

DIGITALLY MEDIATED ASSEMBLIES IN SERBIA 2021-2022

THREE CASE STUDIES



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1.

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Masked individuals throw torches at the citizens at the environmental roadblocks in Belgrade

photo: Vesna Lalić/Nova.rs

INTRODUCTION

Great technological leaps have made organizing public gatherings much easier while making them more vulnerable to government interference. The developing concept of online or hybrid assemblies – here regrouped under the definition of digitally-mediated assemblies – is now acknowledged by international and regional human rights standards. The importance of social media in organizing gatherings in Serbia was highlighted in the 2022 Freedom House [report](#), which also noted frequent misinformation campaigns resembling the government’s official narrative. The report noted that the online streaming of environmental protests opposed to the construction of hydroelectric power plants helped the movement amass more than [100,000](#) followers on social media.

Sociological [research](#) dedicated to digitally-mediated assemblies in Serbia noted significant obstacles to using social networks but also noted that together with the positive trend in the information society development, the closure of traditional media channels to the government’s opponents also favors social networks as an alternative. The researchers also noted that many social and political movements have already based their activism online and use the internet as a means of information, communication, and mobilization.

While assemblies conducted solely online may become a preferable way of exercising this right in the future, it has already become difficult to imagine the organization of physical gatherings without the help of digital tools – hence the reference here to “digi-

tal mediation.” On the other hand, the government’s use of biometric video surveillance and behavior prediction algorithms presents new, seemingly insurmountable challenges to the Freedom of Peaceful Assembly. By studying selected cases, this Report will seek to answer how modern technology impacted the Freedom of Peaceful Assembly and whether it contributed to creating a nurturing environment or a chilling atmosphere.

This Report was compiled with the support of the European Center for Non-for-Profit Law (ECNL) under the project „Monitoring Right to Free Assembly in Serbia.” The aim was to implement a standard monitoring methodology based on the [Guide on Monitoring Digitally-Mediated Assemblies](#) created by ECNL, reach comparable country results and enable evidence-based advocacy in the Freedom of Peaceful Assembly.

The research included an analysis of applicable laws and bylaws, information collection through freedom of information requests, analysis of social media content, and interviews with relevant interlocutors. Freedom of information request was sent to 22 police authorities, the Ministry of Interior, 44 misdemeanor courts, the Misdemeanor Appellate Court, the Administrative Court, and the Constitutional Court. The interviews were conducted with 13 people, participants of public assemblies, activists arrested at assemblies, lawyers providing free legal aid, and organizers of banned assemblies.



2.

ЕРАЛЕ НЕК ЈЕ
ВАЛА

ЊЕГОШЕ
УЛИЦА

ПАР

Police watching the mural
dedicated to Ratko Mladić,

photo: Filip Krainčić/Nova.rs

LEGAL FRAMEWORK

Freedom of Assembly is regulated by article 54 of the Constitution of Serbia and the Law on Public Assembly. Other laws, such as the Law on Public Order and Peace, the Law on Road Traffic Safety, Law on Police, Law on Environmental Noise Protection, Criminal Code, Criminal Procedure Code, Law on Personal Data Protection, and the Law on Electronic Communication, are also relevant. Local decisions, including those specifying places where gatherings are banned, and fees for the occupation of public spaces, are also crucial for exercising this freedom.

The use of biometric video surveillance is not regulated by any law, and an attempt to introduce it through the Draft Law on Internal Affairs was temporarily halted. The use of algorithms in automatic decision-making is currently limited to preventing welfare fraud in the Law on Social Card.

International standards on Freedom of Public Assembly taken into consideration when analyzing the legal framework include the [case law](#) of the European Court for Human Rights (ECtHR), the Human Rights Committee [General Comment no. 37 on the right of peaceful assembly](#) (Article 21) (The General Comment 37), [Guidelines of Freedom of Peaceful Assembly](#) (The Guidelines), and other opinions of the Venice Commission of the Council of Europe.

a) Constitution of Serbia¹

Article 54 of the Constitution of Serbia guarantees Freedom of Assembly, allowing restrictions by the law only if necessary to protect public health, morals, rights of others, or the security of the Republic of Serbia. Indoor assemblies are not subjected to permission or registration, while outdoor assemblies need to be reported to the state body in accordance with the law. The Constitution of Serbia prescribes direct implementation of guaranteed human rights and their interpretation according to international standards and the practice of international institutions supervising their implementation (art. 18).

b) Law on Public Assembly²

The Law on Public Assembly regulates the time and place of gatherings (art. 4-8), restrictions (art. 8,15), organizers' obligations (art. 11), notification procedure (art. 12,14), spontaneous gatherings (art. 13), legal protection (art.16), police authority (art. 18-19), and misdemeanor responsibility of the organizers and participants (art. 20-22). The Constitution of Serbia protects peaceful assemblies without distinction regarding public or private ownership of the venue. While the Law regulates the protection of public assemblies, it applies to gatherings held in public and private spaces.

1 („Official Gazette of RS“, no. 98/2006 and 115/2021)

2 („Official Gazette of RS“, No. 6/2016)

Gatherings can only be held between six in the morning and midnight (art. 7). They are banned in front of the health institution, schools, and preschool institutions, as well as the area in front of facilities of strategic and special importance for defense and security of the Republic of Serbia (art. 6 para. 1). The exact list of these places is enumerated through bylaws by local self-governments. According to the Venice Commission, place and time restrictions should not be blanket and should pass the test of proportionality in each case.³ The Law introduces a 5-day notification before the gathering (art. 12 para. 3) except for spontaneous gatherings (art.13 para. 1 line 4). However, it does not allow spontaneous gatherings to have organizers (art. 13 para. 3). According to General Comment 37 (para. 14), spontaneous gatherings should enjoy equal protection, whether they are coordinated or not.

The police can ban, prevent, or order the dispersal of a gathering: when there is a threat to the safety of people and property, public health, morality, the rights of others, or the security of the Republic of Serbia; when the objectives of the gathering are aimed at calling and inciting to armed conflict or the use of violence, at violating human and minority freedoms and the rights of others, aimed at causing or inciting racial, national, religious or other inequality, hatred, and intolerance; when there is a danger of violence, destruction of property or other forms of disruption of public order on a larger scale; if the gathering is contrary to the provisions of this law. These reasons are mainly in line with the Constitution, except for the last line, which allows the police to ban a gathering simply due to a lack of notification. International standards include the presumption in favor of peaceful assemblies. According to the Guidelines (para.21), this includes the obligation of tolerance and restraint toward peaceful assemblies in situations where legal or administrative procedures and formalities have not been followed.

The Law prescribes an appeal to the Ministry of the Interior against a ban on gatherings and a lawsuit to

the Administrative Court against the decision of the Ministry (art. 16). Since there is no prescribed principle of urgency or deadline for the Administrative Court to reach its decision, most cases are decided months or in some cases more than a year after the scheduled time of the gathering. This makes the lawsuit an ineffective legal remedy, and the legal protection system not in line with international standards. There is no legal remedy against the order of the police to disperse a gathering. The Guidelines assert that a court decision concerning a ban on a gathering should be issued promptly so that the appeal can be resolved before the planned time of the gathering. While insisting on timely access to a judicial review, the Guidelines also note the importance of an effective administrative review (para. 125).

Very steep fines for different breaches are disproportionate to the committed offenses. The most commonly prosecuted misdemeanor prescribes a fine of up to 150.000 dinars (1280 euros) for a natural person and up to 2.000.000 dinars (17,050 euros) for a legal entity for holding a gathering without notification (art 22 para 1 line 2 and para 2) with an additional fine of up to 150.000 dinars (1280 euros) for the director of the legal entity. Fines for different misdemeanors can be accumulated. This may have a chilling effect on political parties, unions, and civil society organizations since accumulated fines from a single gathering could lead to their bankruptcy.

The Law does not explicitly regulate simultaneous and counter-protests or the total duration of a gathering, which is only limited by the daily time allowance. There were cases in which the police considered a multi-day simultaneous protest as separate gatherings filing separate charges against supposed organizers for failing to notify the police in time (i.e., a Protest against Dictatorship in 2017).

3 See: [Joint Opinion on the on the Public Assembly of Serbia by the Venice Commission and OSCE/ODIHR](#), Venice Commission and OSCE ODIHR, October 18, 2010, para. 13.

c) Law on Public Order and Peace⁴

The Law on Public Order and Peace regulates misdemeanor and criminal offenses that can occur at an assembly. These include Rude, insolent, reckless behavior (art. 8), Insulting, using violence, threatening, or fighting (art.9), Ignition of pyrotechnic products or shooting (art. 17), Insulting an official in the performance of official duties (art. 22) and Obstructing an official in the performance of official duties (art. 23) which is a criminal offense. In the past, there were examples when this Law was used to obstruct the Freedom of Public Assembly. In 2013, the Constitutional Court of Serbia determined that misdemeanor penalization of the use of whistling, the use of whistles and similar during protests presents interference that led to the infringement of the Freedom of Assembly during a union rally.⁵ Similar [allegations](#) have been made that the police selectively applied this Law in 2019 to target local environmental activists responding to insults and provocations of private security during mini hydro power plants protests. The July 2020 protests against the re-introduction of COVID-19 measures saw the controversial use of article 22 to expressly [sentence](#) participants to 30 and 60 days in prison for insulting police officers, enraged by seeing the police use of excessive force. Due to the total number of these cases and the way the misdemeanor courts maintain their database, it is difficult to gather reliable data through FOI requests on the use of this Law during gatherings.

d) Law on Road Traffic Safety⁶

The Law on Road Traffic Safety regulates misdemeanors that can occur at an assembly. It prescribes a ban on vehicle parking threatening traffic safety or representing obstacles (art. 62), places where vehicles must not be stopped or parked (art.66), movement of pedestrians on the road (art. 93), the pedestrians' obligation to use the sidewalk or other intended sur-

faces for movement (art. 94). Before gatherings on the move were first formally introduced in the new Law on Public Assembly in 2016, Law on Road Traffic Safety was also used to target such rallies. For the first time during the massive environmental roadblocks in late 2021, this Law was used to issue thousands of misdemeanor warrants to people blocking the road as pedestrians or drivers. Similar to the previous Law, it is difficult to gather reliable data on its application during gatherings through FOI requests.

e) Law on Police⁷

Law on Police regulates the conditions for using instruments of restraint such as physical force (art. 110), sprayers with an irritant agent (art. 111), electromagnetic devices (art. 112), police batons (art.113), instruments of constraint (art.114), special vehicles (art.115), service dogs (art.116), service horses (art. 117), and means of blocking passage (art.118). It also regulates the obligation of the police to notify assembly participants that the assembly is being recorded (art. 52), which can be conducted under the condition of danger that the life and health of people or property will be put at risk during a public gathering. The recording of a gathering which is not used in a court procedure should be destroyed in one year. The Law regulates a complaints procedure against police officers for violating human and minority rights and freedoms (art. 234). For the first time during the July 2020 protests against the re-introduction of COVID-19 measures, police used most instruments of restraint, including service horses and dogs. In many cases, their use was manifestly excessive and clearly against regulation. Despite several criminal complaints and ample televised video evidence of police brutality against peaceful protesters, only three police officers were processed for throwing an autistic boy from his bicycle and beating him in Novi Sad due to [public outrage](#). The omission of the police to notify participants of the video recording, on the other hand, led to several court rulings that such evidence is inadmissible and acquitting the defendants.⁸

4 („Official Gazette of RS“, no. 6/2016 and 24/2018).

5 See: [Compliance analysis Draft Law on Public Assembly with the Constitution of the RS](#), Katarina Golubović, Ph.D., lawyer, YUCOM, 2015, pg.11.

6 („Official Gazette of the RS“, no. 41/2009, 53/2010, 101/2011, 32/2013 - CC decision, 55/2014, 96/2015 - other laws, 9/2016 - CC decision, 24/ 2018, 41/2018, 41/2018 - other laws, 87/2018, 23/2019 and 128/2020 - other laws).

7 („Official Gazette of RS“, no. 6/2016, 24/2018 and 87/2018).

8 See: Misdemeanor court in Prokuplje, verdict 3 PR no. 3011/21 from April 8th, 2022.

f) Law on Environmental Noise Protection⁹

The Law on Environmental Noise Protection regulates the obligation of organizers of public assemblies, which may exceed the noise limitations (art. 20). This Law derogates the notification regime from the Law on Public Assembly in favor of a permission regime. It also prolongs the deadline to register such assemblies from 5 to 20 days and allows local governments to restrict places of public assemblies by designating locations where such noisy assemblies are allowed. This Law is not in line with international standards since it, among other things, expands the above-mentioned blanket restrictions on the place of gatherings under the guise of environmental protection. The Rulebook on the Methodology for the Designation of Acoustic Zones¹⁰ allows only fifty decibels in the zones of cultural-historical significance, likely to include the most important government buildings. This is a direct violation of the sight and sound principle since protest messages are often addressed to the government, and fifty decibels is the level of a quiet conversation. So far, this Law has not been applied to public assemblies.

g) Criminal Code¹¹

The Criminal Code regulates several criminal offenses which could occur at or in connection to gatherings, such as Prevention of Public Assembly (art. 151), Insult (art. 170), Dissemination of Information on Personal and Family Life (art. 172), Unauthorized Handling of Explosive and Flammable Material (art. 286), Instigating National, Racial and Religious Hatred and Intolerance (art. 317), Causing Panic and Disorder (art. 343), Violent Behavior during Sports Event or Public Gathering (art. 344a) and Racial and Other Discrimination (art. 387). Defamation was decriminalized in 2013, and the only legal recourse is

9 („Official Gazette of RS“, No. 96/2021)

10 („Official Gazette of RS“, No. 72/2010)

11 („Official Gazette of RS“, no. 85/2005, 88/2005 - corrected, 107/2005 - corrected, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/ 2016 and 35/2019)

a civil lawsuit for damages to honor and reputation. While this Law contains several incriminations concerning hate speech, they are rarely tried in practice. [Assessment](#) of prosecutorial and judicial practice shows an uneven case law with the Endangerment of Safety (art 137), a criminal offense used to prosecute online threats. Cases involving public officials are usually resolved in convictions, and in most cases, the term threat is interpreted very loosely to encompass insults and curses. When journalists and activists are concerned the same term is narrowly interpreted in favor of the defendant, often the court finds it falls under the protection of Freedom of Expression.

h) Criminal Procedure Code¹²

The Criminal Procedure Code regulates special evidentiary actions (art. 161-187), which include covert supervision of communication (art. 161-170), covert surveillance, and recording (art. 171-177), computer data search (art. 178-180), and undercover Investigator (183-187). These can only be used by the court's decision on a reasoned request of the public prosecutor and only for enumerated criminal offenses (art. 162). If the material gathered through special evidentiary actions is not used in 6 months to initiate a criminal procedure, the judge will order its destruction (art. 163). Illegally obtained evidence cannot be used and is excluded and destroyed upon the finality of the verdict (art. 84). Objects can be temporarily seized for evidence (art. 147-151) and should be returned upon the completion of the criminal procedure. In practice, these objects have included computers, mobile phones, and social media accounts, including credentials used to access them.

i) Law on Personal Data Protection¹³

Law on Personal Data Protection regulates conditions for personal data collection and processing, the

12 („Official Gazette of RS“, No. 87/2018)

13 („Official Gazette of RS“, no. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 - decision US and 62/2021 - decision US)

rights and protection of rights of persons whose data are collected and processed, limitations to personal data protection, proceedings before an authority responsible for data protection, data security, data filing, data transfers outside the Republic of Serbia. The Law also regulates the conditions for automatic data processing, profiling, and automatic decision-making. It regulates the competencies of the Commissioner for Information of Public Importance and Personal Data Protection, which include oversight over the application of the Law. The Commissioner also acts upon citizens' complaints and can file misdemeanor charges (art. 78). It also gives an opinion on the influence assessment, which is obligatory in cases in which data processing, particularly with the use of new technologies, is probable to produce high risks for the right and freedoms of people (art. 54). It is also competent to declassify data (Law on Data Secrecy art. 25).

j) Law on Electronic Communication¹⁴

The Law on Electronic Communication regulates the operator's duty to allow lawful interception of communication (127). It also regulates the duty to retain user data which can be accessed on court's decisions if it is necessary to conduct criminal proceedings or for the security of the Republic of Serbia (art.128). It regulates the type of retained data which includes determining the source, destination, time, and duration of the communication, the type of communication, the user terminal equipment type, and the location of the user mobile terminal equipment (art 129). In 2012, the Protector of Citizens (Ombudsperson) and the Commissioner for Information of Public Importance and Personal Data Protection conducted a joint oversight which showed several shortcomings in the legislation and practice. They determined that security services accessed user data without the court's decision. Since then, relevant laws have been amended. However, some of their other recommendations have not been met, including the indelible recording of security services access to telecommunications and the retention of data needed for

14 („Official Gazette of the RS“, no. 44/2010, 60/2013 - decision of the US, 62/2014 and 95/2018 - other laws)

subsequent access control.¹⁵ Data [published](#) by the SHARE foundation shows that in 2017 Telenor reported an incredible 381.758 times the government directly accessed user data without submitting a request.

k) Law on Contract and Torts¹⁶, Law on Public Information and Media¹⁷, and the Law on Trademarks¹⁸

The Law on Contract and Torts regulates the right to seek damages in cases of violation of honor and spreading false allegations (art. 198). The Law on Public Information and Media regulates the right to seek damages in cases where the right to personal dignity was infringed through the publication of information (art. 101). The Higher Court in Belgrade is exclusively competent to resolve media cases, while all other cases are distributed according to the permanent residence of the defendant. Media cases have a shorter filing deadline (6 months) than other cases (3 years). If the plaintiff is a legal entity, according to the Law on Trademarks, they have a right to seek damages for the devaluation of their brand. Such lawsuits often seek compensation in the amount of 100,000 euros.

Strategic Litigation Against Public Participation (SLAPP) lawsuits are often used against organizers of public gatherings and regularly in combination with other legal procedures, such as the private criminal lawsuit for Insult and the misdemeanor procedure for holding gatherings without notification.¹⁹ Even

15 See [Legal framework and practice applications of special procedure and measures for the secret collecting data in the Republic of Serbia](#), Prof. dr Bogoljub Milosavljević, Belgrade Centre for Security Policy, 2015, pg. 31.

16 („Official Gazette of the SFRY“, no. 29/78, 39/85, 45/89 - decision of the CCY and 57/89, „Official Gazette of the SFRY“, no. 31/93, „Official Gazette of the SCG“, no. 1/2003 - Constitutional Charter and „Official Gazette of RS“, No. 18/2020)

17 („Official Gazette of RS“, no. 83/2014, 58/2015, and 12/2016 - authentic interpretation)

18 („Official Gazette of RS“, No. 6/2020)

19 Aladin Paučinac, an activist from Novi Pazar, is facing several simultaneous misdemeanor proceedings for organizing public assemblies without notifications, private criminal lawsuits for insult, and civil libel procedures for damages for

though civil society organizations are often targets of smear companies, according to court practice, as non-profits, they are not entitled to seek damages to their brand. Lawsuits by individual activists against pro-government tabloid media are ineffective due to low awarded compensation (on average 100.000 dinars or 850 euros) and the fact that tabloids receive considerable funds from local self-government funding schemes.

The Law on Media and Public Information allows a ban on the distribution of information or other media content on the order of the court made at the request of the public prosecutor if it is necessary in a democratic society and if such information represents an act of immediate violent overthrow of the constitutional order or an act of immediate violence against a person or group based on race, nationality, political affiliation, religion, sexual orientation, disability or another personal characteristic, and the publication of the information immediately threatens serious and irreparable consequences that cannot be prevented in any other way (art. 59).

I) Law on Social Card²⁰

The Law on Social Cards was introduced in 2021 to combat alleged welfare fraud. It combines all citizen databases into one to assess the fulfillment of conditions for welfare using algorithms. While initially, the idea was for it to include all citizens for the state to plan the allocation of funds for social care, it was limited only to the socially disadvantaged due to logistical issues. The system, among other things, creates connections between welfare users and connected persons who have the legal obligation to support them (i.e., ex-spouses, children). This is the first widespread use of automated decision-making, leaving social care workers entirely out of the process. It was adopted despite the unfavorable opinions of the Commissioner for Information of Public Importance and Personal Data Protection and the Commissioner for the Protection of Equality.

Due to a lack of transparency, there is a possibility that with biometric video surveillance, the Law could be misused to pressure participants of gatherings by denying them welfare or indirectly by putting pressure on their relatives employed in local government and communal companies. According to information from CSOs, together with the 800.000 socially disadvantaged and their connected persons, the system could collect data of up to two million people. The system is processing as many as [130 data points](#) on welfare users and their connected persons using an algorithm to which access through FOI requests was denied. The justification for dismissing the FOI request was that this was not information of public importance, that this was done due to national security reasons, and that it was a business secret. A11 Initiative for economic and social rights submitted an [initiative](#) for a constitutional review in April 2022.

statements made regarding the mishandling of the COVID-19 pandemic by the director of the local hospital. Paučinac is one of several activists and doctors targeted by the hospital director, and two constitutional appeals are pending in his case.

20 („Official Gazette of RS“, No. 14/2021)

3.

**Environmental roadblocks
in Belgrade**

photo: Djodje Kostić

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SELECTION OF CASES

Three public gatherings selected for the case studies represent the current state of the Freedom of Peaceful Assembly in Serbia. Considering the concept of online assemblies, the use of digital tools is limited to facilitating and restricting physical gatherings. Selected examples may appear to showcase the use of such tools to restrict rather than to enable Freedom of Peaceful Assembly to disparage, belittle, threaten, and prosecute citizens who exercise their rights. They show how the highest government officials misuse the internet to spread misinformation about the nature of the protest and the organizers' motivation and to downplay and justify violence against peaceful protests.

The central thread connecting all three cases are the issued bans and how the government and the activists used digital tools to achieve opposite goals, to infringe and to protect the Freedom of Peaceful Assembly. Messages sent by the government meant to discourage people from participating in protests are amplified through social networks, and bot armies are used to create an illusion of support for government talking points. Since the government controls almost all the traditional media, social media is the only outlet to express dissident views. Flooding social media with misinformation and hate speech is meant to foster passivity and makes it much harder for activists to reach and engage people in protest. This is reflected in the smaller numbers of participants attending the rallies, making roadblocks that do not require tens of thousands of participants a viable option to influence the government.

However, digital tools, such as social media, used by the government are also effectively used by human rights defenders in Serbia to facilitate gatherings of those seeking to advance environmental causes, dealing with the war past, and the rights of the LGBT community. Social media are used with great success to complement physical gatherings by advocating for their goals, online meeting platforms are used for gathering support locally and internationally for those directly facing intimidation and prosecution, organizing free legal aid, and crowdfunding platforms are used for collecting necessary funds. Despite having much fewer resources, activists can still break through the noise created by the government to silence their voices and spread the protests beyond the capital and other larger cities.

Digital tools may be a means of government persecution, but they also strengthen the resilience of those potentially affected by the abuse of modern technologies. An attempt in 2021 to sneak biometric video surveillance into legislation and ban the filming of police brutality at protests had been temporarily halted through massive online resistance, securing civil society a chair at the discussion table. At the end of 2022, the draft Law on Internal Affairs was published again with minor alterations and a very short deadline for a public discussion. The internet remains a place where citizens can gather around worthy causes, translating a significant online presence into massive physical rallies.

1.

4.

Masked assailants attack the citizens at the roadblock on the bridge in Šabac
photo: Marko Zamurović



PROSECUTION OF PARTICIPANTS OF ENVIRONMENTAL ROADBLOCKS

a) Background

The Law on Referendum and People's initiative adopted in 1992 was misaligned with the new Constitution of Serbia adopted in 2006. The need to amend the Constitution as part of the EU accession process required adopting a new law. Amidst fears that the government bill was tailored to suit the interest of Rio Tinto in planning environmentally harmful mining for lithium in Serbia, the "Kreni-promeni" association initiated an [online petition](#) on November 12, 2021, seeking the withdrawal of the bill. Similar demands were made regarding the amendments to the Law on Expropriation, also seen by many as facilitating Rio Tinto's buyout of the local land needed for Lithium mining.

"Kreni-promeni" subsequently organized [successful](#) protest roadblocks across Serbia on [November 27](#) and [December 4](#), requesting amendments to the newly adopted Law on Referendum and People's initiative and withdrawal of amendment to the Law on Expropriation from the parliamentary procedure. The organizers used social networks such as [Facebook](#), [Instagram](#) and Twitter accounts @SavoManojlovic and @KPromeni to coordinate their actions and inform citizens of routes and roadblock locations. The organizers and other activists used hashtags: #krenipromeni, #KreniPromeni, #SrbijaNijeNaProdaju, #marssadrine, #MarsSaDrine, #Blokada.

Before the protests, an online meeting platform was used for meetings of CSOs to successfully advocate with the Venice Commission of the Council of Eu-

rope, which had issued two urgent opinions on the draft Law on Referendum and People's initiative on [September 24](#), and [November 9](#), 2021, in line with the later demands of the protesters. Under the EU accession process, the government of Serbia is obliged to consult this expert body on important draft laws. Subsequently, different types of apps and platforms were used to coordinate the work of [free legal aid](#) providers for protesters charged with misdemeanor offenses and crowdfund for their fines.

Given that the short timeframe did not allow the organizer to notify the police within the legal deadline of 5 days, the first gathering could be considered spontaneous in the sense of international standards, while the second was not notified by the organizer's decision. The roadblocks on both dates were scheduled to begin at 14h and last for one and two hours. Participants were activists from local CSOs, informal groups, and citizens, and depending on the location of the roadblock, their number was from a few dozen to a few thousand. The organizers estimated the total number of participants on December 4, 2021, at [80.000](#), while the president of Serbia, Aleksandar Vučić claimed [31.000](#). After the initial success, roadblocks with different local organizers and other environmental demands continued. The police allegedly used illegal [biometric video surveillance](#) to identify and fine protesters. The Government used its control over traditional and online media to spread misinformation, insults, and threats against protesters aimed at downplaying or justifying violence against them by police or counter-protesters.

b) Legal proceedings

Misdemeanor warrants

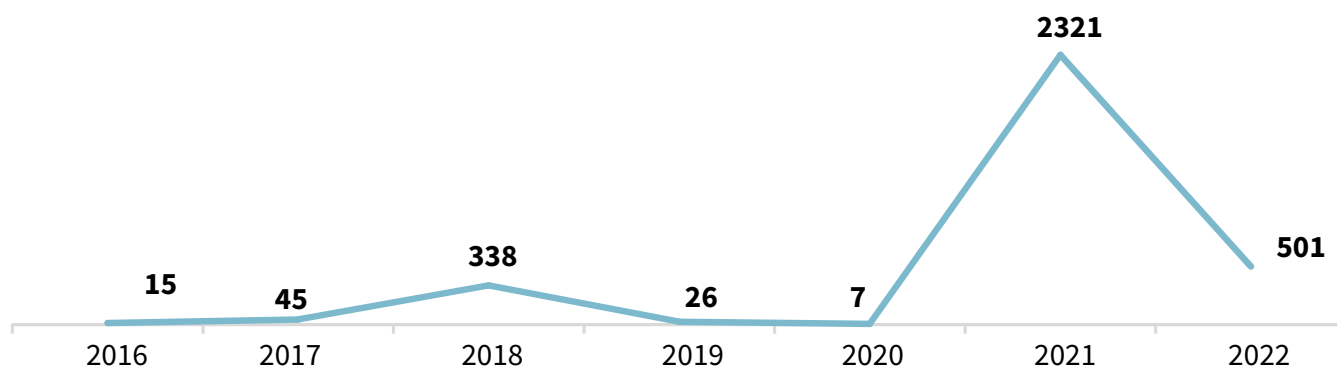
Citizens who took part in the protest roadblocks on November 27 and December 4, 2021, received misdemeanor warrants in cities and municipalities across Serbia for violating the Law on Road Traffic Safety. According to the [information](#) collected by the Commissioner for Information Of Public Importance and Personal Data Protection, citizens received 1653 warrants in total. This is the first time for the police to issue warrants to participants of gathering on such a massive scale, even though there were similar gatherings organized in the past. Many warrants stated that the misdemeanor was observed through video recordings in many cases. Their number and the speed with which they were issued prompted fears that the police were using illegal biometric video surveillance to identify protesters. Particularly given that, in many cases, the police failed to take the identity documents of the protesters. The Commissioner conducted oversight over the work of the police but found no evidence to support such claims. It is worth noting that the oversight was limited to using the HUAWEI EP 821 and whether the device has facial recognition software. Since 2019, more than a thousand HUAWEI smart cameras with facial recognition technology have been [installed](#) by the Ministry of Interior without any legal basis. The Commissioner's oversight did not include the possible use of stationary cameras or that recordings were processed off-site. The Commissioner also claimed that the public was informed of their recording following the Law on Police. His claim was later rejected in several acquitting verdicts dismissing recordings as illegally obtained evidence. Some [statements](#) that police officers gave in court suggested that they were shown recordings of the protest at police stations and asked whom they could identify. They were even given quotas of how many people they had to identify.

After the [announcement](#) of the Ministry of Interior that they would not secure unregistered rallies, the police were not visibly present at the roadblocks

held on December 4, 2021. Some citizens received misdemeanor warrants for both days of the roadblocks. Among those who received misdemeanor warrants were journalists Branko Žujović from Subotica and Željko Milojević from Smederevo, who reported on the protests in these cities, but the police subsequently withdrew the warrants after the protest of the Journalists' Association of Serbia. Some citizens reported that police visited them at their homes, warning them against participation in the roadblock scheduled for that day. The police detained several participants in the blockade in Novi Sad, Šabac, Valjevo, and Preljina but released them after citizens' protests. The organizers offered citizens free representation from lawyers or help with paying fines. Warrants to pay five thousand dinars (42 euros) fine not paid in time or challenged in court are converted to a 5-day prison sentence. Subsequently, numerous citizens challenged the warrants in court, with many cases resulting in acquitting verdicts because the police failed to inform them of the recording.

A.A from Prokuplje, was served with a misdemeanor warrant for breaching article 93 of the Law on Road Traffic Safety, that is, for moving on the road as a pedestrian during the roadblock on December 13, 2022. A.A filled a request for judicial decision, and the Misdemeanor court in Prokuplje decided on April 8, 2022. The court acquitted A.A. of the charge and rejected the misdemeanor warrant with the justification that it could not observe from the recording provided as evidence by the police that the defendant was informed of the recording. This verdict is the first regarding the misdemeanor warrants acknowledging the legal argument of illegally obtained evidence.

Misdemeanor warrants issued per year (Law on Road Traffic Safety)



Misdemeanor proceedings

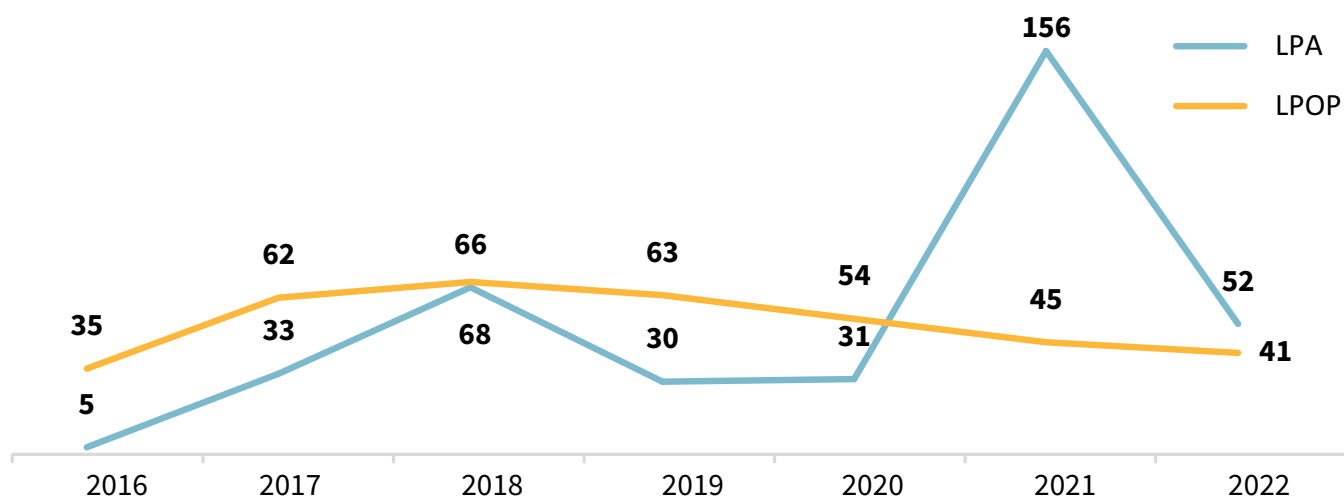
According to the data published by the Commissioner for Information of Public Importance and Personal Data Protection, the police filed misdemeanor charges against [211](#) persons who participated in the protests. They charged the alleged organizers for failing to notify the police five days before the public gathering. The Law on Public Assembly prescribes a fine of 100,000 dinars (850 euro) to 150,000 dinars (1280 euro) for this misdemeanor. The court usually converts a fine of 150.000 dinars, which is not paid in time, to a 60-day prison sentence and partly enforces it on the convicted person's property.

Before initiating the misdemeanor procedure, the court should examine the police charges (art. 184 Law on Misdemeanors). In many cases, such charges did not meet the necessary legal conditions and should have been rejected. Namely, the defendants were charged for actions that were not prescribed as misdemeanors. They were often accused of being the organizers solely due to the invitations shared on social networks. This practice is contrary to the Law on Public Assembly, which defines an organizer as someone who invites, prepares, and organizes the gathering. In addition to Freedom of Peaceful Assembly, this practice restricts Freedom of Expression online and may

lead to auto-censorship. The collected data shows only seven cases in which the courts rejected requests by the police out of hand in almost seven years. Automatic initiations of cases may take a heavy toll on the targeted activists and the court's budget since the court is responsible for compensating for the cost of legal representation in cases of acquittals and cases going past the statute of limitations.

Since the adoption of the new Law on Public Assembly in 2016, which prescribed the possibility of spontaneous gatherings for the first time, the narrow definition only allowing such gatherings without organizers made it possible for the police to charge numerous prominent activists in multiple procedures for organizing gatherings without notification. According to General Comment 37 (para. 14), spontaneous gatherings should enjoy equal protection, coordinated or not. While in [some cases](#), police charged real organizers of spontaneous gatherings, they also singled out more active participants in [other cases](#). Some activists had as many as 60 procedures initiated against them, like [Desimir Stojanov Desko](#), an activist of "Let's defend the river of Stara Planina." The shortcomings of the police charges indicate that the aim may not have been to convict charged persons but to pressure them from participating in or organizing future rallies.

Misdemeanor charges filled per year (Law on Public Assembly/Law on Public Order and Peace)



Srđan Vukša, a local activist from Kovin, was charged by the Police Authority Pančevo for breach of art. 22, para. 1, line 2 of the Law on Public Assembly, alleging that Vukša organized a gathering in Kovin on December 4, 2021, without notifying the police. The police charged Vukša because he published several posts on Facebook calling citizens to join the gathering. Because the police charged him with the same offense for a gathering organized on December 11, 2020, the Misdemeanor Court in Kovin merged two procedures and reached a single verdict on April 14, 2022. Vukša was acquitted with the justification that the actions attributed to him were not prescribed as a misdemeanor. The Court found that the described actions failed to meet three cumulative legal conditions for someone to be deemed the organizer: invitation, preparation, and organization. Deciding on the appeal of police authority, the Misdemeanor Appellate Court, on May 17, 2022, upheld the lower court's verdict, making this the first final verdict in the case of the roadblocks.

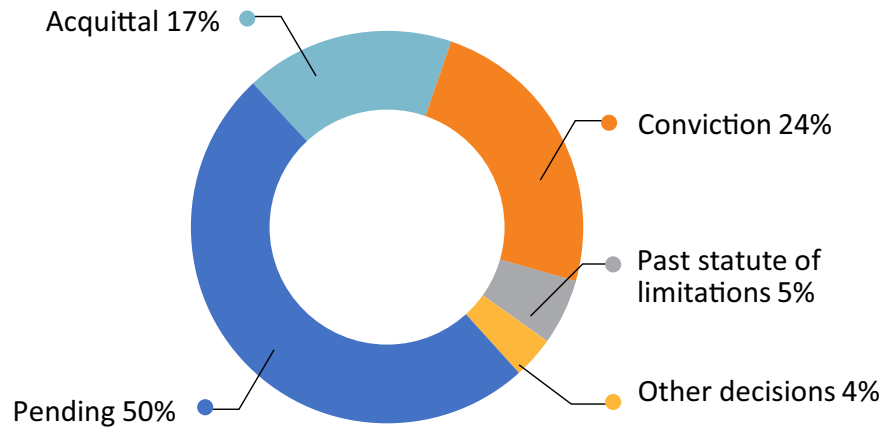
The number of misdemeanors charges for the Law on Public Assembly filed by the police dramatically rose at the end of 2021.²¹ In two days of roadblocks, almost as many people faced charges as in the previous five years combined. Civil society organizations and lawyers offered legal assistance and representation to citizens, and several acquitting verdicts have been reached.

The trend of misdemeanors charges for Law on Public Order and Peace at gatherings in 2021 does not support the narrative of the violent nature of the protests pushed by the government. Similarly, police reports on the number of times means of coercion were used, and the number of people arrested during gatherings was lower in 2021 than in previous years. In 2021 police reported using only physical force and restraints, but not police batons or sprayers with chemical irritants one would expect at allegedly violent demonstrations.

The police did not report a sole case in 2021 in which they ordered the gathering participants to disperse.

²¹ The discrepancy between the Commissioner's data and the data gathered through FOI requests on the total number of misdemeanor procedures could be explained by differences in the quality of the provided responses and the possibility that some of the information was omitted intentionally or through negligence.

Outcomes of misdemeanor charges 2016-2022 (Law on Public Assembly)



In some statements to the court, police officers testified they were under [orders](#) not to do so and to film the protesters instead. This is strangely similar to the aftermath of the Tiananmen massacre, where the Chinese police did not use violence to disperse already declining protests in the provinces but videotaped the participants for later identification and prosecution.

Only in a particular case in Novi Pazar were organizers charged with not securing the passage of an ambulance through the gathering, despite this being a frequent claim in the government-controlled media. In fact, out of 155 cases, only twelve referred to violations other than the misdemeanor of holding a gathering without notification to the police. These include failure to hire a security service (6), failure to lead and supervise a gathering (2), failure to secure the passage of emergency vehicles (1), failure to follow orders of the competent body (1), failure to stop the gathering when an immediate danger to people and property ensues and notify the police (1), holding a gathering contrary to the decision on the ban (1), holding a gathering at the place where it is not allowed (1). Out of 143 cases of a misdemeanor of holding a gathering without notification, a legal entity was charged only in a sole case. The ambiguous language of the Law makes the obligation to hire

security services especially controversial since it was enforced selectively. In most cases of notified gatherings, the police would tolerate organizers naming a person within their organization or informal group rather than hiring private security at a considerable cost.

c) Policing

In response to the [announcements](#) of the Kreni-Promeni association on social networks, the police issued a [press release](#) on November 27, 2021. Police stated that it could not secure and guarantee safety since the gatherings are not registered, and organizers of unannounced gatherings bear all responsibility for anything that may happen. It further stated that any traffic blockade or holding of unannounced gatherings is illegal and that it represents a big risk and causes danger to traffic participants, as well as to the participants of the gathering.

Police forces were present in numbers at the sites of roadblocks, and incidents have been recorded in Belgrade, Novi Sad, and Šabac. In Belgrade, a police officer was [recorded](#) tossing a female protester over the road guard rail humiliatingly. In Novi Sad, there was a [scuffle](#) with the police trying to prevent

the blockade, several protesters were arrested. On the old bridge in Šabac, the police pulled back, and a bulldozer clearing a path for buses with ruling Serbian Progressive Party supporters on their way to a party convention in Belgrade tried to [break through](#) the roadblocks. The participant in the protest, Dragan Milovanović, climbed on the bulldozer and after a short fight managed to stop the construction machine. After that, a group of masked young men got out of the limousines, allegedly owned by the municipality of Šabac, which were walking behind the bulldozer, and with batons and hammers, attacked the peacefully gathered citizens.

Calls made to the police were repeatedly cut off. This incident was covered by social media in real-time and widely discussed online. This led to the organization of a protest at the police station for the release of the detainees. Among the arrested was Dragan Milovanović, charged with causing grave bodily harm to the man blocking the entrance to the bulldozer cabin. No legal proceedings have been initiated against the masked offenders.

The initiative „Don't Let Belgrade D(r)own“ stated in a [press release](#) that several people were injured and one of their activists was attacked. They claimed that the ruling party officials controlled the operation and that „the police received an order to pull back just before the beating“. Acting upon a complaint, The Protector of Citizens [concluded](#), almost a year after the incident, that the police made several omissions and acted “belated, negligent and ineffective” and ordered the Ministry of Interior to initiate disciplinary procedures against those responsible.

On the second day of the roadblocks, December 4, 2021, the police were not visibly present and did not secure the roads blocked by protesters. As a result, several cases of cars rammed into the crowds and in at least one case in Belgrade, an [injured woman](#) was transported to the emergency room. There were also provocations by counter-demonstrators in Belgrade where masked individuals [lit torches](#) on a highway overpass, throwing some at the peaceful protesters below. In Novi Sad, masked individuals [attacked](#) the people blocking the road.

The small groups of counterdemonstrators often wore similar dark clothing and face masks and didn't identify as part of any groups at the gathering or online. Likely they used closed or obscure channels for communication and coordination (Viber groups, Telegram channels, etc.). One group which often uses face concealment and coordinates clothing colors are football hooligans. Different allegations have been made that counterdemonstrators were football hooligans or members of local criminal gangs for hire or supporters of the ruling party. It is worth noting that a clear distinction between these three groups is often lost in the Serbian political landscape.

Following online advocacy of local and international CSOs, the European Parliament (EP) expressed [concern](#) on 16 December 2021 about the increasing violence by extremist and hooligan groups against peaceful environmental protests. EP urged the Serbian authorities to properly investigate recent cases of police officers allegedly overstepping their authority or failing to protect protesters from violence and protect their human right to peaceful assembly. European Parliament called on the government of Serbia to publicly condemn the actions of hooligans against protesters.

d) Media

The predominant media narrative denied the peaceful nature of the protest, describing protesters as violent. Highest government officials often made derogatory statements, downplaying, and justifying violence against protesters. These were widely distributed and commented on social networks. The government used bots to support their talking points and spread fake news. Bot accounts were easily identifiable by their repetitive posts. In her [statement](#) on November 27, 2021, Prime Minister Ana Brnabić announced «criminal charges against all those who mistreated and beat their fellow citizens and the police.» asserting that the protests were destructive and fascist.

On November 28, 2021, Brnabić wrote a [tweet](#) reacting to a post by the daily „Danas,“. She said that

5.

ГЕНЕРАЛЕ НЕК ЈЕ
КОМУНИСТ
ХВАЛА



Police watching the mural
dedicated to Ratko Mladić,
photo: Filip Krainčić/Nova.rs

BAN OF THE GATHERING TO REMOVE THE MURAL OF RATKO MLADIĆ

a) Background

Ratko Mladić, commander of the Bosnian Serb army, was convicted by the International Criminal Court for Former Yugoslavia (ICTY) for Genocide in Srebrenica. While the National Assembly in Serbia adopted a [declaration](#) in 2010 condemning events in Srebrenica, calling it a crime, they fell short of using the term Genocide. In their [public statements](#) on Srebrenica, government officials also fail to acknowledge this legal qualification.

In 2020, Vojislav Šešelj, leader of the Serbian Radical Party and a convicted war criminal, used municipality-owned cultural centers to [promote](#) his book denying the Genocide in Srebrenica. Other convicted war criminals who served their sentences are also given prominent positions in society, such as [Veselin Šljivančanin](#) and [Vladimir Lazarević](#). Under such circumstances, in July 2021, a [mural](#) glorifying Ratko Mladić was painted in the center of Belgrade. The mural of Mladić saluting in a military uniform is accompanied by the words “*General, we are grateful to your mother*”.

Tenants of the building in Njegoševa Street in Belgrade on which the mural of Mladić was painted could not comply with the [decision](#) of the communal inspection of the City Municipality Vračar from September 20, 2022, ordering them to remove it since no painting company would take the job, fearing for the safety of their workers. Nataša Kandić, president of the Humanitarian Law Centre, was the first to come out publicly with the [idea](#) for a gathering to remove the mural in a tweet, which was discussed before

between different CSOs. Youth Initiative for Human Rights notified the police of the assembly scheduled for the International Day against Fascism and Anti-Semitism, on November 9, 2021. The organizers communicated with potential participants and the public using their [website](#), [Twitter](#), [Instagram](#), and [Facebook](#). They did not initially use hashtags, but in the subsequent mapping campaign of murals dedicated to Ratko Mladić „So that the truth is no longer delayed,“ they used #ratkomladić, #istinanesmedakasn, #cistobraz, and #mural.

The mapping campaign identified [more than 220 murals, stencils, and graffiti dedicated to Ratko Mladić](#), 40% of which were on the walls of public institutions such as schools. Like with other activists, their access to mainstream media controlled by the government is limited and they extensively use social media to spread their messages.

Public assemblies organized by civil society organizations working on the issues of confronting the war past have always been a source of landmark cases. Ban of gatherings are rare and almost exclusively focused on such organizations. One such case was the [ban](#) on a gathering of Women in Black in 2008 to commemorate the Genocide in Srebrenica. This case, together with the Pride [ban](#) in 2011, was essential for the [decision](#) of the Constitutional court to quash the previous Law on Gathering of Citizens in 2015 as unconstitutional. Woman in Black is now facing the possibility of being fined 17,050 euros for organizing a gathering to protest the war in Ukraine

two days after the Russian invasion began because they failed to notify the police five days in advance.

Activists of the Youth Initiative for Human Rights received online insults and threats due to the organization of the gathering, leading to subsequent physical attacks against their premises. This could yield a landmark case concerning digital mediation of assemblies, most notably with the lack of investigation of online threats which in this case had a demonstrated chilling effect. Threats to YIHR were made through e-mails and direct messages on Facebook and Twitter. The organizers addressed the networks which suspended the users. Some of the threats were published on the telegram channels of People's patrol and Leviatan, two ultra-right-wing organizations.

It is often challenging to identify counterdemonstrators, especially when they conceal their identity, and the police are less than eager to identify them. Counterdemonstrators at the site of the gathering were not identified by the police but through a statement made by the president of Serbia who named two of the leaders of the partisan football club fan group. When the identity of violent counterdemonstrators is left to speculation this also has a chilling effect on the Freedom of Public Assembly since the possibility that they are working for the government becomes more plausible.

b) Legal proceedings

Youth Initiative for Human Rights (YIHR) reported a public gathering for November 9, 2021, the International Day against Fascism and Anti-Semitism. They planned to remove the mural of convicted war criminal Ratko Mladić in Njegoševa Street in Belgrade. On November 5, 2021, the Police Station of the municipality Vračar banned the gathering. The justification was that *„there may be a gathering of a large number of people who would express dissatisfaction and opposition, resulting in physical conflict and disturbance of public order on a larger scale, which would endanger the safety of people and property in the area.“*

In a [statement](#) made on November 5, 2021, the Minister of Interior asserted that *„on November 9, the International Day against Fascism in Belgrade, no one will clash in the streets and destroy the lives of our citizens, and no one will delight Serbia's enemies with images of bloody Serbian heads.“* Youth Initiative for Human Rights filed an appeal against the decision on the ban to the Ministry of Interior, which rejected it on November 6, 2021. YIHR then filed a lawsuit to the Administrative Court with a request for an interim measure on November 8, 2021. The Administrative court [rejected](#) the request for the interim measure the next day and dismissed the lawsuit on February 18, 2022, 3 months after the scheduled day of the gathering, upholding the ban.

In an [open letter](#) published on their website and disseminated on social media on November 8, 2021, YIHR emphasized that they would not remove the mural the next day. They understood the statements of the Ministry of Interior and minister Aleksandar Vulin as threats that paramilitary formations controlled by Vulin would attack them and the police would not provide them with any protection.

c) Policing

On November 9, 2021, despite the ban, several activists gathered at the scheduled time at the mural of Ratko Mladić in Njegoševa street in Belgrade. Police cordoned off the mural preventing the activists from accessing it. Two activists, Aida Ćorović and Jelena Jaćimović, managed to come close and were [arrested](#) for throwing eggs at the mural. They were apprehended with excessive force by plainclothes police officers who refused to identify themselves. According to the Ministry of Interior, [misdemeanor charges](#) were filed against Ćorović and Jaćimović for disturbing public order and peace. A dozen right-wing counterdemonstrators were also shouting insults and threats against the activists. Four other activists had been [arrested](#) along with several counter-demonstrators. Two hours after the arrests, a [protest](#) was organized on social media in support of Ćorović and Jaćimović, demanding their release. Activists were released in the evening and were able to join the gathering. The police prevented the

participants from accessing the mural with a cordon. Counter protesters gathered in response as well.

In the following days, several activists attempted to deface the mural by throwing paint, but a group of masked individuals who guarded it would always easily clean the paint off due to a coat of transparent lacquer covering the mural. The police were visibly present at the mural site, trying to prevent a confrontation between the mural guardians and activists trying to remove it and effectively denying the activists access to it. Dozens of murals and stencil graffiti depicting Ratko Mladić were painted in cities and towns across Serbia. Despite the concerted effort of activists to remove them, many remain, both in the capital and elsewhere.

On November 11, 2021, graffiti glorifying convicted war criminal Ratko Mladić and symbols of neo-Nazism appeared on the offices of the organizer of the banned assembly, the Youth Initiative for Human Rights. The Initiative [stated](#) on its Twitter account that the graffiti was drawn after cleaning Ratko Mladić's mural between November 10 and 11. On November 16, 2021, for the second time in just a few days, graffiti glorifying convicted war criminal Ratko Mladić and symbols of neo-Nazism appeared on their offices. These attacks came after the failure of the police to investigate threats made against YIHR and had a demonstrated chilling effect on their decision not to proceed with the removal of the mural.

The Initiative reacted with a [press release](#) where it pointed out that it believes that President Aleksandar Vučić, Prime Minister Ana Brnabić, and Minister of Interior Aleksandar Vulin, with their actions, ordered those graffiti. This organization made the decision not to remove the graffiti, and next to the graffiti, it indicated that those were messages from Vučić, Brnabić, and Vulin. YIHR addressed the European Court of Human Rights with a request for an interim measure regarding the obligation of Serbia to protect the life and safety of YIHR activists against threats it failed to investigate. The Court [obliged](#) the Government of Serbia to explain the inaction of the institutions. According to the lawyers representing

YIHR, the state never gave the Court a satisfactory explanation.

On December 12, 2021, the International Day of Commemoration and Dignity of the Victims of the Crime of Genocide and the Prevention of this Crime, the City Municipality Vračar decided to [paint](#) the mural under cover of the night. The paint job lasted less than an hour, and the mural guardians quickly removed the paint.

d) Media

There were several international reactions to events surrounding the removal of the mural of Ratko Mladić in Belgrade including from the [Council of Europe](#), the [United Nations](#), and the [European Union](#). President of Serbia Aleksandar Vučić made a [statement](#) accusing the activist of picking the International Day against Fascism and Anti-Semitism to remove the mural to harm Serbia and used the endearing term “boys” when talking about counter-demonstrators. Minister of interior Aleksandar Vulin made a [statement](#) essentially equalizing peaceful activists and violent counterdemonstrators who belong to ultra-right-wing organizations and added that the heads of the activists were saved thanks to the order of president Vučić.



A man in a black coat is holding a large rainbow flag high in the air. He is smiling and looking towards the camera. The background shows a city street with other people, some holding flags and umbrellas, suggesting a Pride walk. The scene is lit with warm, golden light, possibly from the setting or rising sun. A white circle with the number 7 is overlaid on the top right of the image.

7.

**Europride
2022 walk**
photo: Vesna Lalić/Nova.rs

BAN OF THE EUROPRIDE 2022 WALK

a) Background

The first attempt at holding Pride in Belgrade in [2001](#) ended in violent attacks against participants by football hooligans and right-wing activists. After the 2009 Pride was canceled due to threats of violence, an attempt to hold it in 2010 resulted in violent attacks as well. After the [decision](#) of the Constitutional Court quashing the ban on Pride in 2011 as unconstitutional, in 2014, Pride attended by government ministers was held for the first time without any significant incidents. Pride has been organized yearly, except in 2020, due to the COVID-19 outbreak. In 2019, Belgrade was awarded the organization of the 2022 EuroPride as the first city in the region. Prime minister Ana Brnabić in a [letter](#) in 2019, gave her full support to Belgrade hosting the event. The decision of the Constitutional Court on the 2011 pride ban represents a landmark case as it was one of the reasons for the Court to declare the previous Law on Gathering of Citizens [unconstitutional](#) in 2015.

In the case of the EuroPride walk, the organizers used their social network accounts extensively to advertise the upcoming event, share travel and safety instructions with potential participants. They used social media such as [Facebook](#), [Instagram](#) and Twitter accounts @belgradepride, @goranmiletic, @Milan_Nikolic and hashtags: #EuroPride2022 #BelgradePride #BelgradePride2022 #europride #freedom #Ljubav #Lgbt

When the EuroPride 2022 walk was banned, the organizers used social networks to pledge to still hold

it. They informed participants and the public of the unfolding events and ongoing legal proceedings. They also used social networks to share arguments against the ban and its justification. International support for quashing the ban on the EuroPride 2022 walk was shared online through social networks by the [European Commission](#), [European Parliament](#), [Council of Europe](#), [United Nations](#), [civil society organizations](#), [political groups](#), and individual activists.

Holding of the EuroPride 2022 walk faced considerable opposition. The internet has been extensively used to spread misinformation before, during, and after the event, sharing pictures of nude or scantily dressed participants of pride marches in other countries, alleging or insinuating that they were taken in Belgrade. It is important to make a distinction between smaller masked groups of violent counter-demonstrators and a larger “moderate” or “less violent” diverse group of organizations and individuals identifiable online through the counter campaigns against EuroPride. They led protests against EuroPride 2022, petitions to ban the walk, and gave public statements spreading intolerance against LGBT, naming, among other things, the danger of spreading monkeypox as the reason to ban the walk.

One of the organizers of the [Church rally to Save Serbia](#), which also enjoyed the support of the Serbian Orthodox Church, the [petition](#) to ban the EuroPride walk, and the banned counterdemonstration, the [Anti-globalists of Serbia](#), is an obscure conspiracy theory-peddling group, using social media to su-

port, among others, contrails, depopulation, and anti-vax theories.

The media rarely name smaller ultra-right-wing groups in their reports, often grouping them under the generic term. The larger ones such as the Oath keepers (Zavetnici) and the Doors (Dveri) won seats in the parliament often using the pulpit to spread intolerance towards LGBT. More mainstream right-wing politicians coming from these and other similar non-parliamentary parties often made statements against EuroPride 2022.

While the organizers initially [estimated](#) the number of participants was going to be as many as 15.000, in the end their [number](#) was around 10.000.

b) Legal proceedings

The walk as part of the EuroPride 2022 event, scheduled for September 17, 2022, was [banned](#) on September 13 by the decision of the Stari Grad police station due to the possibility of a conflict with counterdemonstrators who opposed it. In addition to the EuroPride 2022 walk, the anti-globalist family walk was also banned. The security assessment that was the basis of the ban was marked as top secret. The ban was preceded by the [announcement](#) of President Aleksandar Vučić on August 27 that EuroPride 2022 would be canceled, as well as a series of contradictory statements by him, the [Government of Serbia](#), [Prime Minister Ana Brnabić](#), and [Minister of the Interior Aleksandar Vulin](#) about the possibility of this event still taking place. After the announcement made by president Vučić, a large gathering of „[Church rally to Save Serbia](#)“, an opponent of EuroPride 2022, was held. Numerous institutions, organizations, and individuals from the [European Union](#), the [Council of Europe](#), and the [United Nations](#) reacted to the announcement and the ban.

The organizers filed an appeal with the Ministry of the Interior, which [dismissed](#) it on September 14, and then a lawsuit with the Administrative Court. In one of the rare cases, the Administrative Court [dismissed](#) the lawsuit promptly and upheld the ban

on September 16, 2022. The organizers announced that despite the ban, they would hold the walk. In agreement with the police, the walk route was shortened and changed at the last moment. In the politically charged atmosphere, this compromise allowed the [organizers](#) to claim that the walk took place after all and to the [police](#) that they only ensured the arrival of the participants to the concert. The speed of unfolding events made social networks the most appropriate tool for communication with potential participants. The issue limiting the participation in Pride events as always was the multiple layers of police security which had a chilling effect on passersby who might otherwise join the march. Groups of counter-protesters also gathered in the same area. The Minister of the Interior, Aleksandar Vulin, was also present. There were several incidents and physical attacks against the participants, journalists, and the police during and after the walk, and at least 31 people were [detained](#).

Allegedly offensive photos of two participants of EuroPride 2022 were circulated on social networks and the media. One depicts a young man draped in a rainbow flag with a crown of thorns emulating Jesus Christ; in the other photo, a young man is lifting his skirt and showing his buttocks in front of the Church of St. Marks. In a statement shared on their social media accounts, the [organizers](#) distanced themselves from individual participants and expressed regret if national or religious feelings had been violated. Minister of the Interior, Vulin [asserted](#) on September 22, 2022 that the police would file criminal complaints against some of the participants of EuroPride 2022 and ban some from entering Serbia. After the announcement, police filed [criminal complaints](#) against two people for inciting national, racial, and religious hatred and intolerance. Eight people were banned from entering Serbia, allegedly for «insulting public morals».

c) Policing

During the walk held on September 17, 2022, as part of the EuroPride 2022 event, several [incidents](#) and physical attacks were recorded against rally participants, [journalists](#), and the police. Various and contradictory statements by state officials and other political actors have fueled the atmosphere of hatred and intolerance towards members of the LGBT community. Hate speech and misinformation about the nature of the event spread through social networks, and a citizens' petition was organized to ban EuroPride 2022. Other photos and videos from EuroPride 2022 have been shared to discredit the event. Previously, two EuroPride 2022 billboards were demolished on August 31. The „Da se zna“ association announced on September 27 that it [recorded](#) 14 attacks, 8 of which were physical during the walk. A group of LGBT activists from Albania experienced a [physical attack](#) while returning from the event, and some had to go to the emergency room. The police detained at least thirty-one attacker during the walk. Another 21 who attacked the police were [arrested](#) on October 10, 2022.

d) Media

Bishop Nikamor of the Serbian Orthodox Church [stated](#) in a video posted on social media on August 12, 2022 that he would curse anyone participating in Europride and use weapons against them if he had any. An inflammatory statement by one of the highest clergymen of the Church, deeply respected in Serbian society, was made only a month before the event. Goran Miletić, the coordinator of EuroPride 2022 asserted that the government's attitude towards the bishop's statement is crucial and that silence would be a massive problem for society. Brankica Janković, Commissioner for the Protection of Equality, issued a [warning](#), strongly condemning hate speech and calls for violence against LGBTI community. Prime Minister Ana Brnabić [referred](#) to the slander directed at her and called for stability and solidarity regardless of differences. Still, she failed to refer to the incitement to violence towards EuroPride participants. It is important to view this

statement and the lack of reaction by the Church in the broader context of the support of the Church for the counter-protest against the EuroPride.

Sofija Todorović, the director of the Youth Initiative for Human Rights, one of the organizers of EuroPride 2022, was the target of an attack on Twitter on August 15, 2022. In a [tweet](#) by zavarivach, Todorović was characterized as an operative, the organizer of the „faggot parade“ and the Merdita festival in Belgrade, the bearer of the silver flower of Srebrenica, and a prominent NGO activist. In the tweets' replies, Sofija Todorović was addressed with insults that abound in hate speech against national minorities and misogyny. In his answers, Zavarivach stated that „there is material for Todorović to be prosecuted here, „that she is „a moral wreck,“ and that „the shovel with which she would be thrown out of Serbia should be burned. „The quotes of this tweet call, among other things, for Todorović to be arrested, sentenced to life imprisonment, and shot. Sofija Todorović [stated](#) on her profile that this is not the first time she has suffered attacks from this account and called for its suspension. Despite reports against the profile, Twitter didn't suspend it, and the tweet is still available. This case is an example of Twitter's failure to respond to hate speech, threats, and insults against one of the prominent organizers of EuroPride.

The Pride info center was targeted on August 16, 2022, when vandals painted the window with the words „STOP FAGOTTS. „According to the [Tweet](#) by Civil Rights Defenders Europe, this is the 15th attack in the last three years. This attack was particularly significant in light of the negative campaign against holding EuroPride. As a rule, attacks on the Pride info center are condemned by civil society, the Protector of Citizens, and the Commissioner for the Protection of Equality, but there is no prosecution of those responsible.



8.



photo: pixabay.com

ROLE OF TECH COMPANIES IN DIGITALLY-MEDIATED ASSEMBLIES

There are no indications to suggest that international tech companies, except Huawei, played an adverse role in digitally-mediated assemblies in Serbia. Following the [speedy arrest](#) of a hit-and-run suspect who fled to China in 2015, Serbia installed a massive biometric surveillance system built by that company. The system was built without an accompanying legal framework to regulate its application and put safeguards against abuse in place. Civil society organizations have not been able to verify if it is already in use. At the same time, an attempt to legalize biometric video surveillance and ban filming of police brutality in a draft law on police was stopped at the last moment. The mere existence of such a surveillance system, functional or not, may affect people's behavior and have a chilling effect on the Freedom of Public Assembly.

The lack of a legal framework means that evidence gathered through biometric video surveillance cannot be used in court. However, this does not rule out the possibility that the police are using it to gather operational information. Since massive protests in 2019, authorities have claimed to be able to determine the exact number of protesters by using the [software](#). On one [ominous](#) pro-government tabloid front page, the image of a protest was published with red dots superimposed over protesters' heads. Authorities and pro-government media often use photos and videos taken from opportunistic angles and times to claim a smaller number of protesters. Due to a lack of transparency, it remains unclear whether the government used biometric surveillance or IMSI-catchers, or simply speculated on the numbers.

One of the selling points of the Huawei system is its use of behavior prediction algorithms in the prevention of crime. However, it could have a chilling effect on the Freedom of Public Assembly. In theory, biometric video surveillance, with facial and affect recognition and behavior prediction, could be a powerful tool to de-escalate violent protests and enable Freedom of Public Assembly. In reality, it would most likely be used by authoritarian governments to single out more active protesters and effectively quell a protest without the use of force. It is worth noting that the social credit system in China uses facial recognition and that detection of certain types of behavior may lower your score and make you ineligible to access certain services (i.e., buying a plane or train ticket).

In 2021, Serbia [purchased](#) powerful Griffeya software used in biometric surveillance capable of combining data from different databases using AI. Griffeya also allows the sharing of databases and could integrate user consumer data from private companies with data gathered through the Law on Social Card. This would create the basics for setting up a social credit system similar to the one in China. This is particularly worrying since there is a poor safety record of large government databases compromised by ransomware attacks (Real Estate and Utility Cadaster, Public Communal Company Novi Sad).

Some platforms like Facebook and Instagram lack transparency regarding content removal at government request, while others have reported very small

numbers for 2021: [YouTube](#) (1), [Twitter](#) (3), and [Tik Tok](#) (6). Even though this could be considered commendable in light of the digitally mediated assemblies, it is also worth noting that data is not segregated and may show a lack of government capacity to file legitimate requests for content removal (i.e., revenge pornography).

In extensive conversations with the organizers of the selected gatherings and other past gatherings, many of whom YUCOM represented in court, they did not report a single case in which their content had been removed. Only in one case, a [fake copy](#) of a Facebook group Protest against Dictatorship was created in 2017 and promoted using paid ads which was then used to spread confusion and defeatist views about the outcome of the protest. Creating electoral lists with similar-sounding names to confuse voters and drain votes away from the opposition is a common tactic used by the ruling party.

Out of all tech companies, Google is the only one showing reasons for data removal, and while there are no reasons specifically concerning digitally mediated assemblies they could fall under “violence”, “hate speech”, “defamation”, “privacy and security” and “other” reasons. A small number of government requests could also be a sign of a proactive approach taken by these platforms to content removal. Similarly, Facebook and Instagram [noted](#) 328 user data requests by the government, Twitter [noted](#) five and TikTok [noted](#) 6 in 2021. Policies of all platforms request a legal basis for content removal and access to user data except in emergencies where a person may be at risk of serious physical danger, and government agencies may ask the company to voluntarily disclose information needed to prevent such an emergency.

Unlike international tech companies, local tech companies lack transparency when it comes to access to user data. There is no legal obligation for them to publish data on the number of government requests. Commissioner for Information of Public Importance and Personal Data Protection, as an institution in charge of oversight of the Law on Electronic Communication, does not proactively publish such data

sent by local tech companies. The content of the records sent to the Commissioner under the Law is very minimal. Data published by the [SHARE foundation](#) on major mobile providers shows that in 2020 Telenor 422 received user data requests, Telekom received 1417 requests and A1 received 122 requests.

Telenor is the only mobile phone network to report direct access, that is, access without a written request to the provider, at an incredible 381.758 times back in 2017, but stopped reporting such data in 2018. There is a large discrepancy between the data from the mobile providers and the number of requests disclosed by the Ministry of Interior (110.305), Security Information Agency (1073), and Military Security Agency (3480). Telenor also reported that 265 out of 422 requests concerned the registration of mobile phones to base stations which is not data retained according to the Law and which could be used for tracking user movement. Internet providers received: SBB - 317 requests, Supernova - 46 requests, SAT-TRAKT - 44 requests, etc. The SHARE report concluded that a huge amount of data on communications in combination with biometric data represents a great challenge to citizens’ privacy, especially in the conditions of the almost complete absence of control mechanisms.



9.

SOLIDARITY
WITH THE PEACE
MOVEMENT IN
IN RUSSIA AND UKRAINE

STOP
THE WAR
IN UKRAINE

Woman in black at a spontaneous gathering against the war in Ukraine, photo: zeneucnom.org

CONCLUSIONS AND RECOMMENDATIONS

The unprecedented number of persons charged with public gatherings misdemeanors in the past year and the geographical distribution of cases indicate a broad government crackdown on the Freedom of Public Assembly. The police have publicly disavowed their duty to protect peaceful gatherings and allowed masked attackers to suppress protests with impunity. The highest government officials enjoy immunity for spreading hate speech, while violent actions of groups and individuals against protesters are encouraged and condoned in the mainstream media.

Messages sent by the government are greatly amplified through the use of social networks and bot armies used to create an illusion of support for their talking points. Due to a lack of access to traditional media controlled by the government, social media remains one of the few outlets left for expressing dissident views. Flooding social media with misinformation, and hate speech meant to foster passivity makes it much more challenging for activists to reach and engage people in protest and makes the protection of digital tools all the more important for the Freedom of Public Assembly.

While biometric surveillance may or may not be used to quell protests, user data on mobile networks and internet service providers seems to be freely accessed by security services with impunity. Although a strong need exists to amend the faulty Law on Public Assembly and other laws, there is also a clear disconnect between the existing legal framework and practice.

Even though much is left to be done, the emerging practice of the misdemeanor courts is showing signs of hope. Civil society has also shown significant resilience to backsliding and the ability to react quickly and share limited human and material resources using digital tools to protect the Freedom of Public Assembly. We have successfully presented growing problems to international stakeholders resulting in expressions of concerns and recommendations to the government. With the opposition now in parliament after the general boycott of the previous elections, conditions have improved to effect changes to the legislation and practice. Therefore, we address these recommendations to competent state bodies:

- Amend the Law on Public Assembly in line with the Constitution of Serbia, the European Convention on Human Rights, and other international standards.
- Provide training to police on the ECtHR practice, their rights, and obligations in policing assemblies, among other things, regarding counter-protest.
- Ensure that police officers are identifiable during the policing of protests and that an effective accountability mechanism is in place.
- Provide training to the judges of misdemeanor courts and the Administrative Court on ECtHR practice.
- Introduce a moratorium on biometric video surveillance and ensure that existing capacities are dismantled.

- Amend the Law on Electronic Communication to ensure the privacy of user data is respected and effective safeguards against abuse are put in place.
- Abolish the Law on Social Card, which is not in line with the Constitution of Serbia, the European Convention on Human Rights, and other international standards.
- Ensure that opinions of independent institutions on draft laws and their effect on personal data privacy and other human rights are respected.
- Ensure the adoption of the Law on Internal Affairs in line with Constitution of Serbia, the European Convention on Human Rights, and other international standards.







