the a state of emergency, while on the other hand, the conclusion of the High Judicial Council of March 18, 2020 determines priorities in the work of courts, without specifically referring to the misdemeanor proceedings. There was also a controversy in the public about whether the Decision on proclamation of the state of emergency was made in accordance with the Constitution of the Republic of Serbia and whether citizens who were fined would be obliged to pay fines after the state of emergency was lifted. At that time, some lawyers stated that the abolition of the state of emergency would end the validity of the regulation prescribing misdemeanor liability, and the defendants would be released from liability by applying the legal principle of zero points *sine lege*. On May 6, 2020, along with the decision lifting the state of emergency, the National Assembly also adopted the Law on validity of regulations adopted by the Government with the co-signature of the President of the Republic during the state of emergency, and which were also confirmed by the National Assembly. The law stipulates that the perpetrators of misdemeanors prescribed by regulations committed during the state of emergency were subject to those regulations even after the abolition of the state of emergency. In accordance with this, the convicted persons could only pay the fine or to seek possible protection of their rights before the Constitutional Court.

Prohibition of the presence of the spouse's funeral

On March 28, 2020, YUCOM was approached by M. K., asking for help due to the specific situation in which

she found herself. M.K. (39 years old) arrived from Switzerland on March 17, 2020, on which occasion she was handed a Decision on mandatory isolation at home for 28 days. Until March 21, 2020, compliance with the measures imposed by the decision in her case had not been controlled by anybody. On March 21, 2020, husband M. K. (46) suddenly had a heart attack, and as a result, he passed on the same day. Given the gravity of the situation in which she found herself, and the obligation to organize the funeral of her husband, on the same day at 7 p.m. M.K. tried to get the information from the competent institutions whether and how it was possible to attend the funeral of her husband scheduled for March 25, 2020, at 1 p.m. We emphasize that M. K. neither then nor later contracted Covid-19 disease caused by the corona virus. She addressed the following institutions: the competent police administration and sanitary inspection, the Institute of Public Health, the competent epidemiological service, the Institute of Public Health of Serbia "Dr Milan Jovanović Batut", the local ombudsman. Except for the Ombudsman, all other institutions transferred jurisdiction from each other and did not meet the demands of the M.K. The proposal presented by M.K. to the authorities was for her sister to drive her to the cemetery, so that no one but herself would be present at the cemetery and around the grave, not to enter the chapel but to stand outside alone. Her sister, in that case, would not oppose the measure of obligatory self-isolation of 28 days. M. K. also suggested that she be tested voluntarily for the corona virus.

The funeral company informed M. K. that they had received a notification from the competent Police Administration to prevent her in every way possible from attending her husband's funeral. M.K. was also directly exposed to such threats during the conversation with the police officers. Namely, in these conversations, she was told that she could not appear at her husband's funeral, or she would otherwise face a sentence of 12 years in prison.

On March 24, 2020, M.K. received a phone call asking if she had noticed anyone in front of her house, to which she replied that she had not noticed anyone because they were not coming out due to the imposed measure of self-isolation. On that occasion, she once again asked for help and stated that she was ready to pay the fine provided by law, to which she was told that there was no fine for her, but that she would go to prison immediately, and she was warned in a threatening tone that she had children, and that he had to consider that circumstance.

Until the day of the funeral, M.K. could not find the solution to her problem, but instead received threats

and intimidation. She did not go to her husband's funeral. She learned from the family that an unknown person attended the funeral with the task of arresting her immediately, if she appeared in front of the chapel. Asked by the family to identify himself, an unknown person said that he was on a work assignment, and immediately after the funeral, he left the cemetery. M. K. was contacted by the competent Police Administration by phone on the day of the funeral, in order to check the compliance with the imposed measure. From that day until the expiration of the measure, no one contacted her anymore.

Rights of the child during the pandemic of COVID-19

Children are a vulnerable group most often affected by Covid-19 control measures. The first issue that YUCOM encountered was the impact of curfew on the exercise of the right to see children by parents who did not live with the children (8). The parents with whom the child lived were often worried about the possibility of the child getting the virus from the other parent's household. YUCOM asked this question in the media, after which the centers for social work received authorizations for issuing movement permits, which enabled parents to exercise their right during curfew. However, the procedure for issuing of the permits is slow due to lack of capacity. The Ministry of Education opened an SOS telephone line for providing psychosocial support intended for teaching staff, parents and children.

Parents who lost their employment due to the epidemic contacted us regarding the legal consequences of delays in the payment of legal child support (4). A group of people (450) employed in Belgrade as personal companions of children with disabilities were in danger of losing their jobs, which was avoided through public pressure.

Another common issue was the Government's recommendation for the public sector employers to allow their employees to take time off work to care for children under the age of 12, which did not apply to the private sector (8 people).

Persons older than 65 years of age in eviction proceedings

As in the previous period, a number of requests for legal support continued to relate to enforcement procedures and work of the public enforcement officers. However, unlike the previous period in

which citizens addressed YUCOM with the question of whether public enforcement officers worked during the state of emergency, in the following period citizens addressed us with the questions related to specific enforcement procedures, and issues related to the permitted scope of implementation of enforcement on wages or pension, as well as with doubts regarding the legitimacy of enforcement during the state of emergency.

The instructions for the work of public enforcement officers during the state of emergency of March 26, 2020, issued by the Chamber of Public Enforcement Officers are in fact a recommendation without binding effect, and public enforcement officers were practically given the opportunity to decide whether and in what procedures to carry out enforcement. It is now quite certain that the public enforcement officers still worked during the state of emergency, and one of the addresses was the question regarding the amount a public enforcement officer could seize from the pension.

The journalist of Radio 021 also addressed us with questions about the actions of public enforcement officers and the protection of human rights regarding the specific case of the eviction of one family in Novi Sad, which was scheduled for April 30, 2020. This was a family whose member was also a person older than 65, and for whom eviction was scheduled, despite the state of emergency. The public enforcement officer stated that he still had the obligation to act upon the request of the enforcement creditor. However, YUCOM gave the opinion that the Instruction of the Chamber of Enforcement Officers left room for postponing the eviction, since the public enforcement officers were left with the possibility to decide for themselves whether to carry out enforcements or not. Since this was a serious problem, we asked whether the competent Center for Social Work would be involved in a specific enforcement procedure, and whether it was able to provide this person over the age of 65, who was prohibited from moving, with adequate alternative accommodation if she herself was unable to do so. It is important to note that after the journalist's address and the publication of the text about this case, the public enforcement officer still tried to carry out the eviction, but the eviction was postponed due to public pressure and direct support from non-governmental organizations.

Statistical overview of free legal support provided by YUCOM March 15, 2020 - May 6, 2020	
Right to work	
Termination of employment	19
Amount of wage	14
Pending wages	1
Compensation in case of unemployment	4
Paid or unpaid leave from work	14
Paid leave to care for a child	8
Paid leave for persons with chronic diseases	6
Safety measures at work place	7
Prohibition of forced labor	4
Disciplinary proceedings	4
Transport to work place	2
Harassment at work	1
Work outside of the seat of the employer	1
Daily crossings of the border in order to perform work	1
Freedom of movement	
Self-isolation (issuing of written decision)	21
Self-isolation (criminal prosecution for violation of self-isolation)	12
Self-isolation (change of the address of the place of permanent residence)	2
Self-isolation (lack of means for purchase of food)	1
Self-isolation (delivery of food)	1
Self-isolation (issuing of the permit for attendance of husband's funeral)	1
Self-isolation (urgent medical assistance)	1
Self-isolation (report of a theft)	1
Return to Serbia	8
Conditions in quarantine	2
Prohibition of movement (persons older than 65)	2
Prohibition of movement (issuing of the permits for movement during the curfew for persons taking care of their bedridden relatives)	2
Prohibition of movement (misdemeanor responsibility)	1
Prohibition of movement (persons with disabilities)	1
Prohibition of movement (work in the third shift)	1
Registration of vehicles for persons with disabilities	1
Other human rights	
Rights of the child (maintaining contact with both parents)	7

Right of the child (legal child support)	3
Right to social protection	6
Right to health	3
Right to adequate housing	2
Right to legal capacity	2
Right to family life	2
Protection from torture	1
Right to life	1
Right to free legal aid	1
Freedom of religion or belief	1
Other issues not directly related to possible human rights violations	
Revoking the permission to walk the pets	9
Enforcement	7
Functioning of judiciary	6
Repayment of credits	5
Reporting corruption in judiciary	3
Reporting of a criminal offence	1
Expiration of the suspended sentence	1
Reduction of sentence	1
Disturbing public order and peace	1
Local community order	1
Neighborhood disputes	3
Inheritance	2
Transfer of the ownership of the apartment with mortgage	1
Certification of the sale and purchase agreement for the apartment (persons older than 65)	1
Cancellation of remote heating	1
Restitution	1
Right of servitude	1
Division of marital property	1
State assistance for small and medium enterprises	1
External control of the work of the Ministry of Internal Affairs	1
Work of public notaries	1
Competition for allocation of means	1
Information regarding the list of enterprises prohibited from working with the citizens	1
Information regarding payment of taxes and contributions	1
Parking service	1
Legalization of real estate	1
Total	226

5. Selected cases of representation



Kristina Todorović, attorney-at-law at YUCOM

Prohibition of torture: effective coordination

On August 26, 2019, the legal team of the Lawyers' Committee for Human Rights received a request from a convict who stated that he had been beaten by a member of the Security Service of the Pancevo Penitentiary - the commander who physically attacked him, and that he had visible head and bodily injuries. In addition to the injuries, the convict also stated the exact route of movement, the description of the room in which the commanders inflicted injuries, as well as the actions of the health service of the Institution, which reported this event as a "fall in the bathroom". On that occasion, YUCOM's lawyers sent a letter to the Emergency Intervention Team of the Protector of Citizens, who visited the Institute in Pancevo after only a few hours. During the visit, the team interviewed the convict, the management of the Institution, inspected the premises and cameras, and determined that the convict had minor bodily injuries, that the cameras showed that members of the Security Service had taken the convict into the room described by the convict, that there were traces in the room that correspond to traces of blood, and that the injuries inflicted on the convict fit with the described actions of the commander. During this control, the Emergency Intervention Team found several more irregularities of the Institute, such as omissions in the treatment by the

doctor in the Institute. The doctor of the Emergency Intervention Team pointed out omissions in the form of failure to make notes by the prison doctor on the manner of occurrence of injuries and expert opinion on the connection between the convict's allegations and the resulting injuries, failure to record injuries in special records, failure of the doctor to inform the warden that there were indications of violent actions towards the convict. Based on the visit, the Protector of Citizens determined irregularities and illegalities in the work of the Pancevo Penitentiary towards the convicted person, which were reflected in the violation of the right to inviolability of physical and mental integrity in terms of protection from torture, inhuman or degrading treatment or punishment, and the right to healthcare protection, and sent recommendations to this Institute. On October 22, 2019, the Pancevo Penitentiary sent the answer to the given recommendations, and soon the Protector of Citizens stated that this Institute acted in all respects according to the given recommendations, and that the procedure of control was completed. In addition to acting in accordance with the recommendations, which, among other things, indicated the need to initiate disciplinary proceedings against the commander and return them to the original institutions (from which they were sent to the Pancevo Penitentiary) in order to protect the convict from possible retaliation, the Protector of Citizens mentioned good cooperation with the Institute from the very beginning, where the management enabled uninterrupted work of the Emergency Intervention Team.

The right to private and family life

Procedures for restoring of the legal capacity

One of the many procedures for the audit of legal capacity in which YUCOM participated was the case of D. D. In 1993, she was completely deprived of legal capacity, based on the expertise of a medical specialist, who diagnosed her with schizophrenia. From the moment of deprivation, D. D. had no opportunity to dispose of her own income or property. A guardian from the Center for Social Work was appointed to her, and was transferred the authorizations to make decisions concerning her property, income, health decisions, place of residence. D.D. did not have regular contact with the appointed guardian, nor did

she receive any kind of systemic support. After being deprived of her legal capacity, D. D. was repeatedly placed in social welfare institutions against her will.

In 2015, in agreement with her daughter, who was her guardian at a time, D. D. left the social welfare institution, and the police issued a warrant for her arrest. After leaving the social welfare institution, D. D. lives alone in a rented apartment, functioning without any problems or disturbances. She independently performs all life activities, including maintaining hygiene, cooking, going to the market, visiting friends, but also regular medical check-ups. After the described events, D. D., in agreement with his daughter, as a permanent guardian with the possibility to make decisions in the name and on behalf of D. D., decided to terminate the contract with the social welfare institution. Due to the fact that D. D.'s pension was not sufficient to settle the entire debt to the institution in which she resided, the conditions for termination of the contract were not met at that time. The debt to the institution was increasing all the time, although D. D. did not reside there. After D. D.'s daughter was relieved of her duties as a guardian at the end of 2015, an employee of the competent Center for Social Work was appointed her guardian. Her attitude towards D. D.'s status and actions was extremely passive, and, apart from not appearing at any of the hearings held, she did not even establish a relationship with her. Instead of protecting the rights and interests of the protégée D. D., the opposite happened, and in order to settle the existing increased debt, the Center for Social Work sold, without consent and notification, the property of D. D., the value of which was disproportionate to the debt. The rest of the funds remained on the account of the Center for Social Work, conditioned by the restoring of the legal capacity. This is a specific example of the occurrence of damage to a person under the direct care of the Center for Social Work.

The examination of the fulfillment of the conditions for the restoring of the legal capacity was initiated *ex officio* in 2015, in accordance with the relevant provisions of the amended Law on Non-Adversarial Procedure, which made such revisions mandatory. After a four-year long court proceedings, in which the lawyers of the Lawyers' Committee for Human Rights represented D.D. and during which a series of hearings were held, several witnesses were heard and two expert examinations were performed, and in September 2019, the competent court issued a decision by which D. D. was fully restored the legal capacity. This is just one of the examples from the practice of the Lawyers' Committee for Human Rights, which shows the

seriousness of the consequences of such an action on the life of the person whose rights are being decided. We also emphasize that this outcome of the procedure in practice is not a rule, but an exception. In most cases of deprivation, i.e. restoring of legal capacity, these are the rights of persons who lived independently before the initiation of the proceedings and independently took care of their rights and obligations.

Eviction procedures and the right to home

The Lawyers' Committee for Human Rights represented the S. family in a decade-long litigation, protecting their right to home. Z.S. was employed by a state-owned company for many years and was first on the ranking list when he was assigned an apartment for permanent use. However, as the real estate was expropriated in favor of the Belgrade Land Development Public Agency, and then demolished for the construction of a new residential building, the S. family was moved to another apartment, without acquiring a permanent right to the apartment, with a verbal promise that his housing issue would be permanently resolved as soon as possible.

Since there was no legal basis for the use of the new apartment in the current laws of the Republic of Serbia, in 2001 this public company initiated a procedure for the eviction of this socially vulnerable family, instead of resolving their housing issue. Since then, the struggle of the S. family for the (right to) home has begun. Through a series of postponement requests and appeals against eviction decisions, the only solution Z.S. was left with was to file a lawsuit against the Belgrade Land Development Public Agency, for the purpose of granting adequate accommodation, as promised. Thus, in 2008, the court proceeding was initiated, and it was completed after more than a decade.

As the representatives of the plaintiff, YUCOM's attorneys specified the lawsuit, since in domestic law, the plaintiff did not really have legal basis to stay in the apartment with his family. On the other hand, we pointed out to the court the provisions of the European Convention on Human Rights and other international documents guaranteeing the right to home, as well as the rich practice of the European Court of Human Rights.

In December 2019, the First Basic Court in Belgrade rendered a first instance judgment establishing the

right to permanent use of the said apartment in favor of the S. family, invoking Article 8 paragraph 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The court found that the apartment in question, although not owned by the S. family, was the only home with which they were permanently connected, as they had lived in it for twenty full years. The court found that the eviction of the plaintiff in the present case would constitute an unjustified interference with his right to home, and that the eviction would leave this family without their only accommodation.

Apart from the fact that the decision is based on the provisions of the European Convention, it also explains several relevant decisions of the European Court, but also implemented so-called “three-part proportionality test”, which actually examines 1) whether interference (in this case eviction) is based on law, 2) whether it pursues a legitimate aim, and finally 3) whether interference is necessary in a democratic society. If the answer to any of the above three questions is negative, state interference is not allowed, i.e. it leads to a violation of a certain right, in this case the right to home. Thus, the court finds that, although the eviction request is based on law, the defendant has not proven a legitimate aim and the interference was not necessary in a democratic society, and there has been a violation of Article 8 of the Convention.

By the judgement, which is not yet final, the court provided legal protection to family S., determined that they had the right to permanent use of the disputed apartment and obliged the public company, as the right holder, to recognize and implement this right.

The right to property and trial within a reasonable time

Barbalić case – violation of property rights – petition to the European Court of Human Rights

The Barbalić case has been known to the media in Serbia since 1997. The Barbalić family lived in Zemun, in the apartment where they had had an occupancy right since 1966. In 1997, while the family was on vacation abroad, their belongings were evicted

from the apartment, and a member of the Serbian Radical Party moved into the apartment, who soon after bought the apartment from the municipality of Zemun. Since then, the Barbalić family has initiated and led several civil and administrative proceedings in an attempt to prove that they were illegally evicted from the apartment. Their private belongings that were in the apartment were never handed over to them. The whole case was followed by an intensive media campaign led by an official of the Serbian Radical Party, Vojislav Šešelj, who was sentenced by the Mechanism for International Criminal Tribunals to 10 years in prison for persecution, deportation and other inhumane acts. The safety of the Barbalić family was threatened by frequent attacks in the media, as Vojislav Šešelj, then mayor of Zemun, publicly waved the passport of the then minor DB and said that “a Croatian child cannot go to a Serbian kindergarten”. Even the lawyer of the Barbalić family, Nikola Barović, was attacked, and the bodyguard of Vojislav Šešelj was convicted for the attack.

From 1997 to 2013, the proceedings were conducted before domestic courts, which ended with a judgment of the Court of Appeals in Belgrade. The Lawyers’ Committee for Human Rights filed a constitutional appeal against this judgement before the Constitutional Court of Serbia in 2015, claiming that the Barbalić family’s right to a fair trial, including a trial within a reasonable time, as well as the right to property, were violated. It took the Constitutional Court of Serbia as long as five years to respond to this constitutional appeal. By the decision of May 2019, out of all requests of the Lawyers’ Committee for Human Rights, only the request for establishing that the right to a trial within a reasonable time was violated was accepted and the applicant was awarded compensation for non-pecuniary damage in the amount of 600 EUR in dinars. The remainder of the request was rejected or dismissed.

The legal team of the Lawyers’ Committee for Human Rights, believing that this was a politically motivated decision and that the Constitutional Court did not consider all legal aspects of the problems that had happened to the Barbalić family, filed a petition with the European Court of Human Rights in November 2019, specified that the fee of 600 EUR in dinars could not be a sufficient fee for a trial within a reasonable time, bearing in mind that the subject of the trial, which lasted an unreasonably long time, was the family home. In addition, we considered

that there was a violation of the right to property, since the Barbalčić family submitted a request for the purchase of the apartment that was the subject of the dispute, but that the state did not enable this purchase, moreover, it expelled the family from Serbia. The Barbalčić family did not find justice and understanding in Serbia for the atrocities of the Serbian war and remained deprived of adequate compensation, but we believe that the European Court of Human Rights, as an international court not exposed to local influences and prejudices, will recognize and acknowledge the injustice that has been going on for 23 years.

The procedure for collection of the debts of state-owned companies through the protection of the right to a trial within a reasonable time

B. M. is a pensioner who lives on a disability pension and who was not able to collect a guaranteed salary for two years of work from the state-owned company Utva Pancevo for 22 years, which still exists and works today. Based on the objections under the then new law, the Basic Court in Pancevo issued the Decision R 4 (I) 3/16 of June 13, 2016, determining the violation of the right to a trial within a reasonable time in the enforcement proceedings and ordering the acting judge to take active procedural actions in the said case within 15 days, and send the conclusion to the enforcement creditor. As the enforcement has not been carried out even one year after the adoption of the complaint, B. M. turned to YUCOM for help in June 2017.

YUCOM's attorney filed a lawsuit for monetary compensation and compensation for property damage, considering that the Republic of Serbia was responsible for the inefficiency of legal protection in the collection of salaries from the state-owned company. Since the plaintiff asked to collect the debt that arose in 1998, it was necessary to request expert's opinion to determine what the amount of the debt with interest is today. Due to her poor financial situation, the plaintiff requested exemption from paying the costs of the proceeding, which means that the court should pay the expert from its own funds.

After two hearings, due to the request made this way, in January 2018, after 20 year, Utva paid the

amount to the account of the public enforcement officer from the blocked account "voluntarily" that was kept as a debt with the NBS.

The Basic Court in Pancevo decided on the proposal on exemption from the costs of the proceeding only after 18 months as of the submission of the proposal and after the complaint regarding the actions of the court was by YUCOM to the president of that court. The complaint was assessed as well-founded, and the proposal for exemption from paying the costs of the proceeding was rejected on December 25, 2018. The explanation of the decision on rejection states that the plaintiff proposed an expert opinion, and then additional expertise, and that the court is of the opinion that the plaintiff should bear these costs. Article 168, paragraph 4 of the Civil Procedure Code stipulates that when making a decision on exemption from payment of costs, the court evaluates all the circumstances, and in particular takes into account the value of the dispute, the number of persons supported by the party and income and property of the party and his/her family members. As none of the mentioned criteria was assessed by the court in the case of plaintiff B. M., YUCOM's appeal against this decision was accepted, and the decision was revoked and returned to the court for a new decision.

The first-instance proceeding before the Basic Court in Pancevo was completed in December 2019 with the issuance of the judgment by which the state of Serbia is considered responsible for the damages caused by failure to enforce the settlement before the Municipal Court in Pancevo P. no. 991/98 of April 21, 1998 This judgment partially upheld the claim of B.M. , therefore, the defendant - Republic of Serbia is obliged to pay the amount of 700 EUR in dinar counter value, instead of the requested 3,000 EUR, as monetary compensation for the violation of the right to trial within a reasonable time. In its judgement, the court stated that the awarded amount of 700 EUR was an "adequate satisfaction to the plaintiff" (for more than 19 years of the enforcement proceeding). YUCOM's attorney appealed this part of the judgement, referring primarily to the case law of the European Court of Human Rights, which in a number of cases in the judgement *Savić and others against Serbia* had already indicated that the amounts awarded in Serbia were significantly lower compared to the amounts awarded for comparable delays in the case law of the European Court. The decision by which B.M. was exempt from payment

of the entire costs of the proceeding was rendered in this case on December 4, 2019, as part of the first instance judgement.

Field of the media

Political rights before the judiciary: Participation of citizens' associations in the realization of the public interest in the electronic media

The Regulatory Authority for Electronic Media-REM, and the REM Council, as the decision-making body, have a key role in ensuring of the public interest. Associations whose goals are the realization of freedom of expression and protection of children, and meet certain conditions, have the right and the obligation to propose a member of the Council.

The Law on Electronic Media prescribes a complex procedure for the candidacy and examination of civil society candidates in the National Assembly. Going through the election process in 2015, the candidacy of the associations whose goals are the realization of freedom of expression and protection of children encountered numerous obstacles, which is why we had a request for an authentic interpretation of the law regarding elections. After the candidates - Milan Antonijević and Snežana Stojanović Plavšić, were heard before the committee, their candidacies were put to vote at the plenum of the National Assembly and the majority of deputies abstained from voting.

The associations considered that the Administrative Court should protect their legal interest in electing one of the candidates. The law stipulates that the candidate who receives the majority of votes shall be considered elected. The law does not mention what happens if that does not occur. Therefore, it was considered that on one hand there was an obligation of the National Assembly to elect one of the two candidates, because that could have been the only meaning of the entire procedure, and that the public interest dictated that such an important body for society should fully function.

In November 2016, the associations turned all these allegations into a lawsuit against the act of the Na-

tional Assembly and submitted it to the Administrative Court, which is also competent for election disputes. After three years, the Administrative Court decided that the lawsuit was not allowed, so that the candidates did not enjoy legal protection. The procedure is completely meaningless because it took three years to render this decision.

Once again, it was shown that the Republic of Serbia had the laws that are written for a democratic society and presuppose the existence of democratic values, but that in the absence of those assumptions, they are only a letter on paper. No court in Serbia is competent to bring democracy to the National Assembly by its decision. This further means that the representative of civil society in REM is not the choice of civil society, but the exclusive choice of the ruling majority.

Labor rights of journalists

Antonela Riha, former editor of the political section of NIN, received full satisfaction after the unlawful termination of employment

The Court of Appeals in Belgrade confirmed the first-instance judgment and obliged NIN to return the former editor of the political section, Antonela Riha, to jobs that corresponded her qualifications. The former editor of the political section was fired unlawfully on April 16, 2015, at a time when Ringier Axel Springer, within which NIN operates, fired several dozen workers, including single mothers and pre-retirement journalists.

To remind, with the first instance judgement of March 2018, the First Basic Court in Belgrade annulled, as illegal, the decision of the defendant NIN d.o.o. and at the same time obliged the defendant to return Antonella Rich to her job in accordance with the plaintiff's qualifications. The explanation also states that the court had in mind that until the dismissal of the plaintiff, it never happened that the political section was left without an editor, and that

there was a need for the position of editor of the political section all the time.

The second-instance judgement was passed in August 2019, and it fully confirmed the decisions and positions of the first-instance court. The attorneys and representatives of Ringier Axel Springer, after negotiating a suitable job, offered Riha the reintroduction of the position of the editor of the political section. As the procedure itself lasted for four years until it became final, Antonela Riha did not accept to return to work. Ringier Axel Springer has fully compensated Riha for the damages caused by the unlawful termination of employment.

Media responsibility for hate speech against the Albanian national minority

In April 2019, after six years of trial, in the case of the Lawyers' Committee for Human Rights against Kurir, which was marked as urgent by law, the Court of Appeals in Belgrade upheld the judgement of the High Court in Belgrade and determined the responsibility of the editor of "Kurir Info" for hate speech against the Albanian national minority.

The responsibility of the editor was determined because the publication of comments that increase tensions among the citizens of the Republic of Serbia was not prevented, thus placing that national minority in a less favorable position.

Hundreds of discriminatory comments, including "He is a real Albanian. (...) I would not be surprised if such a person participated in the sale of organs of Serbian victims", "Because of such people, the Albanian flag will be flown at the temple of St. Sava in 50 years. Brother Serbs, wake up ...", " Here is a hobby for sports fans, not to fight with each other. This should be their homework. "This fool must be urgently integrated into the foundation of a future building!", provoked by the text "Embarrassment: Ceda's director celebrated the Day of the Albanian flag" which was published in November 2012 on the portal "Kurir info".

The court found that the disputed text, in itself, did not contain hate speech, assessing that the author of the text did not intend to provoke hatred. The Law on Prohibition of Discrimination does not stipulate at all that the intent is necessary to establish the existence of hate speech. These comments confirm that the text provoked and spread hatred and are a clear indicator of why, according to the wording of the law, the intention of the author is completely irrelevant, which the court failed to establish.

The position of national minorities in Serbia is conditioned by daily political needs, which is why many members of minority groups suffer discrimination on a daily basis. The Lawyers' Committee for Human Rights conducted this procedure with the intention of conveying to the media the message of their responsibility for creating an unfavorable social climate towards minorities.



03

**Protection of
Human
Rights in
2019 – current
issues**

1. Serbia between the institutions and standards of the Council of Europe

Amendments to the criminal law: retaliation without public debate

In May 2019, amendments to the Criminal Code of Serbia were adopted, which seriously tightened the penal policy for numerous crimes and, despite intense opposition from the professional public, introduced a life sentence in the Serbian penal system. The sentence of life imprisonment in itself would not be so disputable, if the possibility of conditional release for convicts was not excluded by law for certain criminal offenses for which this sanction can be imposed. Numerous professional associations, as well as international organizations, reacted to this legal solution, and the expert public believes that Serbia acted contrary to its obligations,



Milena Vasić, attorney-at-law at YUCOM

accepted by ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms in the segment that refers to prohibition of torture, inhuman and degrading treatment.

Apart from legal solutions, the law-making process itself was controversial. The text of the Draft could have been seen by the public only a few days before its appearance before the MPs in the National Assembly in the form of a proposal, and there was no public debate in which interested experts could present their comments at all.

The Draft Law on amendments to the Criminal Code was drafted with clear and public opposition from the representatives of the legal profession from all areas - judges, prosecutors, attorneys and non-governmental organizations, except for one foundation that submitted the People's Initiative to amend the law.

In April 2019, the Lawyers' Committee for Human Rights addressed the Ministry of Justice in an open letter in which, with all the expert arguments why we considered such a solution unconstitutional, we pointed out: "We believe that such drastic changes in criminal legislation must not be made quickly and partially, but they must be the result of a comprehensive approach. We call the Ministry to withdraw the said Draft and to form a new working group for the reform of criminal legislation in which these changes would be approached studiously, respecting the Constitution of the Republic of Serbia, ratified international treaties, uniform methodological rules for drafting regulations, and opinions of professional associations and individuals in an adequate public debate". All the time, in an effort to be heard by state bodies that had not opened a public debate, we ran an active media campaign for reconsideration of this decision. Despite all the reactions of the expert public, the Government of Serbia sent the Draft Law to the National Assembly. The European Commission's progress report on Serbia for 2019 refers to the changes in criminal legislation in Serbia and emphasizes the need to assess the compliance of these changes with the European Convention for the Protection of Human Rights and Fundamental Freedoms. Despite all the reactions of the expert public, the Government of Serbia sent Draft Law to the National Assembly.

The explanation of the Ministry for the adoption of the law states: "It should be borne in mind that the permanent working group for amendments to the Criminal Code of the Ministry of Justice in 2015, before submitting the initiative, considered the introduction of life imprisonment to replace the existing maximum sentence of imprisonment from 30 to 40 years. This issue was also open to public debate, where the expert public was asked to express its opinion on it. The issue of the introduction of life imprisonment stirred up the professional public, led to thoughts, conversations, polemics and, by the nature of things, opened many other questions. The Ministry of Justice then concluded that it was not possible to give a final judgment on that, because the expert public was divided on this issue. "

The Ministry does not explain based on what it was concluded that four years later the conditions were met to introduce a life sentence, but in one part of the explanation, it assures us that a life sentence can be more humane than a sentence of 30 to 40 years:

"If a convict who has been serving a sentence of 40 years is released before the end of his life, the question arises as to what he gets, considering that, as a rule, he is without means of livelihood, in old age, with broken ties with family and friends."

The Constitution of Serbia explicitly states that the achieved level of human and minority rights cannot be reduced. The sentence of 30 to 40 years replaced previous death penalty. Returning to a more severe punishment is a retrograde move towards reducing the scope of human rights. In particular, it should be borne in mind that for certain acts, such as aggravated murder, for which life imprisonment is threatened, conditional release is not allowed, which is directly contrary to numerous international agreements that prohibit torture, inhuman and degrading treatment and punishment. This means that Serbia is awaiting payment of damages before the European Court of Human Rights for violating the European Convention on Human Rights and Fundamental Freedoms.

The European Court of Human Rights has clearly held the position that the practice of banning parole in the cases of imposed life sentences is not in line with the European Convention, as a person sentenced to life imprisonment must be given the legal opportunity to reconsideration whether the conditions for his/her release on parole were met. This does not mean that the convict must be released, but only that he/she must have the right to have his/her release reviewed.

The simple isolation of a convicted person for the rest of his/her life, without the possibility of parole, in addition to being an act of state torture against an individual, presents a danger that such an isolated individual, who knows he/she will not be able to be released, would be free to repeats any crime during the sentence, without fear of a more severe criminal sanction.

What will the sentence of life imprisonment change in our society? By itself, it does not have the capacity to influence the crime rate in Serbia, nor to reduce the commission of crimes for which it is prescribed, since

the perpetrators of these crimes do not reconsider the decision to commit a new crime for fear of sanctions. This is most vividly illustrated by the states that still have the death penalty in their laws, and which have not eradicated the mentioned criminal acts. The certainty of criminal prosecution and punishment, on the other hand, is a substantial element that can influence the perpetrator to reconsider his/her decision. However, none of the proposed regulations provide for policies to strengthen the capacity of the public prosecutor's office or the police, which are in charge of prosecuting the perpetrators and conducting the investigations.

The Ministry also assures us that tightening of the penal policy in the direction of increased prison sentences will not require funds from the budget of the Republic of Serbia necessary for the implementation of this law. Prison overcrowding in Serbia has been noted in numerous reports by the National Preventive Mechanism, as well as by international bodies such as the Council of Europe's Committee for the Prevention of Torture. The results of this reform are in direct contradiction to Action Plan of Chapter 23, which provides for a number of measures to reduce the prison population. The increase in the number of prisoners will directly affect the need to increase the number of employees in the Directorate for the Execution of Criminal Sanctions. All this requires money. The money that will not go to the fund for victims of criminal acts, which the state categorically refuses to form, but to the prison system.

Amendments to the Criminal Code also bring us new obligatory aggravating circumstances for multiple recurrence, regardless of whether the previous conviction was for the same or a similar crime, which significantly reduces the role of the judge in the individualization of the criminal sanction. The court will have to punish more severely someone who has been convicted by a final judgement in the previous five years, regardless of the crime in question. Such a solution was justifiably abandoned for a long time in the domestic criminal legislation, since the perpetrator is more severely punished for the act for which he has already been punished, i.e. convicted, and which does not have to be related to the act for which he is now being tried. Thus, for example, if someone is convicted of a tax evasion offense and commits a traffic offense in the next five years, even though these offenses are not related and say nothing about the tendency of that

person to commit crime, they will have to suffer a more severe sanction, without the possibility for the judge to determine the punishment he/she deems adequate, in accordance with his/her convictions and the aggravating and mitigating circumstances prescribed by the law.

The assurance of the Ministry of Justice and the President of the state, who announced these changes in late 2018 despite not having jurisdiction to do so, that criminal legislation is changed to help the victims - is unfounded, since many appeals of the NGOs and activists to change the definition of rape, to establish a special fund for compensation of damages to the victims, to increase the scope of rights and protection of victims in criminal proceedings, have been left unanswered. Even now, when the amendments to the criminal legislation were made overnight, the experts has not been heard regarding these proposals.

In November 2019, together with the Belgrade Center for Human Rights and the UN Human Rights Team in Serbia, we organized an expert conference to which relevant domestic and international criminal law experts were invited, including former judges of the Constitutional Court, university professors, professionals from the international organizations, and numerous other experts, and they unanimously agreed that such changes in the criminal legislation and the way in which they were introduced into the legal system of Serbia undermined the constitutional order of Serbia.

Finally, let us look at the reasons for conducting criminal proceedings and the purpose of punishment from the very beginning of the text of the law, which has also been amended. The additions include fairness and proportionality between the committed act and the severity of the criminal sanction. A criminal sanction should represent some "evil" that the perpetrator suffers, and which will deter both the specific perpetrator and other members of society from committing the crime. These are the so-called individual and general preventions. Having in mind all the changes we mentioned, rounded off with a new purpose of punishment, i.e. introduction of fairness and proportionality between the act and the sanction, it is clear that the element of revenge was actually introduced, which resembles the rule "an eye for an eye, a tooth for a tooth" from the Code of Tsar Dusan, rather than the modern codification of the criminal law.

Jovanovic v. Serbia: seven years since the ruling of the European Court of Human Rights on the Law on Missing Babies

In March 2013, the European Court of Human Rights issued a judgement in the case of Jovanović v. Serbia. The court found that Serbia had violated Article 8 of the Convention and violated the applicant's right to family life by failing to conduct an effective investigation to establish the facts surrounding the disappearance of the applicant's newborn baby. Namely, the applicant alleged that her child had not died 72 hours after the birth (1983), but that it had been unlawfully taken from her during her stay at the Čuprija Health Center. Having in mind that she had never received an autopsy report, nor the body of the child, the applicant filed a criminal complaint with the Municipal Public Prosecutor's Office in Čuprija. The competent prosecutor's office decided that there was no place for criminal prosecution, failing to provide an explanation for rejecting the criminal report or evidence that some of the investigative actions had been carried out.

The European Court of Human Rights awarded the applicant 10,000 EUR in respect of non-pecuniary damages. The Court obliged the Republic of Serbia to implement certain measures of a general nature, as it identified this problem as systemic and to respond appropriately within one year of the judgment becoming final, in order to establish a mechanism that would enable all parents in similar situations to receive appropriate answers and compensation. In doing so, an independent body with appropriate powers should oversee this process, in which credible answers could be given regarding the fate of each child, as well as offer appropriate compensation to the parents of missing children. According to the recommendation of the Protector of Citizens, the court suggested that this be done through *lex specialis*.

The Lawyers' Committee for Human Rights has intensively monitored the execution of this judgment of the European Court of Human Rights since its adoption, which we have already written about in previous annual reports, so in this part the focus will be only on new information and events. After several resolutions of the Committee of Ministers of the Council of Europe, which we tirelessly addressed and reported on (lack of) activities of Serbia on the implementation of the Jovanovic v. Serbia judgement, as well as visits of high officials from the Department for Execution of Judgments, the *Draft Law on establishing of the facts*

on the status of newborn children suspected of missing from maternity wards in the Republic of Serbia came to the agenda of the National Assembly of Serbia, just before the dissolution of the Assembly due to announcement of regular parliamentary elections. This draft was loudly and publicly criticized several years ago by the parents of the missing babies, as well as by numerous professional associations, and YUCOM has already written and informed the public in Serbia through its publications and the media. Serbia was in a hurry to pass the law in February, just before the dissolution of the Assembly, due to the announced session of the Committee of Ministers of the Council of Europe, where this issue would certainly be discussed and a resolution passed against Serbia, since its draft had already been prepared. To a certain extent, this situation presents an unexpected turn for the parents of the missing babies, since the same Draft Law had been in the parliamentary procedure for more than a year, but it did not come on the agenda until the very end of the mandate of the MPs from this parliamentary convocation.

Due to numerous shortcomings in the legal text, as well as the procedure that did not provide guarantees that the facts about the missing children would be established, the parents organized a civil action in front of the National Assembly of Serbia, supported by numerous associations of citizens that observed the implementation of this judgement and the process of the adoption of the law, including Astra, the A11 Initiative, as well as the Lawyers' Committee for Human Rights. Under public pressure, the Government of the Republic of Serbia scheduled a meeting with the parents of the missing babies, and at that occasion, the amendments to the legal text were harmonized. The amendments envisage, first, the establishing of a special independent commission that would collect facts about the status of the missing newborn children, which would consist of the representatives of the relevant state bodies, but also representatives of the association of parents of the missing children. The task of the Commission, which should be formed 30 days as of the beginning of the implementation of the law, is to collect and process all the facts and data in possession of the judicial authorities, police, medical institutions, registry offices, funeral companies, Centers for Social Work, and all other state bodies that could have facts and knowledge related to the seizure and trafficking of newborn children. The circle of persons who can submit a proposal for determining the status of a child suspected of missing has been expanded, so that this proposal can also be submitted by a person doubting his/her origin. An intervention was made in the Article that regulates the termination of the procedure, which

had been objected by the professional associations, and the following paragraph was added:

“A final judgement by which the court stated that the status of a missing newborn child cannot be determined does not prevent the proposer from reopening the procedure on the same matter, if he/she learned new facts or found or gained the opportunity to use new evidence.”

Thus, a joint effort led to a solution that was formally acceptable primarily to the parents of the missing babies. The law was adopted on February 29, 2020, and its implementation was postponed for three months from its entry into force.

The adoption of the law that reached a compromise between the state and the civil sector is a big step in the enforcement of the *Jovanović v. Serbia* judgement and the realization of the rights of many parents who doubt that their children really died immediately after birth. However, the adoption of the law does not mean the enforcement of this judgement and the achievement of justice for all the parents. The Lawyers' Committee for Human Rights will continue to monitor the implementation of this law and report to both the domestic and international public, as well as international institutions such as the Committee of Ministers of the Council of Europe, and we hope that, in the next report, we will be able to report on the cases where the circumstances on the missing children were successfully resolved.

2. Formal road towards the European Union: revision of the AP for Chapter 23

The long-awaited revision of the Action Plan for Chapter 23 (Judiciary and Fundamental Rights) has officially started at the beginning of 2019. Although this may sound as a positive step and the Government's determination to work on improvement of this document, it is necessary to stress that the revision is not just another logical step on the country's path to the European Union. Namely, the revision process was presented to the public simply as harmonization of a strategic document with interim benchmarks provided by the European Commission.

As stated in the negotiating framework of Serbia, these interim benchmarks “will specifically target, as appropriate, the adoption of legislation and the establishment and strengthening of administrative structures and an intermediate track record and will be closely linked to actions and milestones in the implementation of the action plans”. Thus, it is implied that those implementing the action plan, in good faith, should adjust the activities from the document to the interim benchmarks in terms of their focus and qualitative improvement towards a more specific response to the goal which needs to be fulfilled.

Revision of action plans in the process of accession to the EU is a corrective measure that must be applied in case of any problems during negotiations on Chapters 23 and 24. The public in Serbia was informed about the revision of the existing Action Plan for Chapter 23 at the very beginning of 2019, with an explanation that the authorities had worked on this document throughout 2018 with an ongoing process of consultations between the Ministry of Justice and all the parties responsible for implementation of the activities from the document.

- Revision of the Action Plan for Chapter 23 in 2019 and 2020

Less than two years after adoption of the Action Plan for Chapter 23 and receipt of interim benchmarks for this chapter, Serbia found itself so far behind in terms of the progress and implementation of the planned activities that it was necessary to activate a corrective mechanism in order to adequately approach implementation of the required reforms and adjustments in terms of independence, efficiency and accountability of the judiciary, fight against corruption and protection of fundamental rights and freedoms, such as freedom of expression, freedom of the media, the right to access to justice or protection against discrimination.

The negotiating framework reminds us that “these action plans setting out Serbia's reform priorities should be developed through a transparent process of consultation with all relevant stakeholders to ensure maximum support for their implementation”. It should be implied that both the process of consultations and the public debates regarding revision of these documents should be organized in the same manner.

However, the Ministry of Justice announced a public debate regarding the first version of the revised Action Plan for Chapter 23 and gave a deadline of less than 2 weeks for the comments of the civil society. On this occasion, the Working Group of the National Convention on the EU (NCEU) for Chapter 23 sent an *Open Letter to the Ministry of Justice regarding the public debate on the First Draft of the Revised Action Plan for Chapter 23*, asking for a structured version of the document and extension of the public debates due to importance of this strategic document and due to the short deadline for submission of comments.

Although the Ministry of Justice accepted this appeal and extended the consultations for two more weeks, this was another indicator of something that was already noted by the civil society and that was the focus of the European Commission's annual progress reports on Serbia, and that is the fact that there are no basic guarantees, or universal procedures in line with legally prescribed framework for public debates, that is, for public debates. If it is necessary to constantly remind of and emphasize the importance of structured and constructive inclusion of civil society and experts into these debates, then it is clear that the legal provisions are not consistently implemented.

The situation with the Action Plan-related consultations improved slightly during 2019, but the revision discussions almost completely took up the space for monitoring of the Chapter 23 reforms. In addition, the Council for Implementation of the Action Plan for Chapter 23 stopped publishing its reports, so the civil society that was monitoring the progress either as individual organizations or through the work of the National Convention on the EU (NCEU) remained completely in the dark when it comes to what the institutions have done in the previous year in the areas included in this chapter.

The NCEU Working Group for Chapter 23 submitted over 200 specific comments on concrete activities in the revised document. Slightly over half of those comments were adopted and to a certain extent incorporated into the version that was sent to the European Commission in May 2019. The comments that were not adopted pointed out to precisely those key deficiencies related to cultivation of the rule of law in Serbia and referred to revival of the process of amendment of the Constitution for purpose of higher independence of judiciary, fulfillment of recommendations in the field of improvement of free access to information

of public importance, improvement of position of independent institutions, as well as improvement of freedom of the media.

After the adjusted version of the document, which included the comments of the civil society, also received the comments from the European Commission, which were essentially the same as the comments submitted by organizations and professional associations, the Ministry organized another set of consultations that were, this time, reserved only for the NCEU members. The comments of the NCEU Working Group for Chapter 23 were officially submitted to the Ministry of Justice only two days before introduction of the state of emergency related to the COVID-19 virus epidemic that has stopped the process. Response to these comments is still to be provided.

- **Removing the focus from reforms and the consequences of the state of emergency**

What are the consequences of the government focusing on reform of the document instead of the real reforms? Looking from the perspective of the currently lifted state of emergency, all those things that were seen for years as damaging to the institutions that should defend the rule of law and fundamental freedoms, are now being much more pronounced. The National Assembly, as the legislative branch and the main control mechanism, has reached the peak of its collapse with full suspension of its work at the very beginning of the state of emergency. This allowed for absolute concentration of the decision-making power in the executive branch. Lack of space for the non-regime media will now lead to the situation where certain absolute rights are threatened, precisely due to the fact that there is no way for certain information to reach the citizens at all, or at least at the right time.

Certain measures that endanger the right to a fair trial, freedom of expression and that discriminate some parts of the society, serve only as the confirmation that the government lacks fundamental understanding of the importance of previously proposed reforms oriented towards acceptance of certain democratic values. At this moment, it is necessary to focus the efforts specifically on strengthening of rather weakened independent institutions and on giving them some space.

3. Reduced capacities of organizations and institutions for protection of rights

Threats and pressures from the Belgrade Bar Association to the lawyers cooperating with civil society organizations

Free legal aid system has been established with adoption of the Law on Free Legal Aid in November 2018, which, after 12 years, fulfilled the constitutional obligation to give access to justice to the citizens. This law prescribes a procedure through which the citizens of Serbia can get the free legal aid and free legal support. While there are certain legal requirements that must be met for the free legal aid, that is, for the representation in court and other bodies, any Serbian citizen may get free legal support from the providers registered at the Ministry of Justice.

Besides adoption of a series of bylaws, the registration of providers was a precondition for this system to start functioning on the date stipulated by the law, that is, on October 1, 2019. Preparations for the beginning of implementation of the Law on Free Legal Aid were marked by new tensions between the Belgrade Bar Association and the associations providing legal aid and support.

In contrast to 2018, when the notices before the lawsuit were sent to associations for unlicensed legal services and mediation in provision of services, in 2019, the Belgrade Bar Association directed its threats and pressures to the attorneys and legal trainees who were active in the associations.

- Pressures on attorneys heading the associations

In January 2019, the Belgrade Bar Association sent an [Appeal to all the attorneys and legal trainees of the Belgrade Bar Association](#) to harmonize their legal

practices, not later than March 1, 2019, with provisions of the law, the statute and the code referring to prohibition of activities which were incompatible with the legal profession. The appeal refers to the *Law on Legal Profession* and the *Statute of the Belgrade Bar Association*,¹ and states that “an attorney shall not be employed outside of the legal profession, and an attorney cannot be entrepreneur, statutory representative, director or president of a Management Board in a legal entity, member or president of an Executive Board of a bank, representative of state-owned capital, procurator, mediator in the market of goods or services, bankruptcy administrator or liquidator, since these positions are stipulated as incompatible with the legal profession”. The Belgrade Bar Association informed the attorneys and legal trainees that after the month of March it would implement a procedure for deleting from the Directory all the attorneys and legal trainees who failed to adjust their activities in accordance with the interpretation of the Belgrade Bar Association.

Since the Lawyers’ Committee for Human Rights is one of the organizations using attorneys’ services for legal aid and representation of citizens in cases of human rights violation, and since its director is an attorney, Katarina Golubović explained in her response to this appeal that YUCOM was a professional association conducting its activities as a non-profit association and that performing the tasks of the director did not imply management of the capital. Performing the tasks of director is in line with legal practice activities as per the *Code of Professional Ethics for Attorneys*, where Article 11, paragraph 5 stipulates that “an attorney-at-law may occupy a leading position or be a member in a state body to which he/she is elected in accordance with the law from the ranks of attorneys-at-law or by attorneys-at-law, and in expert, working or advisory state bodies and entities that are non-governmental in character, as well as in managing and editorial boards, or publishing councils of organizations, provided that he/she is not employed therein permanently and that such work is not in conflict with the principles of legal profession”. In addition, the Statute of the Bar Association of Serbia stipulates in Article 243, paragraph 3 the following: “An attorney-at-law shall have no right to get employed

¹ They referred to the provision of Article 83, paragraph 1, item 9 of the Law on Legal Profession (“Official Gazette of the RS”, no. 31/2011 and 24/2012 – decision of the Constitutional Court) and the provision of the Art. 244, par.1, item 9 of the Statute of the Bar Association of Serbia (“Official Gazette of the RS”, no. 85/2011, 78/2012 and 86/2013).

except in a law partnership, nor shall he/she be allowed to be a statutory agent, a director or chairperson of the board of directors of a legal entity except in sports, cultural and non-for-profit organizations, provided that such engagement does not constitute a conflict of interest, a member or chairperson of the executive board of a bank, a representative of the state funds, a procurator or a person whose engagement precludes competition". According to Article 21, paragraph 4 of the Law on Legal Profession, precise description of incompatible activities is provided by the code and the statute, thus these provisions are relevant for interpretation of incompatibility of activities.

The Belgrade Bar Association sent the warnings of deletion from the Directory of Attorneys and termination of their activities to all the attorneys, including the ones who are statutory representatives of all non-profit associations (sports, culture, science, humanitarian associations, etc.). This was done despite the fact that the Code of Ethics and internal regulations of the Bar Association of the Republic of Serbia explicitly allow attorneys to be the heads or members of non-profit associations. Several attorneys, including Marko Nicović as the President of the World Karate Confederation, sent their responses to the Belgrade Bar Association, but these did not have any effect or impact on the interpretations by the Belgrade Bar Association that considered the provisions of internal regulations of the Bar Association of Serbia irrelevant. As the result of these threats, many attorneys withdrew from their head positions. Under the pressure from the Belgrade Bar Association, some organizations, including YUCOM, had to change their Statute of the Association and their legal representatives. An appellate proceeding is still in progress against the decision to delete attorney Blažo Nedić, representative of the organization "Partners Serbia" who has been providing support to improvement of public policies and judiciary efficiency for 10 years, from the Directory of Attorneys.

- **Pressures on the attorneys cooperating with associations**

New pressures were introduced in September 2019, before the beginning of implementation of the Law on Free Legal Aid.

The Belgrade Bar Association sent an Invitation to Register for the list of attorneys providing free legal aid to all interested attorneys in Belgrade, who wished to be on this List of Attorneys-Free Legal Aid Providers created by the Bar Association of Serbia,

where they should have registered not later than by September 26, 2019. This invitation states that the Bar Association "expects that only the attorneys financed from donations to the associations would have an interest to register for this list of attorneys providing free legal aid allegedly *pro bono*, and that their work will be evaluated by appropriate bodies of the Bar Association in light of the provisions of the Code of Professional Ethics for Attorneys prohibiting unfair competition within the legal profession".

- **Reaction of the associations**

Due to the above-mentioned, in November 2019, YUCOM, together with 13 associations² – long-term providers of free legal aid and support to access to justice in Serbia – sent an open letter titled "Belgrade Bar Association Brings Access to Justice in Danger" to the international public, including the United Nations Special Rapporteur on the Independence of Judges and Lawyers, and the Council of Bars and Law Societies of Europe,³ drawing the attention to the practices of the Belgrade Bar Association. As stated in the letter, through its actions, the Belgrade Bar Association had been threatening the freedom of association of lawyers, the right of citizens to access free legal aid and the ongoing development of mediation services, thus denying citizens effective access to justice.

The Associations pointed out that the Managing Board of the largest chamber in Serbia, the Belgrade Bar Association, had taken a number of measures not based on the regulations governing the practice of law. The Belgrade Bar Association had restricted the right to practice in the public interest through free association to almost 5,000 attorneys-at-law.

- 2 Open letter was signed by the Lawyers' Committee for Human Rights - YUCOM, Humanitarian Law Center, Open Society Foundation Serbia, Autonomous Women's Center, Belgrade Center for Human Rights, Civic Initiatives, People's Parliament Association Leskovac, Partners for Democratic Change Serbia, A-11 Initiative for Economic and Social Rights, Committee for Human Rights in Serbia – CHRIS Network, Association "Da se zna!", "Praxis and "Pištaljka".
- 3 Open letter was delivered to the UN Special Rapporteur on the Independence of Judges and Lawyers, general directorates of the EU Commission – the Directorate-General for European Neighbourhood Policy and Enlargement Negotiations (DG NEAR) and Directorate-General for Justice and Consumers (DG JUST), the EU Delegation in Serbia, the Rule of Law Initiative of the American Bar Association (ABA Roli) and the Council of Bars and Law Societies of Europe.

At the end of September 2019, just before the beginning of implementation of the Law on Free Legal Aid, the Belgrade Bar Association called its members to opt between provision of free legal aid paid by the state and pro bono provision of service. Although the pro bono legal aid is today practiced by many renowned legal offices and is done without subsequent compensation from the state, the Belgrade Bar Association interprets the pro bono services exclusively as provision of services in cooperation with civil society organizations. In addition, the Belgrade Bar Association has characterized such practice as unfair and announced a special supervision of all the attorneys who cooperated with associations.

These actions threaten the right to freedom of association of attorneys, as well as free and independent performance of profession.

The organizations noted that behavior of the Belgrade Bar Association could significantly impede access to free legal aid for many citizens who, under the law, do not meet very restrictive conditions but could receive aid through some of the non-governmental organizations that have been providing this type of service for many years. The idea behind registering of civil society organizations is to provide assistance to vulnerable groups, together with professionally trained attorneys, regardless whether they meet the strict conditions for being a beneficiary of the system, with a permission to provide support with their own financial resources. While the Ministry of Justice supports this type of legal aid, the Belgrade Bar Association has restricted it with its warning about special supervision and treating this type of support as particularly suspicious.

The warnings addressed to the attorneys cooperating with the associations include creation of a special list of these attorneys and announcement of stricter control of their work. These measures precisely aim at demotivating people from working in the public interest through civil society associations that assist the most economically and socially vulnerable citizens. These vulnerable citizens are numerous in Serbia and they will feel the consequences of the Belgrade Bar Association's recent actions.

The associations emphasized that in 2018, the UN Special Rapporteur on the Independence of Judges and Lawyers' *Report on Bar Associations* stressed that bar associations played essential role in a democratic society in enabling free and independent

performance of legal profession and in ensuring access to justice and protection of human rights, especially because of the proceedings and rights to fair trial.

The civil society organizations called on attorneys' associations and other parties to invite the Belgrade Bar Association to bring its activities in line with the role of bar associations in upholding the rule of law and access to justice for citizens, and called on the Belgrade Bar Association to stop with intimidation tactics against the attorneys engaged with the civil society.

- **Reaction of the International Bar Association**

The largest and the oldest international bar association, the International Bar Association - IBA with 80,000 members and 190 bar associations, sent an appeal to the Belgrade Bar Association to stop its activities that were contrary to the duties of bar associations. This association pointed out to the Belgrade Bar Association its three objections - that it discourages provision of *pro bono* services by the attorneys; that it warns that the services financed from donations are contrary to the non-competition rules; that it reduces *pro bono* work by its interpretation that non-governmental organizations (those that are not financed from the state budget and that provide aid through *pro bono* attorneys) may provide only the services related to discrimination and asylum.

This association reminded the Belgrade Bar Association about the Declaration on Human Rights Defenders, as well as about the vital importance of the attorneys working with associations when it comes to achievement of access to justice for all.

- **Reactions of the Council of Bars and Law Societies of Europe**

In December 2019, the Council of Bars and Law Societies of Europe - CCBE urged the Belgrade Bar Association to stop with the restrictions directed at the attorneys cooperating with the citizens' associations, and to focus its activities on supporting the rule of law and access to justice. In the opinion of the Council of Bars and Law Societies of Europe, the Belgrade Bar Association should not use the regulations related to unfair competition to limit legal aid to vulnerable categories of citizens, because that is not in line with the principles of bar associations.

- **The Belgrade Bar Association's responses to international appeals**

In its reaction to the appeals from the two most prominent international and regional organizations of lawyers, the Belgrade Bar Association expressed its doubt in the authenticity of associations' complaints. The BBA stated that "it was its duty to ensure respecting of norms that regulate legal profession and no one can have any privileges when it comes to respecting of the provisions which prohibit unfair competition and the provisions which prohibit activities that are incompatible with the legal profession, and that is why the decisions were made regarding all those who failed to adjust their activities with the Law and the Code". They stated that the goal of the submitted complaint was protection of the privileged status of certain attorneys from the non-government sector who did not practice law "actually and constantly", but used it "as a front" for their other activities, as well as the attorneys who found new clients through citizens' associations.

- **Consequences**

The BBA has continued with its own interpretation of the law and internal regulations and initiated procedures for deletion of several attorneys from the Directory. At least one prominent human rights defender was deleted from the Directory of Attorneys. Associations have replaced their legal representatives. Many associations have not registered as free legal aid providers due to legal uncertainties. Many attorneys who cooperated with associations have not registered at all.

Independent institutions for human rights protection

Since the introduction of independent institutions in Serbia, one obstacle to realization of their full potential has been a lack of resources. Despite adoption of the laws that were to a great extent in line with the European standards, their inability to ensure adequate number of employees or appropriate office space confirmed the lack of political will to have these institutions take up the role such institutions have in the European Union countries. Due to the

strong and independent individuals at the head of these institutions, they have still managed to assume an important position in the society despite initial difficulties. Their work helped note many problems the citizens faced in exercising of their rights, and their annual reports have become a sort of an indicator of the condition of human rights in Serbia. Although it is necessary to make additional efforts to adequately inform citizens about the independent institutions' roles and competences, their potential has been recognized by the state bodies that, instead of helping and supporting them, try to limit their influence.

As formally separate bodies, independent institutions are often equated with individuals at their head, and thus they are seen as political opponents. Parallel with the media pressures, there are also efforts to put these institutions under control by appointing persons whose closeness to the government is more important than their knowledge and experience in the field of human rights. When there is a change at the head of these institutions, there is often a sudden change in the way the pro-regime media treat them by suddenly showing them in a positive light. Due to this worrying trend, in 2019, the Lawyers' Committee for Human Rights paid a lot of attention precisely to the position and functioning of the independent institutions.



Milan Filipović, legal advisor at YUCOM

Several months before the end of the term of Rodoljub Šabić as the Commissioner for Information of Public Importance and Personal Data Protection, in December 2018, as part of an informal coalition, YUCOM advocated for improvement of procedure for election of new Commissioner that would

ensure competence and integrity of the head of this institution.

However, by the end of July 2019, neither the election nor improvements of the election process happened. Having in mind that implementation of the new Law on Personal Data Protection was planned for August 2019, the National Assembly's 8-month delay in election of the new Commissioner significantly jeopardized the reform processes in the field of the privacy rights. This was immediately confirmed by Mr. Milan Marinović, new Commissioner for Information of Public Importance and Personal Data Protection, who, right after taking the office, asked for a delay in implementation of this law. Since that did not happen, the associations, including YUCOM, offered their full cooperation and support to the new head of the institution in the process of establishment of a new personal data protection system.

The year 2019 and the beginning of 2020 were marked by election of key persons in independent institutions for human rights protection. Mandate of the Serbian Ombudsman's deputies ended in December 2018, and the new ones were appointed only a year later, in December 2019. These mistakes of the National Assembly, as well as the consequences for the human rights protection efficiency were pointed out in the reports of the Working Group for Chapter 23 where YUCOM serves as the coordinator. Mandate of the Commissioner for the Protection of Equality, Brankica Janković, ended in May 2020. At that time, the National Assembly was dissolved. In case of the election of the Commissioner for the Protection of Equality, legal solutions alone do not ensure efficient functioning in the transitional period, since the election takes place three months after the end of mandate of the head of that institution, while the position of an Acting Commissioner for Protection of Equality does not even exist as an option.

During 2019, YUCOM conducted five analyses, studies, and reports on functioning and position of the Protector of Citizens and local ombudsmen: *5 years: Analysis of the work of the Protector of Citizens of the Republic of Serbia in the period 2015–2019, Research on Efficiency of Ombudsman, Alternative Report on Application of Action Plan for Chapter 23 and Pro and Contra Analysis on Jurisdiction of Protector of Citizens, and Analysis of the Position of Local Ombudsmen in the Republic of Serbia.*

These analyses were done at the beginning of procedure for assessing capacities of the institution of the Protector of Citizens to meet the Paris Principles and ensure application of international standards in the field of human rights. In addition, since the process of constitutional amendments in the field of jurisdiction envisions the role of the Protector of Citizens, and since there are initiatives to change competencies of the Protector of Citizens, YUCOM was specifically focused on the assessment of these proposals.

During 2019, the Lawyers' Committee for Human Rights invested a lot of effort in improvement of the work of local ombudsmen who, together with the Provincial Ombudsman and the Protector of Citizens, form an ombudsman system that provides protection to the citizens in their dealings with the administrative bodies during application of both national and local regulations. However, these institutions' relations are not adequately regulated and that is one of the important issues that should be regulated either by the Law on the Protector of Citizens or by a separate Law on Local Ombudsmen. There is a good cooperation with the Association of Local Ombudsmen, and in December 2019, in cooperation with the Working Group of the National Convention on the EU for Chapter 23, a special session was organized on the topic of independent institutions.



04

**Most
significant
projects**

PROJECTS

Title:

Constituencies for Judicial Reform in Serbia

Duration:

January 2019 – January 2022

Donor:

United States Agency for International Development (USAID)

About the project: The overall objective of this project is to strengthen citizens' confidence in the work of judicial institutions in the Republic of Serbia by improving communication between the citizens and the judiciary.

The Project is implemented by a coalition of 12 organizations engaged in human rights and the development of democracy, as well as professional judicial associations:

1. Lawyers' Committee for Human Rights (YUCOM);
2. European Policy Centre (CEP);
3. Association of Public Prosecutors and Deputy Public Prosecutors in Serbia;
4. The Network of the Committee for Human Rights in Serbia (CHRIS Network);
5. Judges' Association of Serbia;
6. Transparency Serbia;
7. Belgrade Centre for Security Policy (BCSP);
8. Partners for Democratic Change Serbia (Partners Serbia);
9. Belgrade Centre for Human Rights;
10. Judicial Research Center (CEPRIS);
11. People's Parliament Leskovac;
12. Forum of Judges of Serbia.

One of the three main goals that the project aims to achieve is to establish proactive relationship between the representatives of the judiciary and the citizens and their better acquaintance with the system itself, which would help citizens to better meet and understand their rights, as well as how to achieve them. The project aims to establish this type of relationship through several channels of communication with citizens, which have been adapted to different social structure of the population, age and education level. This includes communication through a digital platform, digital

media and blog posts, as well as through Thematic Open Door Events in 15 cities and municipalities in Serbia. Led by the spirit of developed democracies, the project wants to adopt the principle of open dialogue between citizens and the judiciary, and to encourage their greater engagement in local communities. The task of the project is to help citizens to understand their rights guaranteed by the Constitution, and to inform citizens how the judicial system works and how judges and prosecutors make fair and rational decisions.

The second goal of the project involves work of organizations on researching and detecting the primary needs of citizens in their everyday experiences with the judiciary in Serbia. This activity tries to understand and investigate citizens' reasons for low level of trust in the judicial system, widely monitoring citizens' experiences in meeting with the judiciary. As a result of this activity, the coalition on the project will create three comprehensive reports that would serve as a mean of further formulation of public policies that support citizens' needs.

The last goal of the project is to raise the accountability and integrity of judicial institutions. The project aims to work with judicial and civil society stakeholders to enhance the integrity and accountability of judicial institutions through an improved methodology of integrity plans and an open procedure for appeals and free citizens' complaints, by making them more transparent and accessible and by engaging the citizens themselves.

During 2019, digital platform "[Constituencies for Judicial Reform in Serbia](#)" was created where you can find all the content produced by this project. Over 80 texts were published explaining to citizens in a clear and interesting way how to exercise certain rights, helping them understand complicated procedures,



or explaining the meaning of certain laws/rulebooks. The authors are judges, prosecutors, and legal experts, with expertise in the concrete fields covered by these texts. Over 10 infographics were designed explaining through illustrations the ways and steps for exercising of certain rights.

In cooperation with the Supreme Court of Cassation, 15 basic courts were selected (Basic Court in Sombor, Basic Court in Pančevo, Basic Court in Zrenjanin, Basic Court in Novi Sad, Basic Court in Šabac, Basic Court in Kragujevac, Basic Court in Kraljevo, Basic Court in Ivanjica, Basic Court in Užice, Basic Court in Kruševac, Basic Court in Negotin, Basic Court in Niš, Basic Court in Leskovac, Basic Court in Vranje, Basic Court in Knjaževac) as the courts where these activities would be implemented, and which were recognized during 2017 and 2018 by the Supreme Court of Cassation for their contribution to the efficiency and quality of the court system.

In all 15 basic courts, Thematic Open Door Events are regularly held 3 times per year on different subjects of interest for the citizens, and their goal is to open the courts to citizens and establish communication where citizens would have an opportunity to ask representatives of judiciary bodies some concrete questions. Thus, by March 2020, 29 Thematic Open Door Events were held on such subjects as “Why do trials last so long” and “How to ensure efficiency and fairness of enforcement procedure?” with participation of over 800 citizens, 40 judges and 14 public enforcement officers.

Some of the activities include creation of 9 educational guides on different topics that explain to citizens in a simple language without complicated legal terminology how to exercise a certain right or how to behave in certain situations, and these guides include the following:

1. “My rights in enforcement proceedings”;
2. “My rights in case the trial lasts unreasonably long”;
3. “Guide to protection of consumer rights”;
4. “My rights in case of (il)legal wiretapping”;
5. “How to report corruption and what are my rights and obligations in case I report it?”;
6. “What to do when I receive a witness summons?”;
8. “Why we need an independent judge”;
9. “My rights in case of stop-and-search and depri-

vation of liberty”;

In 15 basic courts that we cooperate with, professional photos were made of functional parts of courts with explanations for citizens. This presentation of courts is available on the platform: www.otvorenavratapravosudja.rs



Momčilo Živadinović, project manager at YUCOM

Title:

Free Legal Aid Unpacking

Duration:

July 2019 – June 2020

Donor:

Embassy of the Kingdom of the Netherlands

About the project: Overall objective of the project is improving access to justice and assistance in development of the rule of law in Serbia. Access to justice in Serbia is especially important in the light of recently adopted Law on Free Legal Aid and amendments to other legal regulations that will have a direct impact on the citizens’ rights. The project will offer recommendations regarding improvement of the legal system, and it will also assist in implementation of the Action Plan for Chapter 23 and the commitments related to the EU accession process.

One of the key issues in the process of application of the Law on Free Legal Aid is lack of public debate. In order to avoid the past mistakes, there is a need for a detailed observation and intensive debate on harmonization of procedural law. Therefore, YUCOM has been monitoring the amendments to the Civil Procedure Code and other procedural laws, as well as their harmonization with the said Law on Free Legal Aid. This monitoring will provide information on main obstacles to availability of justice. The information collected is presented in the report with recommendations.

In addition, the project also provides free legal aid to the persons in need of such aid, as well as to vulnerable groups that are not given legal possibility to receive that aid. YUCOM produced an Annual Report with all the relevant information related to the human rights conditions in Serbia, with special focus on those who seek free legal aid.



Title:

The Protector of Citizens in the Context of EU Integrations

Duration:

May 2019 – December 2019

Donor:

Embassy of the Federal Republic of Germany

About the project: The main goal of the project is to improve the efficiency of institutions and to increase the independence of the Ombudsman, which would facilitate citizens' access to information related to the Ombudsman's work, and equal access to justice.

In order to improve the legislative and normative framework in the field of protection and promotion of fundamental rights, and the work of the institution of the Ombudsman, Serbia is required to fulfill important activities from the Action Plan



for Chapter 23 in the EU negotiation process. When we consider the state of fulfillment of the basic responsibilities of Serbia in this regard, the adoption of the Amendments to the Law on the Protector of Citizens has been delayed, which slows down the strengthening of independence and improvement of the efficiency of the work of this institution. In the field of prevention and suppression of torture and inhuman treatment, the Republic of Serbia planned to strengthen the capacities of the institution of the Ombudsman, and, in particular, its role in carrying out the activities of the National Preventive Mechanism (NPM), bearing in mind that, since 2011, the Ombudsman has been assigned the competence to perform duties of the NPM.

The progress in the implementation of measures in the Action Plan for Chapter 23 that relate to the position of the Protector of Citizens, as well as the Provincial and Local Ombudsman, was monitored through analysis of documents and other research techniques. Additionally, focus groups were organized to exchange experiences and strengthen cooperation with the Protector of Citizens and the Provincial and Local Ombudsmen.

The project activities also include a pro and contra analysis of the Ombudsman's jurisdiction related to judicial competencies, as well as research on the Ombudsman's efficiency, modeled on the National Judicial Strategy.

All three publications: 1. ([Meet Your Ombudsman](#)); 2. ([Pro and Contra Analysis of the Ombudsman's Jurisdiction](#)); 3. ([Research on the Ombudsman's Efficiency](#)) are available on the website of the Lawyers' Committee for Human Rights.

Title:

Defending the Defenders

Duration:

January 2020 – December 2022

Donor:

Delegation of the European Union (European Instrument for Democracy and Human Rights (EIDHR))

About the project: The main goal of the project is to increase capacities of human rights defenders both nationally and locally in Serbia. The project aims to strengthen the human rights defenders so that they can perform their tasks with more confidence;

advocate for greater alignment of the existing legislation to international human rights standards; and develop an early warning mechanism for reporting violations of rights and pressures. The project will involve and refer to various categories of human rights defenders (women human rights defenders, human rights defenders dealing with the past, those dealing with LGBT rights, environmental protection, etc.) The project is implemented in cooperation with two partner organizations: People's Parliament Leskovac and Belgrade Center for Security Policy.

In recent years, human rights defenders in Serbia have been experiencing a growing number of systematic attacks intended to silence their voices. While Serbia has developed a legal framework to protect freedoms of assembly, association and expression, in practice, there is an alarming level of harassment, verbal and physical violence, death threats, smear campaigns and hate speech perpetrated towards human rights defenders. The project activities include preparation of annual reports on the implementation of policies and legal frameworks on the protection of human rights defenders in Serbia. This report will consolidate relevant information and provide much needed and easily accessible data necessary for the creation of impartial international monitoring reports on monitoring of the current situation in the relevant field.

The project will also involve creation of a database to raise public awareness about violations of human rights occurring in the country. This up-to-date online database with verified information regarding pressure and violations of activists' rights will be the first of its kind in the region because it will be used to identify the cases of violation of the rights of activists and pressures they face. It will provide da-



tabases for domestic and international reports, inspire advocacy action, and influence legislation and policy change based on evidence. During the project period, free legal support will also be provided to human rights defenders who have experienced major human rights violations. One part of the project will include training sessions for the human rights defenders on the principles of activism and organizational safety, which will be delivered in different parts of Serbia. This will equip the local human rights defenders, civil society organizations, and activists to detect and report human rights violations, respond to them in a timely manner and be a part of the sub-granting scheme that shall be developed in the second project year (2021).

Title:

Implementation of Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention), through analysis of the Criminal Procedure Code and the Law on Prevention of Domestic Violence

Duration:

July 2018 - February 2019

Donor:

The Embassy of Canada

About the project: The project was dealing with the quality and the level of adequate application of the Istanbul Convention, the Law on Prevention of Domestic Violence and the National Gender Equality Strategy, with the goal of improving government's activities in combating domestic violence in order to reduce it to the lowest possible level.

The project supports the civil society in Serbia through increasing efficiency in prevention of domestic violence and providing protection and support to victims of domestic violence. The main precondition for improved performance of officials and thus successful domestic violence combating, is specialized training and improvement of knowledge of police department employees to be applied primarily during risk assessment and enforcement of urgent measures.

As part of the project, a focus group was established with employees of the regional administration bodies in charge of prevention of domestic violence and protection of the victims of violence. The goal of this



focus group is to detect weak points of the system and improve the existing practice through sharing of experiences of police employees on current application of specialized trainings in combating of violence and protection of the victims.

Based on the information obtained through the focus group, YUCOM produced an [online publication with recommendations](#) for improvement of the existing regulatory framework.

Title:

Towards Stronger Judiciary through Citizens' Monitoring

Duration:

May 2018 – May 2019

Donor:

The Balkan Trust for Democracy (BTD)

About the project: Overall objective of this project was to improve Serbia's accession to the European Union by monitoring implementation of the judiciary-related measures set by the Action Plan for Chapter 23, as well as the judiciary issues related to Chapter 35. The Action Plan for Chapter 23 envisions for Serbia to continue to improve its legal and



normative framework for protection and promotion of fundamental rights, in line with the EU Acquis, and European and international standards.

In line with the above-mentioned, the goal of this project is to determine and assess Serbia's progress in the field of reform of judiciary and fundamental human rights, as well as other reforms described in the Action Plan for Chapter 23 and in the Chapter 35. As part of the project activities, the Lawyers' Committee for Human Rights monitored the judiciary-related measures that were not implemented. These activities include necessary constitutional amendments, disciplinary liability of judges and public prosecutors, disciplinary proceedings, and competencies of professional judicial bodies, as well as implementation of the measures required for functioning of the judiciary integrated into the Kosovo judiciary system. The project gathered many relevant actors such as judges, prosecutors, lawyers, the Ministry of Justice representatives, as well as civil society representatives. In addition, the project assisted in informing the wider public about implementation of activities from the Action Plan for Chapter 23, as well as in implementation of the planned measures, which contributed to the Serbian citizens' increased confidence in the judiciary system.



Katarina Toskić, legal advisor at YUCOM and Jovana Spremo, Adviser on EU integration related policies

Through the process of objective consultations with all interested parties, conclusions and recommendations were formulated regarding improvement of implementation of judiciary-related activities set in the Action Plan for Chapter 23. "[Report on the Implementation of the Action Plan for Chapter 23 – Implementation of Measures related to the Judiciary](#)" and "[Integration of the Judiciary in the Context of Belgrade-Pristina Dialogue and the Process of Joining the European Union – Report on the Implementation and Effects of the Justice Agreement](#)" are available on the website of the Lawyers' Committee for Human Rights.

Title:

Defending the Right to Access Information in Serbia

Duration:

December 2018 – September 2019

Donor:

The Open Society Foundation (OSF)

About the project: The project objective was to contribute to greater transparency in the election of a new Commissioner for Information of Public Importance and Personal Data Protection, as well as to analyze efficiency of the work of this institution after the election.

The mandate of the Commissioner for Information of Public Importance and Personal Data Protection, who held office for two terms, 14 years in total, expired on December 22. Election of a new Commissioner was a challenge for further efficient work of this institution, which, according to public opinion polls, is one of the most respectable institutions and the one that citizens trust the most. In the context of traditionally weak democratic institutions and a “captured state”, which is a term used by the European institutions to describe Serbia, continuous work of the Commissioner’s institutions is of great importance for further sustainability of independent institutions in the Republic of Serbia. The Commissioner is a stand-alone body in the legal system of the Republic of Serbia, therefore personal change can also lead to a change in efficiency of the work of the entire institution, bearing in mind Serbia’s experience with changes in other independent institutions.

In addition, through public engagement of the Lawyers’ Committee for Human Rights members, predominantly in the media, this project also aimed to advocate for transparent criteria for election of a new Commissioner and precise qualifications of candidates for this position, as well as to communicate to the citizens, through the media, the importance of this institution and the relevant practice of the EU states concerning the process of electing the representatives of independent institutions. In order to assure wider public participation in the process of electing a new Commissioner, and insisting on clear selection criteria for the candidate, the project contributed to transparency of the process and the citizens’ learning about its significance through various activities.



After the election of new Commissioner, the focus was on reviewing the performance of this institution and informing the citizens of new legal regulations, adopted through the EU accession negotiations, with this independent institution being responsible for legal protection of those regulations. Finally, through collecting of the data, a special report was created which served as a test for implementation of the laws that the Commissioner’s institution is responsible for under the new circumstances following the election.

Title:

Promoting and Communicating Benefits of the Belgrade-Pristina EU Facilitated Dialogue

Duration:

December 2018 – February 2020

Donor:

The European Union and the Royal Norwegian Embassy

About the project: The Advocacy Group for support to the Belgrade-Pristina dialogue is a consortium of think-tanks and civil society organizations that believe in the process of normalization of relations between Serbia and Kosovo. Motivation for establishment of such Group comes from the wish to synergize individual and joint efforts to create an innovative approach to holding of the dialogue and transformation of the public narrative.

The Group Consortium consists of eight civil society organizations: Balkans Policy Research Group (BPRG), Democracy for Development (D4D), Kosovo Center for Security Studies (KCSS), NGO ACTIV, Belgrade Fund for Political Excellence (BFPE), European Movement in Serbia (EMinS), Belgrade Center for Security Policy (BCSP), and Lawyers’



Committee for Human Rights (YUCOM). Consortium partners are also members of the Civil Society Forum which came to life as part of the Berlin Process and which advocates for swift and sustainable solutions to bilateral disputes.

The main goal of this project was to promote and communicate the benefits and results of the technical dialogue on normalization of relations between Belgrade and Pristina to a wider public, by focusing on a number of communication and outreach activities, research, and local engagement. Target groups of the project were general public, civil society organizations (women- and youth-related organizations), the media, academic and professional audience.

Title:

Towards Improvement of the Rights of Persons with Disabilities

Duration:

March 2019 – October 2019

Donor:

The Embassy of the Czech Republic

About the project: Legal capacity is the fundamental prerequisite to realizing all other rights, and deprivation of legal capacity carries with itself enormous consequences to the everyday life and freedom of persons with disabilities. Deprivation of legal capacity practically leads to “civil death”, and deprives person of basic human rights, thus endangering his/her autonomy. Complete deprivation of legal capacity fully excludes any possibility for decision making and exercising of someone’s rights.

This project aimed to improve the position of persons with disabilities and persons deprived of their legal capacity, through a free legal aid program, in the form of providing legal advice and direct support through

representation in court. Additionally, the project included providing support to civil society organizations regarding capacity building in this area. The project directly empowered CSOs to provide better aid to this vulnerable group, and simultaneously promoted the principles of equality and non-discrimination. One of the goals of this project was also empowering persons with disabilities, through developing their ability to actively participate in processes that affect the status of their legal capacity.

As part of the project, a legal analysis was done under the title “[Regaining legal capacity: judicial practice and recommendations](#)”, based on the research of judicial practice of depriving of legal capacity and the courts’ obligation to investigate the reasons for it, as stipulated by the Amendments to the Law on Non-Adversarial Procedure introduced in 2014.



Teodora Tomić, legal advisor at YUCOM

Title:

Support to legalization of facilities in Roma substandard settlements

Duration:

October 2019 – October 2020

Donor: The program is funded by the European Union and implemented by the Standing Conference of Towns and Municipalities

About the project: The quality of housing of the Roma population, as well as the legal uncertainty caused by the ownership of illegal housing, are the reasons why the Standing Conference of Towns and Municipalities (SCTM) and the Lawyers’ Committee for Human Rights (YUCOM) support legalization of facilities in Roma sub-standard settlements in 10 local self-government units (LGUs). The project is



Velimir Petrović, project coordinator at YUCOM

organized under the program “EU Support to Roma Inclusion - Strengthening Local Communities for Roma Inclusion” financed by the European Union and implemented by the SCTM.

This project includes legal, technical and logistical assistance to the competent authorities of the LGUs dealing with the legalization processes on the one hand, and to the Roma community on the other, and is available in Leskovac, Pirot, Aleksinac, Vršac, Požarevac, Surdulica, Mladenovac, Sombor, Paraćin and Lebane.

The first objective of this activity is to map the problems in the area of legalization and bottlenecks in the system that often occur during the process, as well as the good practices that municipalities have in order to implement the legislation as effectively as possible. The second objective is to promote Roma inclusion in Serbia through improvement of housing conditions by providing direct support to the Roma population in the process of legalization of residential facilities.

The project is in the phase of implementation of the Analysis of archives of requests for legalization based on which a “Report” will be drafted with recommendations, as well as special local action plans for each of the 10 LGUs.

Title:

Fight against Torture and Impunity

Duration:

December 2017 – December 2019

Donor:

Delegation of the European Union to the Republic of Serbia

About the project: The overall objective of this action is to contribute to eradication of torture and impunity in

Serbian society and to the healing from consequences of torture. The project was implemented in partnership with the International Aid Network IAN.

The action contributes to an important aspect of democratic consolidation of Serbian society aiming to eradicate torture – one of the most severe violations of basic human rights, being one of the non-derogated rights (the right to be free from torture). This goal can only be achieved by coordinated action of all relevant stakeholders and decision makers, bringing relevant legal adjustments to the Serbian law (revising the definition of torture and adequate punishments for perpetrators), as well as full implementation of the right to rehabilitation and redress for victims.

The proposed action directly supports implementation of the UN and the Council of Europe anti-torture efforts since its aim is to implement recommendations of the UN Committee against Torture given in the “Concluding observations on the second periodic report of the Republic of Serbia”, at their 54th Session, held in Geneva, from April 20 to May 15, 2015. The aim of the proposed activities is to be reached through the following specific objectives: 1) Fight against torture and impunity through monitoring the implementation of the Action Plan for Chapter 23 and advocating for legislative changes; 2) Ensuring adequate redress and rehabilitation of victims through campaigning for the right to rehabilitation and redress; 3) Provision of comprehensive and effective rehabilitation programs for victims.

Some of the activities of the YUCOM Lawyers' Committee for Human Rights included regular visits to the institutions where persons deprived of their liberty were held, and those visits were conducted together with the Ombudsman's representatives as part of the National Mechanism for the Prevention



of Torture. During the project, there were 6 visits to district prisons, penitentiary-correctional institutions, and police departments in the territory of the Republic of Serbia. In cooperation with the Institutions for Enforcement of Criminal Sanctions in Belgrade, Novi Sad, Kragujevac and Niš, trainings were implemented on the subject of application of international standards on torture prevention for 74 employees in 17 institutions for enforcement of criminal sanctions. Working groups held numerous meetings with other civil society organizations, representatives of independent institutions and experts in the field of torture prevention in order to create a comprehensive and joint approach to addressing all of the issues; legal advice was provided to the victims of torture in over 100 instances, 7 of which were also provided with court representation.

Title:

Analysis of the Work of the Protector of Citizens of the Republic of Serbia

Duration:

September 2019 – December 2020

Donor:

The United Nations Human Rights Team in Serbia

About the project: The goal of the project is to produce the analysis of the work of the Protector of Citizens of the Republic of Serbia with special focus on implementation of the Paris Principles and assessment of this institution's capacities to ensure implementation of international human rights standards. The Ombudsman of the Republic of Serbia was awarded Status A in 2010, which was reconfirmed in 2015. This status will be reviewed again by the Sub-Committee on Accreditation in 2020. The publication "[5 Years: Analysis of the Work of the Protector of Citi-](#)



[zens of the Republic of Serbia 20115-2019](#)" has looked at the fulfilment of the Paris Principles and General Observations produced by the GANHRI Sub-Committee on Accreditation and adopted by the Global Alliance of National Human Rights Institutions, with the latest amendments from February 2018, serving as an instrument for interpretation of the Paris Principles.

Title:

Danube Region Information Platform for Economic Integration of Migrants- DRIM

Duration:

January 2017 – June 2019

Donor:

Danube Transnational Program, co-funded by the European Union

About the project: DRIM's objective is to enhance the capacity of public institutions for promoting migrants' economic integration, which is understood as fair access to employment, work and skills enhancement. The project aims to contribute to improved capacity of public institutions to respond to the needs of the newly arrived, as well as the resident migrants through effective information sharing. The main result of DRIM is a tool (informational platform) that serves as the base of an information infrastructure that facilitates economic integration in the Danube region. Transnational informational platform Danube Compass is one of the main results of the DRIM project and it provides information on various aspects of life and work in eight countries of the Danube Region: Austria, Croatia, the Czech Republic, Hungary, Germany, Serbia, Slovenia and Slovakia.

The Danube Compass is a system of eight national collections of information, which include data on migrants' integration related to the six main categories: work, arrival and residence, education, studying in local language, everyday life and health. This information may be accessed via computer or mobile phone at www.danubecompass.org. The Danube Compass is an innovative platform with a goal to improve state bodies' capacities for creation and facilitation of migrants' economic integration in the wider region of the Danube. Through the Danube Compass, public institutions will be able to efficiently provide labor market information to the migrants for each of the countries. Through this platform, the migrants can find necessary information on labor markets of various countries and learn about their

specificities (i.e. work insurance, health system, work qualifications, educational opportunities, etc.). At the same time, public sector employees and sector agencies, as well as the non-governmental organizations' members and volunteers, now have an information sharing mechanism because they can directly get labor market information, as well as the immigration rules and regulations in the Danube Region countries. The Danube Compass platform is translated into five different languages. Each partner selected a group of languages based on their own migrant context and the migrants present in each of these countries. In Serbia, the platform is available in Serbian, Russian, Chinese, English and Persian language. During 2018, the platform has been launched in each of the eight countries.

Title: Support to the National Convention on the European Union

Duration: January 2018 – March 2020

Donor: EU Delegation to Serbia (CSF – support to civil society)

About the project: The civil society gathered around the National Convention on the European Union received a support during 2018 and 2019 in order to further strengthen the mechanism for monitoring of Serbia's accession to the EU. The project was designed to support organization of the sessions of 7 NCEU working groups, creation of the NCEU Book of Recommendations, and expert workshops for members of the working groups involved. The goal of the project is to make the EU integration process as transparent and inclusive as possible, and to strengthen the role of civil society in this process. The Lawyers' Committee for Human Rights YUCOM, as the coordinator of the NCEU Working Group for Chapter 23 - Judiciary and Fundamental Rights, implemented the activities related to this chapter. The NCEU Working Group for Chapter 23 held four sessions during this project. The first two were held in February and April 2019, and in these sessions, the members gave their comments on the first draft of the revised Action Plan for Chapter 23. The members sent a *Joint Summary Comment of the NCEU WG on the first draft of the AP 23* based on which the Ministry of Justice amended the first draft of the revised document submitted to the European Commission in June 2019. The Working Group submitted over 200 separate comments on the concrete activities in the revised document. Clarifications were provided for

some comments, while over half of the comments were adopted and to a certain level incorporated into the version that was submitted to the European Commission in May 2019.

In October 2019, the NCEU Working Group for Chapter 23 held a meeting and an internal workshop where the members drafted the Working Group's work plan for 2020 and provided input for the Working Group's Action Plan. The next two sessions were held in December 2019 and February 2020 and their purpose was for the NCEU WG members to have a discussion with the Ministry of Justice about the new draft of the revised Action Plan for Chapter 23 based on the comments from the European Commission. After this set of consultations, the NCEU WG for Chapter 23 again sent a Joint Summary Comment on the second draft of the revised Action Plan for Chapter 23. Most of the disagreements referred to the section dealing with independence of judiciary and fight against corruption.

Title: G.R.A.S.P.

(Project for the Western Balkans Governing Risk Assessment: diagnostics and measuring of occurrence of captured societies)

Duration: January 2019 – January 2020

Donor: The European Commission

About the project: The Lawyers' Committee for Human Rights in cooperation with the Partnership for Social Development from Zagreb and the members of academic community in Serbia took part in collection and analysis of data for the needs of the European Commission's Progress Report on Serbia. The data was collected in the 12 key areas for Ser-



bia's progress towards the EU, from public finances management to legislative process. The project was implemented on a regional level and was at the same time an opportunity to test the transparency of institutions and their capacity for adequate and timely response to received requests for access to information of public importance.





05

**Publications
– new
editions**

1. Guides

My rights in enforcement proceedings

The Guide “[My rights in enforcement proceedings](#)” is intended for citizens to become acquainted with their rights and obligations, whether the enforcement proceedings were instigated against them or they were forced to instigate them themselves. The Guide is also intended for those who are not parties to the proceedings (neither the creditor nor the debtor), who are impeded by the proceedings in the exercising of their rights, or who have a certain legal interest (the so-called third parties). Of course, it is also intended for those who just want to get acquainted with the enforcement process. This guide does not replace the legal advice that you can get from qualified professionals, it only provides basic information about the enforcement procedure, so that one could better understand it. It is important that all parties involved in the proceedings know their rights and obligations in order to respond appropriately within the prescribed deadlines and protect their rights. The Guide outlines the basic steps in the enforcement procedure in a simple, practical and colorful way and does not cover all the situations, but only those

most commonly encountered by the citizens. The Guide was drafted on the basis of the Law on Enforcement and Security (“Official Gazette of the RS”, No. 106/2015, 106/2016 - authentic interpretation, 113/2017 - authentic interpretation and 54/2019) and the Law on Amendments to the Law on Enforcement and Security (Official Gazette of the RS, No. 54/2019) effective from January 1, 2020.

My rights in case the trial lasts unreasonably long

The Guide “[My rights in case the trial lasts unreasonably long](#)” is intended for citizens to become aware of their rights and obligations in the event that the length of court proceedings threatens their right to a fair trial, as well as to provide them with the necessary information on their protection. The length of court proceedings is one of the most recognizable problems that threatens the legal security of citizens and the rule of law. Long trials and the associated costs are often the reason why citizens give up on them or even try to protect their rights. If we await a ruling in a criminal case, child support or a wrongful dismissal from work for years, then the lives of the affected citizens often

become irreparably difficult. In Serbia, a large number of citizens are affected by violation of their right to a trial within a reasonable time. This is evidenced by the fact that the largest number of rulings of the European Court of Human Rights issued against Serbia in 2018, relate precisely to the length of court proceedings, while there are numerous proceedings before domestic judicial authorities, too. This guide seeks to assist citizens in the simplest and most practical way to actively participate in protection of their rights before the courts. The guide specifically deals with the Law on the Protection of the Right to a Trial within a Reasonable Time, which enables citizens to respond in a timely manner in the event that their trial lasts for an unjustifiably long time and to compensate them for the damage they have suffered as a result.

Guide to protection of consumers' rights

[Guide to protection of consumers' rights](#) was prepared by the European Policy Center and intended for all citizens to learn about their rights and obligations when purchasing goods or concluding service-providing contracts. The publication is made to present to citizens in a simple and practical way the law that protects them as consumers,





their rights, the warranty claim,



the role of market inspection,



available legal protection, the



role of consumers' organizations, including the contact information for the consumer counselling offices.

My Rights in Case of (Il)legal Wiretapping

The goal of the Guide [My Rights in Case of \(Il\)legal Wiretapping](#) is to concisely and in an understandable language explain to citizens how the legal wiretapping functions in Serbia. The guide contains answers to the basic questions, such as - who is allowed to wiretap me, why and under which conditions, what exactly constitutes wiretapping, who can I turn to in order to protect my rights if I am wiretapped or suspect that I am wiretapped? The main precondition for protecting our rights from possible abuse is to know our rights, to understand the mechanisms and recognize the institutions authorized to help us. Citizens can find the answers to all of these questions in the guide "My Rights in Case of (Il)legal Wiretapping".

How to report corruption and what are my rights and obligations in case I report it?

The Guide [How to report corruption and what are my rights and obligations in case I report it?](#) is intended for anyone who is facing corruption and thinking about reporting it. Since the actions related to this may differ depending on the way the information is obtained, the nature of event, the

information that is known to us, possible consequences in case of reporting and interest in the event, there are also different counsels given in the guide.

Authors of the guide have tried to include a wide range of possible situations faced by the citizens. Purpose of the guide is informational and in case of potential legal proceedings, it may be necessary for the citizens to get additional professional assistance or legal counsel.

What to do when I receive a witness summons?

The Guide [What to do when I receive a witness summons](#) is intended for citizens to learn about the rights and obligations they have in the proceedings before the court or an administrative body where they have a role of witness. In addition, its objective is to explain the dilemmas that citizens have about testifying in civil, criminal, administrative and misdemeanor proceedings. Anyone can find himself or herself in a situation that can make them a witness, thus it is very important to know your rights and duties. The guide does not give legal counsel and cannot anticipate results of court proceedings and other proceedings.

What if I am deprived of liberty?

The Guide [What if I am deprived of liberty?](#) is intended for all citizens who find themselves in a situation where they are deprived of their liberty. In a simple and practical way, this guide explains the meaning of

the term “deprivation of liberty”, the rights of the person deprived of liberty, possible length of detention, what can be expected after conclusion of criminal or misdemeanor proceedings, and what the duties of the police are. The guide also provides information on the procedure for exercising your rights in case of groundless deprivation of liberty. The goal of the guide “What if I am deprived of liberty” is to properly inform citizens and instruct them about their rights in case they are deprived of liberty.

Why we need an independent judge?

The Guide – “[Why we need an independent judge](#)” – is intended primarily for the citizens who are not in legal profession, and its goal is to explain and present to them in a simple way the basics of the legal system of our country. In that sense, the guide explains the division of government, mutual relations of the branches of government, as well as position of judiciary in the government system, in order for the citizens to get a clearer picture of independent and unbiased judges. The main goal of the authors is to explain to the public the importance of independent judiciary, not only for individuals, but also for the society as a whole. The Guide was preceded by a survey in which the Judges’

Association of Serbia collected from the citizens who are not in legal profession the questions they were the most interested in, as well as those questions that cause the confusion, and, afterwards, during preparation of this guide, they tried to provide answers to these questions.

My rights in case of stop-and-search and deprivation of liberty

The brochure “[My rights in case of stop-and-search and deprivation of liberty](#)” is intended for citizens to learn about their rights and obligations in case an authorized person stops them in a street, in a vehicle, in public transportation, at a large event, or if officials show up at their doors. In addition, this brochure explains what happens when citizens are detained at the police/public prosecutor’s office. In those moments, it is important for all the parties to know their rights and obligations. Raising awareness of this subject primarily contributes to citizens’ thoughtful and correct communication with members of the police/deputy public prosecutor and judges. This brochure is made with a goal to simplify for the citizens, in an easy and practical way, the procedure for

reporting irregularities in these situations and violation of their rights, which should in turn help build the trust between the citizens and the authorities.

Booklet on personal data protection through institutions – health institutions

The booklet [What are the citizens’ rights to personal data protection in relation to health institutions?](#), talks about the connection between citizens’ rights to health care and the right to personal data protection (confidentiality). The right to health care is closely connected to the right to personal data protection (confidentiality) because during provision of health care services (diagnosing, therapy, treatment and rehabilitation) on a daily basis, health workers and their associates process (collect, record, transcribe, classify, store, copy, search, compare, use, present, transmit, disseminate) large amount of important personal data.

Citizens’ data are integral part of their personality and, as such, they are subject to the discretion right of the personal data owner. State institutions, private companies and



citizens' organizations are obliged to respect the law when they collect citizens' data, and the legal regulations apply to all prescribed limitations and requirements of the data processing. Although citizens are not obliged to know each of those requirements or complex legal procedures, it is always good for them to have a chance to learn about their rights in order to be able to recognize correct operations of the institutions or organizations processing their data.

Booklet on personal data protection through institutions – insurance companies

The booklet [What are the citizens' rights to personal data protections in relation to insurance companies?](#) talks about the connection between the rights to mandatory health insurance and the right to personal data protection (confidentiality).

Insurance companies establish and maintain certain registers of data on insurance holders and beneficiaries where they, on a daily basis, process, search, classify, transmit, store, use and send

your personal data necessary for conclusion of contracts, liquidation of damages, and payment of stipulated amounts. When it comes to mandatory health insurance, if the citizens believe that their personal data has been illegally processed or if there was a violation of confidentiality, this booklet can help them learn about the ways to protect their rights.

2. Analyses

Regaining legal capacity – judicial practice and recommendations

Legal capacity is a prerequisite for citizens to exercise their rights. It is gained at the age of majority when person becomes able to take legal actions in everyday life (execute the right to vote, conclude contracts, get bank loans, dispose of property, etc.). Legal capacity is important because without it, person cannot make independent decisions about their own life.

One of the serious problems related to procedures for deprivation of legal capacity in the Republic of Serbia is the established practice of deprivation of legal capacity solely on the basis of psychiatric diagnosis. This violates person's right to a fair trial and constitutes discrimination of persons with mental disabilities who, regardless of their diagnosis, may be functional members of the community, capable of taking care of themselves and their interests. Based on the results of research on five years of judicial practice in the basic courts in the Republic of Serbia, YUCOM's legal team created a publication "[Regaining Legal Capacity – Judicial Practice and Recommendations](#)" with formulated recommendations for improvement of protection of the rights of persons with mental disabilities, based on international standards in this area and on examples of good practices in Europe.

5 YEARS: Analysis of the work of the Protector of Citizens in the Republic of Serbia in the period 2015-2019

Status A of national human rights institutions (NHRI) gives special rights to these institutions to participate in international mechanisms for human rights protection, which to a large extent determine assessment of human rights conditions in a country. Therefore, it is very important to realistically examine the status of these institutions by assessing not only the legal framework that regulates the status and



competencies of NHRI, but also the practical implementation of those competencies.

[Analysis of the work of the Protector of Citizens of the Republic of Serbia](#) with special focus on implementation of the Paris Principles is conducted with a goal of assessing this institution's capacities to ensure implementation of international human rights standards. The Protector of Citizens of the Republic of Serbia is an institution that was awarded Status A in 2010 which was then reconfirmed in 2015. This status will be reviewed again by the Sub-Committee on Accreditation in 2020.

Considering the goal of the analysis, the research subject was limited to analysis of work of the Protector of Citizens during each year from 2015 until September 2019. The analysis of work was done in terms of fulfilment of the Paris Principles and General Observations made by the GANHRI Sub-Committee on Accreditation and adopted by the Global Alliance of National Human Rights Institutions with the latest amendments from February 2018, serving as an instrument for interpretation of the Paris Principles. Such analysis of the work was done because, according to the Rules of Procedure for

the GANHRI Sub-Committee on Accreditation, this body is in charge of making General Observations that serve as a base for assessment of whether a national human rights institution has fulfilled the Paris Principles.

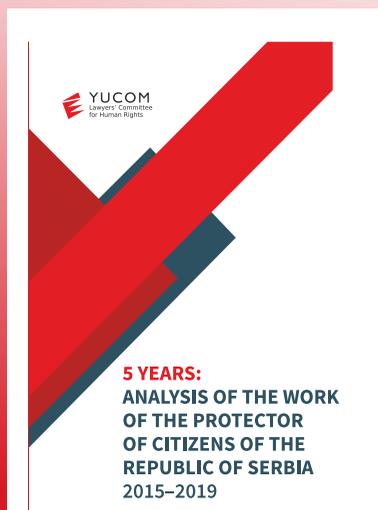
Research on efficiency of the work of the Protector of Citizens

[Research on Efficiency of the Work of the Protector of Citizens](#) was done as part of the project "The Protector of Citizens in the Context of EU Integrations" with the goal of measuring and improving the efficiency of this institution in handling citizens' complaints. The focus of this research is on measuring efficiency of the Protector of Citizens, examining the budget situation, employment of staff and organization of work, as well as proposing measures for improvement of efficiency of this institution. As part of the same project, a special Alternative Report was made on monitoring of the Action Plan for Chapter 23 containing opinions and

comments from the Lawyers' Committee for Human Rights on implementation of activities included in the measures related to the Protector of Citizens. The said Alternative Report is included in this publication.

Pro and Contra Analysis of the Ombudsman's Jurisdiction

[Pro and Contra Analysis of the Ombudsman's Jurisdiction](#) – with special focus on judicial competencies was done as part of the project "The Protector of Citizens in the Context of EU Integrations" with the goal of answering the question of possible expansion of Ombudsman's jurisdiction to include monitoring of efficiency of the judiciary. In the light of the upcoming amendments to the Constitution and the Law on the Ombudsman, there was a need for a detailed analysis of this issue by using experiences from comparative practices. Although in many European countries, Ombudsmen have competencies in the field of judiciary, YUCOM



tried to use this analysis to find the best practices and solutions for the Serbian legal system, especially having in mind the existing mechanisms focused on trial within reasonable time.

Law on General Administrative Procedure – Anatomy of a Legislative Project

Recently adopted, new Law on General Administrative Procedure in Serbia (2016) contains a series of innovations that should direct administrative procedure “towards provision of public services to the beneficiaries” according to the standards of the European administrative space.

However, the new Law on General Administrative Procedures in Serbia also contains numerous structural defects and conceptual contradictions, which raise a serious question of quality and success of this legislative project. Starting from the inadequate name of the law itself, the new Law on General Administrative Procedure is full of many vague and poorly formulated elements and legal and technical deficiencies that puts it in the group of laws in need of thorough and overall reconstruction. Among other things, this refers to: imprecise and declarative goals; confusion regarding relations between general and special administrative procedure and lack of mechanisms for efficient implementation of the prescribed solutions; confusion regarding application of the old and the new law during the transitional period; unsuitable use of theoretic definitions in the text of the law and amateurish

application of nomo-technical rules; contradictory formulations impeding practical application (i.e. introduction of factual activity of “notifying” in strictly formal procedure), etc.

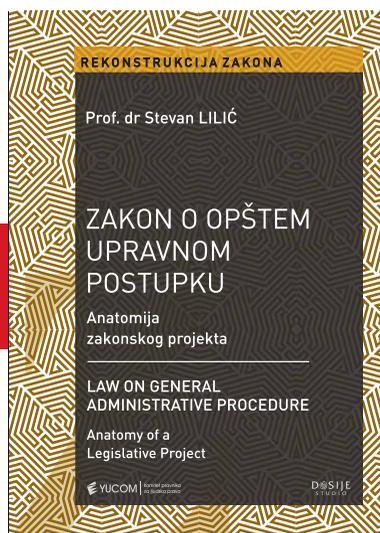
Especially worrying aspect of application of the new Law on General Administrative Procedure is that instead of contributing to legal security and administrative procedure efficiency, it reveals new and dangerous gaps and creates new dilemmas regarding its application, which paves the way to arbitrary interpretations that significantly undermine legality and regularity of administrative procedures.

The goal of this “anatomic analysis” of the Law on General Administrative Procedure is to determine, from a legal and normative aspect, how a procedural law that used to be very successful for decades, became a victim of a failed legislative project in which the new Law on General Administrative Procedure becomes a “part of the problem” instead of a “part of the solution”. From a professional point of view, objective responsibility for such situation can surely be placed on numerous members of working groups and coordination bodies,

primarily on “expensive” experts and “project consultants” for the final version of the Draft Law on General Administrative Procedure, who were not specialized in administrative procedure (but rather in local self-government, full jurisdiction, etc.).

Istanbul Convention in Serbia – Gender Equality Practices and Challenges

The publication [“Istanbul Convention in Serbia – Gender Equality Practices and Challenges”](#) was created as part of the project “Implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) through analysis of the Criminal Code and the Law on Prevention of Domestic Violence” implemented by the Lawyers’ Committee for Human Rights – YUCOM with support of the Embassy of Canada in the Republic of Serbia.



The Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) was signed in Istanbul on May 11, 2011. Although it is not the first international treaty dealing with the issue of gender based violence and discrimination of women, this is the first comprehensive European legally-binding treaty which defines such terms as: violence against women, domestic violence, gender, gender-based violence against women, and establishes obligation for the signatory countries to combat gender-based violence. In October 2013, Serbia adopted the Law on Confirmation of the Council of Europe Convention on preventing and combating violence against women and domestic violence. Since the Istanbul Convention is an international treaty that sets clear and mandatory guidelines for the signatory countries to legally regulate protection of women from gender-based violence and discrimination, and requires the states to implement comprehensive policies for this purpose, this publication focuses on the most important measures implemented by Serbia since the signing of the Convention in order to fulfill its obligations from the Convention.

Discrimination in Serbia – practice and challenges

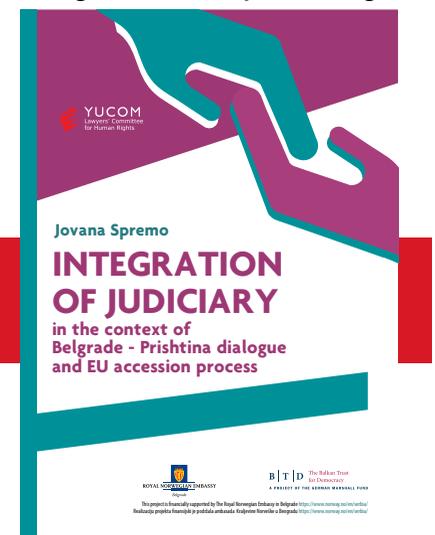
Since the adoption of the Constitution of Serbia in 2006 and the first Law on the Prohibition of Discrimination in 2009, there have been seemingly many texts and publications written on the subject of gender equality and prohibition of discrimination. Institution of the Commissioner for the Protection of Equality has been established, which on a daily

basis makes decisions on citizens' complaints, leads strategic litigations and submits annual reports to the National Assembly of the Republic of Serbia and the public. The principle of prohibition of discrimination has a significant place in the ratified international treaties and national regulations. Action Plan for the Chapter 23 defines harmonization of the law of the Republic of Serbia with the law of the European Union as one of the key instruments in the process of negotiations of Serbia's accession to the EU, emphasizing the principle of antidiscrimination as one of the basic rights. However, despite numerous legislative and institutional activities undertaken as part of fulfilment of Serbia's obligations related to accession to the European Union, the Lawyers' Committee for Human Rights – YUCOM, while performing its regular activity of free legal aid provision, has had a chance to hear on a daily basis the experiences and problems faced by the citizens exposed to discrimination. Even though both governmental and non-governmental entities have published many manuals defining the term and protection against discrimination, we see that those who need this protection the most are often not sufficiently informed. That is why we need another [publication on discrimination](#).



Integration of the Judiciary in the Context of Belgrade-Pristina Dialogue and the Process of Joining the European Union – Report on the Implementation and Effects of the Justice Agreement

The Publication [“Integration of the Judiciary in the Context of Belgrade-Pristina Dialogue and the Process of Joining the European Union – Report on the Implementation and Effects of the Justice Agreement”](#) is the first comprehensive report on implementation of the Justice Agreement, which resulted from the dialogue between Belgrade and Pristina, under the auspices of the European Union. The report is a result of the project “Towards Stronger Judiciary through



Citizens' Monitoring", funded by the Royal Norwegian Embassy.

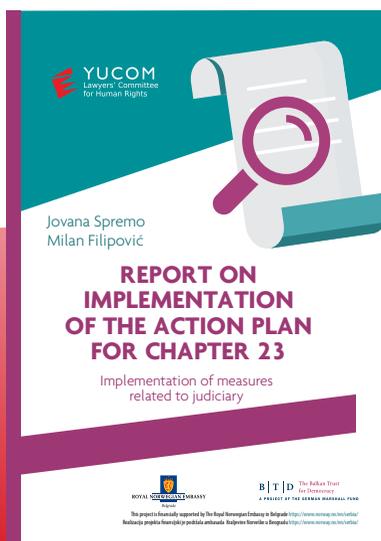
The question of integration of the judiciary concerns not only Chapter 35, but also Chapter 23, which shows its importance. This report summarizes the progress made regarding actual integration of the judiciary in the north of Kosovo, how Serbia has been fulfilling its obligations regarding monitoring of the real functioning of integration and facilitating access to justice for citizens.

Report on implementation of the Action Plan for Chapter 23 – Implementation of measures related to judiciary

“Report on Implementation of the Action Plan for Chapter 23 – Implementation of measures related to judiciary” includes

monitoring of implementation of the measures in the Action Plan related to constitutional changes, budget competencies of judicial councils, disciplinary and ethical responsibility of judges and public prosecutors, and automatic allocation of cases. This report is the result of the project “Towards Stronger Judiciary through Citizens' Monitoring”, supported by the Royal Norwegian Embassy in Belgrade and the Balkan Trust for Democracy.

During the reporting, YUCOM's team first selected concrete measures in order to present the obstacles to implementation of the Action Plan, in line with the existing capacities. For this research, the team decided to track unimplemented measures related to the judiciary in the following areas: constitutional changes and activities related to the budget competencies of judicial councils, disciplinary and ethical responsibility of judges and public prosecutors, as well as automatic allocation of cases.







06

**Other
activities
and
cooperation**

1. Networks for cooperation with the United Nations

The Platform of Organizations for Monitoring the Recommendations of UN Human Rights Bodies has been established by the by civil society organizations with significant experience based on reporting before UN human rights mechanisms and monitoring recommendations, recognizing the need and importance of continuous evidence-based reporting processes, monitoring the implementation of recommendations issued by the mechanisms to the Republic of Serbia, and interaction with Government bodies for monitoring the implementation of UN recommendations for human rights. Along with the Lawyers' Committee for Human Rights, The Platform was founded and is comprised of the following organizations: Astra; Atina; A11 – Initiative for Economic and Social Rights; Belgrade Human Rights Centre; Centre for Independent Living of Persons with Disabilities of Serbia; Centre for the Rights of the Child; FemPlatz, Group 484; Initiative for the Rights of Persons with Mental Disabilities MDRI-S; International Assistance Network IAN; Network of Organizations for Children MODS; National Organization of Persons with Disabilities; SOS Vojvodina Network and Standing Conference of Roma Citizens' Associations, and Gayten-LGBT.

During 2019, YUCOM led the activities of the Platform in order to improve interpretation of the freedom of gathering on the international level, given as the General comment of the UN Human Rights Committee. Cooperation with the UN Committee on Economic, Social and Cultural Rights was established through submission of the proposal for the list of questions for the Republic of Serbia, and through the meetings with the members of the Committee in Genève.



2. Networks for cooperation with the Council of Europe

European Implementation Network for the implementation of judgments of the European Court of Human Rights has selected YUCOM's lawyer Kristina Todorović as its Management Board member. This network gathers non-governmental organizations from the Council of Europe member states whose main activity is advocacy for complete and timely implementation of decisions of the European Court of Human Rights. During 2019, the Network published statistical data on implementation, that is, on non-implementation of the Strasbourg Court's judgements. The statistical data show that 43% of the judgements issued by the European Court of Human Rights in the last 10 years, remains non-implemented, practically meaning that 1,200 judgments are still waiting to be implemented. Serbia itself contributes to these statistics with its 22% of non-implemented judgements showing Serbia's responsibility for human rights violation. These judgements have not been implemented within ten years of their issuance, which shows the lack of political will to implement decisions of the European Court.

The Network itself, on behalf of the organizations in Serbia, was maintaining direct contact with the Committee of Ministers of the Council of Europe, in order to ensure adequate implementation of the judgement in the case of Zorica Jovanovic vs Serbia. YUCOM's experiences in representing parents' interests through use of the Council of European mechanisms were translated into the latest *EIN Guide for Civil Society on Domestic Advocacy for Implementation of Judgments of the European Court of Human Rights*.

3. Regional networking

Cooperation with the Human Rights House Foundation

As part of the Human Rights House Foundation based in Oslo, the House of Human Rights and Democracy Belgrade has established an active cooperation with its members. Every other year, representatives of all of the organizations which are part of the Human Rights House Foundation meet at the Assembly of



Marija Maljan, project coordinator at YUCOM

the Human Rights Houses. At the last year's meeting and a three-day conference attended by Velimir Petrović and Marija Maljan, the Human Rights House Zagreb marked its 10th anniversary, while the Human Rights House Foundation marked its 25th anniversary.

Since the work of the House of Human Rights and Democracy Belgrade is based on the principle of cooperation of the member organizations dealing with human rights in various segments of society through strategies not only on national level, but also on regional and international level, YUCOM took part in many events.

In June 2019, Marija Maljan and Velimir Petrović took part in the workshop "From Idea to Project" in Tbilisi. The Human Rights House Tbilisi, with support of the Human Rights House Foundation, hosted the workshop in which the project teams worked on improving their knowledge and skills related to project ideas, budgets, approaching donors, and addressing the issues that members of the civil society organizations' project teams face on a daily basis.

Visit of the Ambassador of Finland to the House of Human Rights and Democracy Belgrade

As part of its activities, the House of Human Rights and Democracy Belgrade pays special attention



to cooperation, mutual support and continual communication with national and international organizations, as well as with other institutions, for purpose of more efficient work on the programs focused on human rights in Serbia.

At the beginning of this year, the House of Human Rights and Democracy Belgrade had an honor and a pleasure to welcome H.E. Ambassador of Finland to Serbia Kimmo Lähdevirta. This visit was an opportunity for representatives of the member organizations of the Foundation to express their positions and opinions on the subject of fundamental rights, EU integrations, freedom of the media, asylum and migration, transitional justice and judiciary in the Republic of Serbia.

An Open-Door Policy of the House of Human Rights and Democracy Belgrade for students and attendees of schools of law and European integrations

Our doors are always open for everyone who wants to learn more about human rights protection, so the House of Human Rights and Democracy Belgrade, and during last year, YUCOM as its active member, organized many events for students and attendees of schools of law and European integrations.



The House hosted the “European Integration School for Youth”, and on that occasion, workshop was organized on the topic of the European integration process where Jovana Spremo discussed with the youth of Novi Pazar about the National Convention, importance of Chapter 23 and current challenges in the EU integration process.

Students of the University of Denver expressed their interest to visit the House of Human Rights and Democracy Belgrade in order to learn more about the key human rights issues in Serbia, and the activities implemented by the House and its members in order to help those who need such help the most.

Winners of the Spring Law School, the trial simulation pilot program, implemented in the spring of 2019 by the [OSCE Mission to Serbia](#) with support from the U.S. Mission to the OSCE, also pointed out that the human rights issue was very important to them. During their visit to the House of Human Rights and Democracy, Katarina Golubović and Milena Vasić talked about the key issues - the role of civil society in the process of Serbia’s EU accession negotiations, freedom of the media and expression, rule of law issues and international human rights agreements compared to national legislations.

YUCOM’s cooperation with the OSCE Office for Democratic Institutions and Human Rights (ODIHR)

The Lawyers’ Committee for Human Rights has had a continuous cooperation with the **Office for Democratic Institutions and Human Rights (ODIHR)**. In May 2019, YUCOM’s representative had an opportunity to attend the traditional annual trial monitoring meeting organized by ODIHR. At this meeting held in Sarajevo, with participation of representatives of OSCE, judicial institutions and civil society, YUCOM



had an opportunity to present the results of its long-term work with students of law faculties in the field of monitoring of trials for corruption and war crimes. During the state of emergency and after its conclusion, YUCOM took part in a series of consultative on-line meetings organized by ODIHR on the right to a fair trial and on the state of emergency introduced in order to prevent the spread of the Covid-19 infections. Because of the corona virus pandemics, the 2020 annual meeting was held online. An important subject of the meeting was remote trial monitoring, and participants had an opportunity to share experiences related to holding these trials in practice.

Civic Solidarity Platform

For the last several years, the Lawyers’ Committee for Human Rights YUCOM has been a member of the **Civic Solidarity Platform** that was created to bring together non-governmental organizations committed to improving the human rights situation in Europe, Eurasia and the US. The platform provides a common space for these groups to share their experience in conducting research, advocacy, and public organizing and to find new channels of communication and improved methods for working cooperatively. The aim of this platform is to serve as a conduit through which civic activists can build alliances, strengthen mutual support and solidarity, and improve their influence on national and international human rights policy. The platform closely follows the work of the **Organization for Security and Cooperation in Europe (OSCE)**, since all of the platform members are from this organization’s member countries, and through its formal meetings OSCE presents the findings not only of the Platform itself but also of the individual members.

In September 2019, YUCOM’s representatives took part in an annual meeting in Warsaw where the focus of discussions was on the Platform’s plans for the next year and on its long-term priorities. At the same time, Annual Human Dimension Implementation Meeting (HDIM) of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) took place on September 16-27, 2019. At the Rule of Law panel, YUCOM presented its main findings regarding the situation with the rule of law in Serbia for the current year.

In November 2019, YUCOM participated in the Supplementary Human Dimension Meeting (SHDM) in Vienna on the subject of the Freedom of Peaceful Assembly with participation of representatives of civil

society organizations and state delegations from the OSCE region's countries.

Together with the delegation of the Civic Solidarity Platform, the Lawyers' Committee for Human Rights representative participated at the Supplementary Human Dimension Meeting focused on online assembly and impact of new technologies on public assembly. At the plenary session, elements were presented of the future *Bratislava Declaration on Freedom of Peaceful Assembly* that would be adopted at the Platform's meeting the following month in Bratislava. YUCOM's representative specifically emphasized the importance of monitoring of public assemblies, and monitoring of trials of organizers and participants.

In December 2019, YUCOM took part in the OSCE Parallel Civil Society Conference in Bratislava. On that occasion, the *Bratislava Declaration on Freedom of Peaceful Assembly* was officially handed to the OSCE leadership before the meeting of the OSCE Ministerial Council. YUCOM representative, as one of the leading authors of the declaration, spoke about misdemeanor prosecution of organizers of spontaneous assemblies, biased and unethical reporting by pro-government tabloids on public assemblies, lack of effective legal remedies, as well as influence of foreign governments on exercising of the right to freedom of assembly in Serbia.

At the margins of this meeting, a meeting was held on December 5, 2019, between the Civic Solidarity Platform delegation and the Dutch Minister of Foreign Affairs, Stef Blok. Special attention in this discussion was given to the issue of narrowing of space for civil sector activities by introducing so-called government-organized non-governmental

organizations (GONGO) that support Government's opinions and conduct smear campaigns in order to ruin reputations of legitimate civil sector organizations, as well as independent institutions.

ERA Annual Conference

The conference and the regular annual assembly of the ERA network were held in Tirana on September



7-9, 2019. YUCOM is one of the founders of the ERA network which is a regional association of lesbian, gay, bisexual, transsexual, intersex, and queer organizations from Albania, Bosnia & Herzegovina, Croatia, Macedonia, Kosovo, Montenegro, Serbia, Slovenia, and Turkey.

Regional Annual Conference is one of the biggest LGBT events in the Balkans and Turkey. The conference was attended by over 160 participants from the ERA network members, state institutions, human rights institutions, international community, academia, media and other allies and supporters of the community.

During 2019, the pride parades were held for the first time in Skopje and Sarajevo. However, the laws still need to be improved in the future, while Turkey remains a challenge for the LGBT community and the LGBT movement as such. Some of the main challenges that LGBT community still faces in our region are: inadequate application of laws and policies, lack of gender identity-related laws, lack of efficient protection from discrimination for intersex persons, low visibility of the LGBT community and negative attitudes that often translate into hate speech, and harassment and physical violence against the LGBT community.

At the annual assembly meeting, new members of the ERA network were elected, as well as new management board members.



Opening Plenary Session of the 2019 Human Dimension Implementation Meeting, Warsaw, 16 September 2019 (Source: OSCE / Maria Kuchma)

RECOM Assembly and XII Forum on Transitional Justice held

International Forum on Transitional Justice entitled *For the Victims to Live in the Society's Memory* was held on December 15-16, 2019. The Forum started an expert public debate on creation of collective memory, on the need to intensify discussions on practices of memorialization in post-Yugoslavian countries, and pointed out the dangers of creating myths and “national truths” that cover, marginalize and change the facts determined before the Hague Tribunal and domestic courts. YUCOM, as a RECOM founder, took part in this regional event after adoption of strategic decisions at the RECOM Assembly.

Network of organizations supporting Kosovo Specialist Chambers

Since 2017, the Lawyers' Committee for Human Rights has been a part of the network of organizations which, through their expertise and their work on facing the past, have an advisory role in the work of the Kosovo Specialist Chambers. Civil society organizations from Serbia and Kosovo are engaged in this network and they operate through formal and informal annual meetings.

The Kosovo Specialist Chambers are a temporary judicial institution with a specific mandate to conduct trials for certain crimes against humanity, war crimes and other crimes under Kosovo law that allegedly occurred between January 1, 1998 and December 31, 2000, in relation to allegations reported in the Council of Europe Parliamentary Assembly Report from 2011. The Kosovo Specialized Chambers have jurisdiction over natural persons of Kosovo/Federal Republic of Yugoslavia (FRY) citizenship, or over persons accused of committing crimes against persons of Kosovo/FRY citizenship. This judicial institution allows victims to participate in proceedings.

In July 2018, the Kosovo Specialist Chambers Outreach Workshop was organized together with the organizations that are part of this network. The following non-governmental organizations took part

in this workshop: the Humanitarian Law Center - Kosovo; the Humanitarian Law Center - Serbia; European Center for Minority Issues (ECMI) - Kosovo; Youth Initiative for Human Rights (YIHR) - Kosovo; Youth Initiative for Human Rights (YIHR) - Serbia; the Lawyers' Committee for Human Rights YUCOM; AK-TIV; Advocacy Center for Democratic Culture (ACDC); Center for Research, Documentation and Publication (CDRP); Integra; Center for Peace and Tolerance (CPT); Forum ZFD - Serbia; Forum ZFD - Kosovo; Roma in Action; and the Network of the Committees for Human Rights in Serbia (CHRIS).

The goal of this workshop was to assess the progress made by the Specialist Chambers in the field of outreach based on the feedback and recommendations from the last year's workshop, as well as to exchange opinions on further improvement of outreach activities and give suggestions for future activities. Comments were provided on the materials produced by the program, primarily on the leaflets explaining to citizens some important subjects and proceedings, such as defense and victims' participation.

Another meeting was held in February 2020 in Pristina. Representatives of the member organizations presented their current joint activities with the Specialist Chambers, mostly in Kosovo, and there were discussions about the planned activities in Serbia, and preparation of the media products for the program.

4. National level networking

National Convention on the European Union

As one of the founders of the National Convention on the European Union (NCEU), YUCOM coordinates the work of the NCEU Working Group for Chapter 23 – Judiciary and Fundamental Rights. During the entire 2019 and the first quarter of 2020, the NCEU WG for Chapter 23 was actively monitoring the process of revision of the Action Plan for Chapter 23, since there was no any actual progress in terms of reforms related to judiciary, fight against corruption

and improvement of human rights. The Working Group provided two joint summary comments on both versions of the Action Plan, before it was submitted to the European Commission and after receiving comments from the Commission.

Four sessions were held in total, and as well as one workshop for planning of the working group's activities for 2020, and the group informed the public about the results and problems in the process of European integrations through press releases and media appearances. As stated in these sessions and restated in the NCEU Book of Recommendations, most of the disagreements regarding improvement of the Action Plan for Chapter 23 were concerning the process of amendment of the part of the Constitution related to judiciary, the part of AP 23 related to prevention and suppression of corruption, freedom of the media and position of independent institutions.

The NCEU Working Group for Chapter 23 has over 60 members and it continues to actively monitor the process of European integrations, point out the disruptions and shortcomings of the proposed reforms and inform the public and relevant European Union institutions about it.

The Three Freedoms Platform

In Belgrade, on April 10, 2019, during the International Civil Society Week, representatives of 20 civil society organizations signed the *Three Freedoms* Platform for the Protection of Civic Space in the Republic of Serbia, in order to protect and promote the freedom of association, assembly and information.

The *Three Freedoms* Platform states that its signatories will act as a joint front of civil society to



protect vulnerable freedoms and create conditions for smooth participation of citizens in public affairs through development of civil society. Organizations launched the Three Freedoms Platform, as the European Commission noted that there were elements of captured state throughout the Western Balkans – a state in which the government misuses public resources for private purposes, and that the international institutions and organizations point out the worrying trends of shrinking of the civic space in Serbia. The main goal of the Platform is to contribute to democratization of society, building of the rule of law, and active participation of citizens in creation and implementation of reforms through protection and full implementation of the three freedoms – association, assembly and information.

Some of the signatories of the Platform are Civic Initiatives, Youth Initiative for Human Rights, Center for Research, Transparency and Accountability (CRTA), Transparency Serbia, Belgrade Center for Security Policy, Belgrade Center for Human Rights, Lawyer's Committee for Human Rights YUCOM, Center for Cultural Decontamination, Trag Foundation, Our Endowment, Serbia on the Move, New Optimism, Policy Center, Slavko Ćuruvija Foundation, Autonomous Women's Center, A11, Helsinki Committee, Catalyst Balkans, National Coalition for Decentralization, Partners Serbia.



