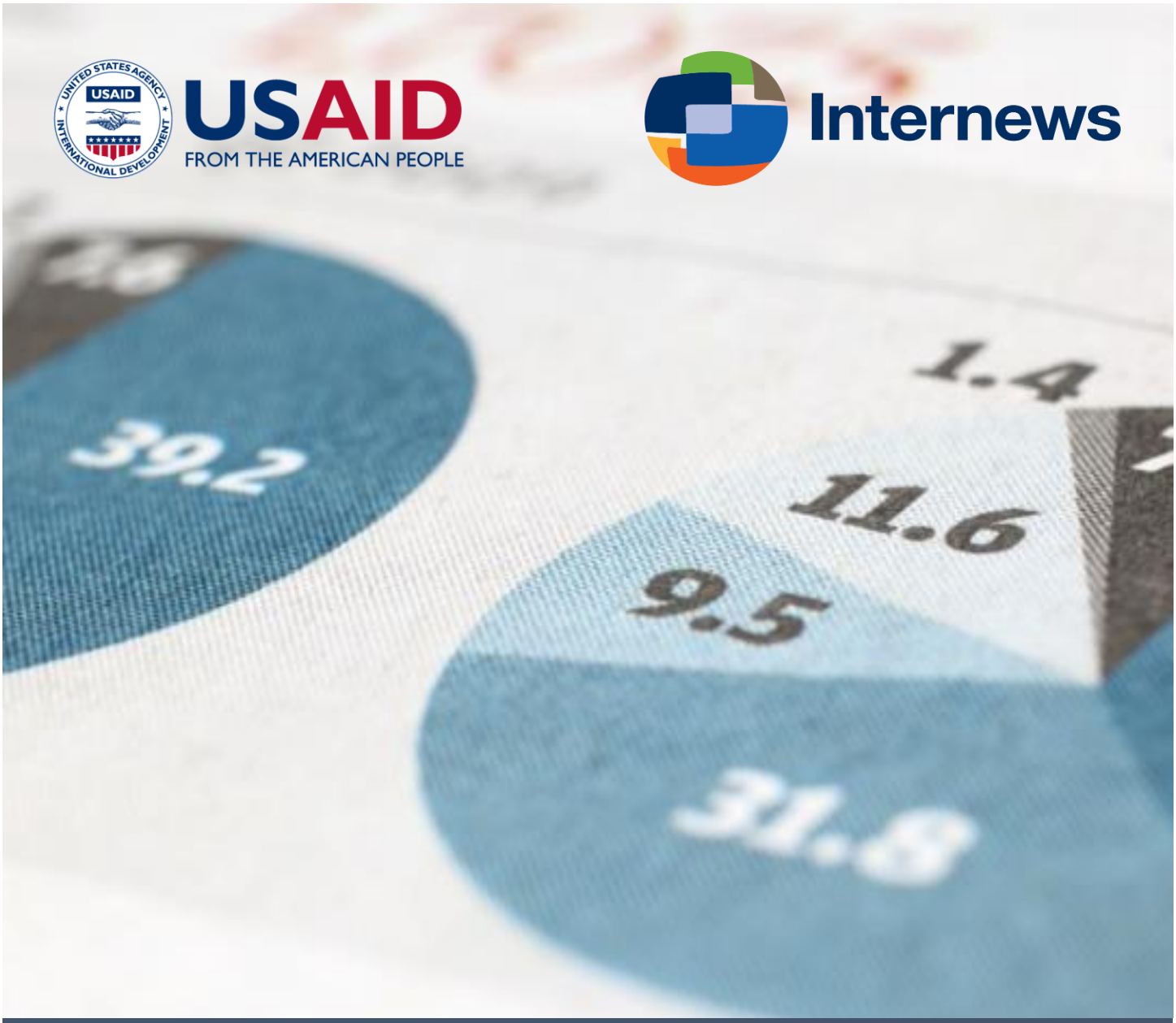

Grievance Redress Mechanisms for Technology-Enabled Human Rights Abuses in Serbia

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Contents

I. Introduction

In Serbia, as in many other countries, the increasing role of digital technology in our daily lives has raised concerns about the protection of human rights in the digital sphere. Instances of technology being misused to violate these rights, including surveillance, censorship, and online harassment, have become significant challenges. Establishing effective grievance redress mechanisms (GRMs) to address these issues is crucial.

Moreover, even if not specifically created to deal with technology-enabled violations, those mechanisms can be used to address such issues. This becomes especially relevant as the government in Serbia plans to legalize biometric surveillance, making an overview of available GRMs of preventive and awareness-raising nature to inform the general public of available avenues to protect their rights. Given the pervasiveness of digital technology in Serbian society, safeguarding human rights in the digital space is paramount. To address technology-related human rights violations, GRMs must be accessible, transparent, and accountable. These mechanisms should allow individuals to voice their grievances independent of the entities they are raising concerns against. Furthermore, GRMs should ensure timely and effective redress for human rights violations. Achieving effective GRMs in Serbia requires a multi-stakeholder approach involving the government, civil society organizations, technology companies, and other relevant actors. By working together, these stakeholders can develop and implement tailored GRMs that cater to the Serbian communities' specific needs and contexts.

In Serbia, a variety of GRMs are in place to address technology-related human rights infringements. These include formal legal remedies as well as less formalized procedures implemented within certain businesses. The necessary course of action, which could range from filing civil or criminal lawsuits to lodging complaints with regulatory bodies, is determined by the nature of the violation. Various flexible GRMs exist that can offer swift resolutions to certain disputes. These include internal procedures within companies, although a significant drawback of these mechanisms is their voluntary nature. On the other hand, seeking legal remedies often entails navigating a complex and time-consuming process with uncertain outcomes. However, once the legal procedure is finalized, the resulting resolution carries a greater degree of certainty and enforceability. Therefore, it is essential to thoroughly understand the available legal avenues and weigh the potential risks and benefits associated with pursuing any grievance action. An informed decision can help to ensure that the chosen course of action is the most effective for the specific situation at hand.

The primary objective of this undertaking in Serbia is to examine and appraise the existing grievance redress mechanisms for technology-related human rights violations. This includes identifying the present mechanisms and delineating their operational procedures. The evaluation has taken into

account factors such as accessibility, transparency, and accountability in order to gauge the efficacy of the current system.

Armed with insights from this analysis, recommendations have been formulated for the creation of new mechanisms or the enhancement of existing ones. The ultimate goal of these recommendations is to bolster the protection and respect for human rights in the digital realm, tailored to Serbia's unique context. This comprehensive evaluation and recommendation process aims to fortify the capacity to address and mitigate technology-related human rights breaches effectively.

II. Research Objectives

This research aimed to identify and evaluate the existing grievance redress mechanisms concerning technology-enabled human rights abuses in Serbia. The following steps were undertaken:

- **Identified and assessed the existing mechanisms:** The initial step involved identifying and scrutinizing the various mechanisms that were currently in place. This encompassed government regulatory bodies, ombudsperson institutions, internal procedures of technology companies, mediation and alternative dispute resolution methods, and legal remedies.
- **Evaluated the efficiency and effectiveness:** A meticulous evaluation was conducted to assess the effectiveness and efficiency of these mechanisms in addressing grievances and delivering remedies. Considerations were given to factors such as accessibility, transparency, accountability, and the ability to provide timely and effective solutions.
- **Provided recommendations for improvement:** Based on the evaluation results, suggestions were put forward to bolster the existing mechanisms and secure better human rights protection.

The objective was to propose practical recommendations that could contribute to the establishment of more effective and resilient grievance redress mechanisms in Serbia. This, in turn, would result in improved protection of human rights in the face of technology-enabled abuses.

III. Methodology and Data Collection

The research process involved several critical steps. Initially, a comprehensive literature review was conducted to gain an in-depth understanding of the legal framework, relevant laws, regulations, and policies associated with technology-enabled human rights abuses in Serbia. This review also incorporated existing reports, studies, and documentation on the country's technology-related human

rights violations. In addition, international frameworks, guidelines, and best practices related to technology-enabled human rights abuses and grievance redress mechanisms were explored.

Subsequently, an institutional mapping exercise was undertaken to identify and assess the efficiency and effectiveness of key institutions involved in addressing grievances for technology-enabled human rights abuses in Serbia. This process entailed outlining the various entities, such as courts, ombudsperson offices, oversight bodies, regulatory agencies, and other pertinent organizations. Once the institutions have been identified, the next step involved understanding each institution's mandates, roles, and responsibilities. This included studying their mission statements, governing laws or regulations, and past activities. The goal here was to understand the purpose of each institution and its designated role in the broader system. The institutional mapping process provided a comprehensive view of the institutional landscape and has revealed important insights about how well the system functions and where improvements are needed.

Each institution's capacities were evaluated meticulously, including examining their personnel, resources, technical expertise, and infrastructure. This was crucial to assess each institution's ability to execute its designated roles and responsibilities effectively. The institutional performance was then scrutinized through a systematic and comprehensive evaluation process. This evaluation was accomplished through a multi-pronged approach that included an analysis of each institution's legal regulations, a thorough review of their annual reports, an examination of available case law, and a study of other relevant public documents. These sources provided valuable insights into institutional functioning and performance.

The chapter on case studies serves as an integral component of the analysis. It examines one case study per institution to provide a more granulated real-world perspective on institutional functioning and effectiveness. Each case study has been selected to represent a significant or typical scenario in which these institutions operate. Case studies include court judgments, decisions of regulatory bodies, and outcomes from independent institutions, among others. These real-life scenarios offer a more concrete understanding of the procedures, decision-making processes, timelines, and eventual results of each institution's efforts in redressing technology-enabled human rights abuses. The aim of analyzing these case studies was to move beyond theoretical and legal frameworks and understand how these institutions function in practice. This has revealed their strengths and shortcomings in a real-world context and provided valuable insights that can inform improvements and potential reforms.

This comprehensive research approach achieved a holistic understanding of technology-enabled human rights abuses and the effectiveness of grievance redress mechanisms in Serbia. The findings from the literature review, institutional mapping, and case studies collectively contributed to illuminating the current landscape and identifying potential areas for improvement in addressing technology-related human rights abuses in the country.

IV. Grievance Redress Mechanisms

Grievance redress mechanisms (GRMs) in this analysis refer to formal, institutionalized processes through which individuals, communities, or organizations can raise concerns or complaints, seek remedial action, and receive responses regarding infringements of their rights, often in the context of public services or corporate activities. For this analysis, the focus of the GRMs will be centered specifically on technology-enabled human rights abuses.

Technology-enabled human rights abuses are infringements on individuals' rights that occur due to the misuse or harmful application of technology. These abuses can take various forms, such as online harassment, unauthorized surveillance, censorship, and infringements on data privacy. GRMs, in this context, provide platforms where such grievances related to technology can be aired, addressed, and potentially resolved. They can exist at different levels, from local to national, and be part of international human rights systems.

These mechanisms often encompass a range of dispute resolution options, including mediation, negotiation, adjudication, or other forms of alternative dispute resolution. They aim to provide fair, timely, and effective remedies for those whose rights have been violated due to technology misuse. Key attributes of effective GRMs include accessibility, transparency, responsiveness, and the ability to provide appropriate redress. An efficient GRM offers a direct avenue for dispute resolution and plays a crucial role in building trust between institutions and the individuals or communities they serve. Furthermore, these mechanisms can deliver valuable insights for systemic improvements, ensuring better future protection against technology-enabled human rights abuses.

Various institutions within the Serbian legal framework have been mapped as part of this analysis. These institutions represent different types of GRMs that are relevant to technology-enabled human rights abuses.

Several types of mechanisms can be considered in the context of grievance redress mechanisms (GRMs) for technology-related human rights breaches in Serbia. These include:

- **Independent Institutions:** Independent institutions act as independent oversight bodies that receive and investigate complaints from individuals regarding human rights violations.
- **Government Regulatory Bodies:** Government agencies or regulatory bodies play a vital role in addressing technology-related human rights violations. These bodies may have dedicated departments or units responsible for handling complaints and investigating violations.
- **Technology Companies' Internal Mechanisms:** Technology companies can establish internal GRMs to address complaints and resolve disputes related to their products, services, or platforms. These mechanisms could include dedicated customer support teams, online reporting systems, or mediation processes. Most organizations and entities have internal GRMs to try and resolve issues before they escalate to the level of requiring court intervention. In

many cases, internal GRMs aim to resolve disputes quickly and fairly to the satisfaction of all parties, thereby preventing the need for legal action.

- **Mediation and Alternative Dispute Resolution:** Mediation and alternative dispute resolution methods can be employed to resolve technology-related human rights disputes outside formal legal processes. Mediators or arbitrators facilitate negotiations between parties and help find mutually acceptable resolutions. These processes also aim to resolve disputes fairly. However, they are generally more formal than internal GRMs, while still less formal and potentially less time-consuming and costly than court proceedings.
- **Legal Remedies:** Legal actions can be pursued through the judicial system to seek redress for technology-related human rights breaches. This may involve filing civil and criminal lawsuits. Legal remedies can allow individuals to seek compensation, injunctions, or other forms of relief. Furthermore, these remedies extend beyond domestic jurisdiction, incorporating regional and international human rights monitoring mechanisms. While courts are a form of GRM, they are typically used as a last resort due to the time, cost, and complexity involved in litigation. If a satisfactory resolution cannot be reached through alternative means, the courts serve as a final, more formalized GRM.

1) Independent Institutions

Commissioner for Information of Public Importance and Personal Data Protection

a) <u>Competencies</u>

The Commissioner for Information of Public Importance and Protection of Personal Data Protection (Data Commissioner) is an independent state body responsible for safeguarding personal data and ensuring its protection. The Data Commissioner is part of the Independent State Bodies sector, which includes independent supervisory institutions and control bodies. These entities were established to oversee the regularity and legality of the operations of other public authorities. By a majority vote of all deputies, the National Assembly of the Republic of Serbia elects the Commissioner on the National Assembly's committee proposal. Furthermore, the Data Commissioner is accountable to the Assembly, to which they must submit annual performance reports. Article 77 of the Law on Personal Data Protection outlines the Data Commissioner's authority and wide-ranging responsibilities. Operating within the boundaries of the Republic of Serbia, the Data Commissioner exercises their powers per this law, adhering to the regulations governing general administrative procedures and the appropriate application of laws related to inspection supervision unless otherwise specified. It is important to note that the Data Commissioner does not have jurisdiction over data processing carried out by the courts in exercising their judicial powers.

The tasks assigned to the Data Commissioner are defined in Article 78 of the Law on Personal Data Protection. These tasks include but are not limited to supervising the implementation of the Law on Personal Data Protection and providing opinions to the National Assembly, the Government, other authorities, and organizations on legal and other measures concerning the protection of individuals' rights and freedoms in relation to data processing. Additionally, the Data Commissioner handles complaints filed by individuals regarding data-related issues and conducts inspection supervision to ensure compliance with the Law.

b) Applicable Laws

1. Constitution of the Republic of Serbia - Provisions of Article 42 guarantee the right to protection of personal data[1]

2. Law on Ratification of the Convention on the Protection of Persons in Relation to Automatic Processing of Personal Data[2]

3. Law on Confirmation of the Additional Protocol to the Convention on the Protection of Persons in Relation to Automatic Processing of Personal Data and Cross-Border Data Flow[3]

4. Law on Confirmation of the Protocol on Amendments to the Convention on the Protection of Persons in Relation to Automatic Processing of Personal Data[4]

5. Law on Personal Data Protection[5]

c) Procedure

To simplify the process of submitting a complaint, the Data Commissioner provides a prescribed complaint form that can be submitted electronically while also allowing other means of communication. However, suppose a complaint is deemed clearly unfounded, excessive, or excessively repetitive. In that case, the Data Commissioner reserves the right to request compensation for

[1] *Constitution of the Republic of Serbia* ("Official Gazette of the RS", No 98/2006 and 115/2021)

[2] *Law on the Ratification of the Convention on the Protection of Persons in Relation to Automatic Processing of Personal Data* ("Official List of the FRJ – International Agreements", No. 1/92 and" Official List of the FRJ – International Agreements", No. 11/2005 – other law)

[3] *Law on the Confirmation of the Additional Protocol to the Convention on the Protection of Persons in Relation to Automatic Processing of Personal Data and Cross-Border Data Flow* ("Official Gazette of the RS - International Agreements", No. 98/2008)

[4] *Law on the Confirmation of the Protocol on Amendments to the Convention on the Protection of Persons in Relation to Automatic Processing of Personal Data* ("Official Gazette of the RS", International Agreements No. 4/2020-129)

[5] *Law on Personal Data Protection* ("Official Gazette of the RS", No. 87/2018)

necessary expenses or refuse to act on the complaint. In such cases, the Data Commissioner will provide reasons demonstrating that the request is unfounded, excessive, or excessively repetitive.

Individuals whose personal data has been processed in violation of the provisions of the Law have the right to file a complaint with the Data Commissioner. The complaint procedure follows the relevant provisions of the law concerning inspection supervision related to handling complaints. It's important to note that submitting a complaint to the Data Commissioner does not hinder the person's right to pursue other administrative or judicial remedies.

Throughout the complaint procedure, the Data Commissioner is obligated to keep the complainant informed about the progress and outcomes of the process. Additionally, the Data Commissioner must notify the complainant of their right to initiate court proceedings per Article 83 of the Law on Personal Data Protection. Suppose the Data Commissioner fails to act on the complaint or does not adhere to the provisions stated in Article 82, paragraph 2 of the same Law, within 60 days of the complaint being filed. In that case, the individual whose data is involved can initiate an administrative dispute.

d) Efficiency and Effectiveness

Table 1 – Practice of the Data Commissioner[6]

	2020	2021	2022
Submitted complaints	139	204	181
Dismissed complaints	25	40	42
Grounded complaints	54	83	51
Rejected complaints	47	59	68
Suspended due to subsequent actions	21	22	15
Abandoned complaints	2	5	1
Resolved complaints	98	167	177
Pending complaints	41	37	41

[6] Statistics collected from 2020, 2021 and 2022 Annual Reports of the Data Commissioner

1. **Accessibility**

   The significant number of pending complaints after a year suggests a lack of accessibility in the resolution process, possibly due to limited resources. It may indicate that the institution is experiencing challenges in effectively addressing and resolving them within a reasonable timeframe. Additionally, the data protection law's complexity may discourage individuals from filing complaints due to a lack of understanding or confidence in navigating the legal processes involved.

2. **Transparency**

   The institution upholds its commitment to transparency by consistently publishing annual reports that offer valuable insights into its operations. This practice allows stakeholders to access crucial information about the institution's work. Furthermore, the institution's dedication to analyzing and publicly sharing common reasons for complaint rejection and dismissal underscores its transparent approach to handling complaints.

3. **Accountability**

   The Data Commissioner is accountable to the National Assembly, which can dismiss them for unprofessional and negligent performance, assuming another public office, engaging in activities without consent regarding conflicts of interest, or becoming a political party member. Furthermore, the Data Commissioner must submit annual performance reports to the National Assembly.

4. **Duration**

   A backlog and the high proportion of dismissed or rejected complaints (51%-60%) indicate that timely and effective solutions may not be consistently provided to complainants. The institution should improve its capacity to handle complaints promptly and efficiently. By ensuring timely and effective solutions, the institution can enhance its reputation and instill confidence in the complainants. The small number of complaints received by the institution may indicate a need for more general awareness among the population regarding their personal data protection rights and the process for filing complaints. Furthermore, the high proportion of dismissed or rejected complaints may be attributed to a need for more knowledge regarding the competencies and responsibilities of the institution.

e) Case Study

Violation of Personal Data Protection Regulations in Employee Monitoring: A Case Study[7]

Introduction:
In this case study, we examine a situation where a Health Center, acting as the Controller, violated personal data protection regulations by processing employees' biometric data through facial recognition devices to monitor and record their working hours. The case highlights the importance of complying with relevant laws and regulations to safeguard individuals' privacy rights.

Background:
The Health Center installed facial recognition devices to track and calculate employees' working hours in its administrative facility. Without a legal basis from Article 12, paragraph 1, and contrary to Article 17 of the ZZPL (Law on Personal Data Protection), the Health Center processed employees' facial images for unique identification through facial recognition. This action violated the principle of data minimization specified in Article 5, paragraph 1, item 3 of the ZZPL. Furthermore, the Health Center should have conducted a prior impact assessment on personal data protection or sought the Data Commissioner's opinion, as required by articles 54 and 55 of the ZZPL.

Case Details:
During the supervision procedure, it was discovered that despite labeling it as a "trial processing," the Health Centre had collected data from 240 out of 280 employees. Upon entering or leaving the building, employees were required to stand in front of the facial recognition device, which would scan their faces and automatically associate the collected biometric data (photos, names, surnames, and organizational units) with their working hours. This data was then sent to the Processor's server for further processing and subsequently forwarded to the Health Center.

Legal Violations and Consequences:
The Health Centre's actions infringed upon several provisions of the ZZPL. They failed to establish a proper relationship with the Processor per Article 45 of ZZPL. Additionally, the Health Center neglected its obligation to provide employees with necessary information regarding data processing, as outlined by Article 23 of ZZPL. Moreover, the Health Center ignored the requirement to conduct an impact assessment and seek the Commissioner's opinion before initiating the processing activities, as mandated by the Law.

[7] *Personal data protection: Attitudes, opinions, and practice of the Commissioner - Publication no. 8*, 2023, p. 14, available at: https://www.poverenik.rs/images/stories/dokumentacija-nova/Publikacije/8Publikacija_ZZPL/Publikacija_8_ZZPL.pdf

Resolution and Recommendations:
As a result of the violation, the Commissioner instructed the Health Center to delete all personal data collected through facial recognition devices. Simultaneously, the Health Center was obligated to notify all affected employees about the deletion of their data within a specified timeframe. To avoid similar infractions in the future, organizations should adhere to the following recommendations:

- Ensure compliance with Personal Data Protection Laws and regulations like the ZZPL.
- Conduct impact assessments before initiating any data processing activities.
- Seek the Data Commissioner's opinion when required by law.
- Provide employees with comprehensive information regarding data processing activities and their rights.
- Establish proper relationships with data processors per legal requirements.

Conclusion:
This case study highlights the Health Centre's violation of personal data protection regulations by processing employees' biometric data without a legal basis. It emphasizes the need for organizations to prioritize compliance with personal data protection laws and consider individuals' rights and privacy when implementing monitoring technologies. By following legal requirements and best practices, organizations can protect personal data while maintaining transparency and respecting individuals' rights to privacy.

Protector of Citizens

a) Competencies

The Protector of Citizens is an independent state institution that protects citizens' rights and liberties and oversees state administration bodies' work. The role of the institution of the Protector of Citizens, defined by the Constitution of the Republic of Serbia and the Law on the Protector of Citizens, is to constantly influence the respect of human liberties and rights by personal and institutional authority. By the power of argument, the Protector of Citizens should persuade the administration that an error has been committed and that it is necessary to rectify it and change the way of work. The Protector of Citizens is elected by the National Assembly of the Republic of Serbia by a majority vote of all deputies on the proposal of the National Assembly's committee responsible for constitutional issues.

The public administration bodies have a legal obligation to cooperate with the Protector of Citizens and enable access to all facilities and data, regardless of the degree of confidentiality, when it is important to the procedure. Similarly, when it is important to the undertaken procedure, the Protector of Citizens has the right to talk to every employee of the administration body, and the administration body officials are obliged to enable such a process.

The Protector of Citizens controls, by checking the allegations of complaints or acting at their initiative, whether state administration bodies, States Attorney's Office, bodies, or organizations exercising public authority, treat the citizens of Serbia based on law and other regulations of the Republic of Serbia or in compliance with the principles of good administration. The Protector of Citizens focuses particularly on the protection of:

- National minority rights
- Children's rights
- Rights of disabled persons
- Rights of people deprived of liberty
- Gender rights

The Protector of Citizens operates within the Constitution, laws, other regulations, general acts, ratified international treaties, and generally accepted rules of international law. It was established by the Law on the Protector of Citizens, which was adopted in 2005. The Law was amended in 2007 to comply with the new Constitution. By the Law amending the Law on the confirmation of the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment from 2011, the responsibilities of this state body were extended, so the Protector of Citizens is designated to perform the duties of the National Mechanism for the Prevention of Torture. According to the Law on the Serbian Armed Forces, the Protector of Citizens also exercises democratic and civilian control over the Serbian Army.

The Law on General Administrative Procedure from 2016 significantly strengthened the jurisdiction of the Protector of Citizens by introducing the institute of extraordinary annulment, abolition, or amendment of a legally valid decision made in an administrative procedure at the recommendation of the Protector of Citizens. Serbia adopted a new Law on the Protector of Citizens in November 2021, which notably introduced new competencies for the Protector of Citizens as the National Independent Mechanism for Monitoring the Implementation of the Convention on the Rights of Persons with Disabilities, as well as the National Rapporteur for Trafficking in Human Beings. Furthermore, with the amendments to the Constitution in 2021, the Protector of Citizens also became a member of the commission in charge of electing members of the judicial councils in the case of voting deadlock in the National Assembly.

a) Applicable Laws

- Constitution of the Republic of Serbia[8];
- Law on the Protector of Citizens[9];
- Law on the Confirmation of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[10];
- Law on the Serbian Armed Forces[11].

b) Procedure

The Protector of Citizens initiates proceedings based on a citizen's complaint or their initiative. In addition to the right to initiate and conduct proceedings, the Protector of Citizens has the right to act preventively by providing good services, mediating, and giving advice and opinions on issues within their competence, all to improve the work of administrative bodies and enhance the protection of human rights and freedoms. A complaint is submitted in written form or verbally for the record, and no fee or other charge is paid for filing a complaint.

Suppose the Protector of Citizens identifies irregularities and illegalities in the work of an administrative body. In that case, they include a recommendation on how to rectify these irregularities and illegalities or improve the body's work in the case report. The Protector of Citizens can also act on their initiative when, based on their knowledge or information obtained from other sources, including exceptionally anonymous complaints, they assess that an act, action, or inaction by an administrative body may have led to a violation of human rights or freedoms.

[8] *Constitution of the Republic of Serbia* ("Official Gazette of the RS", No 98/2006 and 115/2021)
[9] *Law on the Protector of Citizens* ("Official Gazette of the RS", No. 105/2021)
[10] *Law on the Confirmation of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* ("Official Gazette of the RS", International Agreements No. 7/2011-1)
[11] *Law on the Serbian Armed Forces* ("Official Gazette of the RS", No. 116/2007, 88/2009, 101/2010 – other laws, 10/2015, 88/2015 - decision of the Constitutional Court, 36/2018, 94/2019 and 74/2021 - decision of the Constitutional Court)

c) Efficiency and Effectiveness

Table 2 – Practice of the Protector of Citizens of Serbia[12]

	2022	2021	2020
Number of cases	5,018	5,947	6,965
Number of completed cases	4,419	5,095	5,056
Number of cases in progress	599	852	1,509
Inadmissible complaints	2,132	2,681	2,549
Unfounded complaints	421	623	752
Cases covered by recommendations arising from the expedited control investigation	410	356	363
Cases where the complainant was informed and advised	186	137	239
Cases covered by recommendations arising from the control investigation	126	56	52
Number of dropped complaints due to withdrawal by the complainant	29	52	44
Opinion	15	10	8
Announcement of the Protector of Citizens	1	0	2

[12] Regular Annual Reports of the Protector of Citizens for 2020, 2021 and 2022, Belgrade

1. Accessibility

In the past, under the previous law, the Protector of Citizens had the discretion to refrain from acting on complaints if all legal remedies had not been exhausted. This meant that individuals were required to pursue all available avenues for resolution before seeking intervention from the Protector of Citizens. However, with the new law's implementation, this discretion has only been limited to legal remedies in front of administrative bodies. This means that individuals are now explicitly required to exhaust administrative remedies before approaching the Protector of Citizens for assistance.

The lack of understanding regarding the jurisdiction of the Protector of Citizens can negatively impact accessibility. When complainants are unaware of the Protector of Citizens' limited authority and mistakenly believe that the Protector of Citizens can address all types of grievances, they may submit complaints outside the Protector of Citizens' jurisdiction. As a result, these cases may be rejected or deemed unfounded.

Understandably, the general public perceives the Protector of Citizens as a protector of human rights, as the role often entails safeguarding individuals' rights and addressing grievances. However, it is essential to note that in cases where the court has jurisdiction over specific issues, the Protector of Citizens has no authority to intervene or address complaints related to those matters.

2. Transparency

The institution demonstrates its commitment to transparency by regularly publishing annual reports, which provide essential information about its work. These reports are valuable for informing the public, policymakers, and other stakeholders about the institution's activities, achievements, and challenges. Additionally, by presenting these reports at the National Assembly, the institution ensures that its work is subject to scrutiny and accountability. The reports contain segregated data on complaints, recommendations, opinions, and legal initiatives, enhancing transparency and accountability. They provide valuable insights into different human rights issues, guiding policymakers and stakeholders in addressing concerns.

3. Accountability

The Protector of Citizens is accountable to the National Assembly, which can dismiss them for unprofessional and negligent performance, assuming another public office, engaging in activities without consent regarding conflicts of interest, and failing to assume duties within the specified timeframe. Furthermore, the Protector of Citizens must submit annual performance reports to the National Assembly.

4. Duration

Although a small proportion of pending cases may indicate the institution's efficiency in handling complaints, the yearly increase in pending cases could imply a performance decline. The requirement to exhaust administrative remedies enhances the ability of the Protector of Citizens to provide effective solutions in cases falling within their jurisdiction. By mandating individuals to pursue available avenues for resolution before approaching the Protector of Citizens, it ensures that administrative bodies have an opportunity to address the complaint in the first instance. This requirement allows administrative bodies to rectify any errors or resolve the issue before the Protector of Citizens' intervention, potentially leading to a timely and effective solution. It also helps streamline the Protector of Citizens' workload by allowing them to focus on cases where administrative remedies have been exhausted and where their intervention is most needed.

d) Case Study

Violation of Personal Data Protection Regulations regarding sensitive health information:

A Case Study[13]

Introduction:

In this case study, we analyze a situation involving the Serbian National Health Insurance Fund (RFZO), where doctors were requested to include specific medical diagnosis details in reports regarding workers unable to work due to illness. However, concerns arose as these sensitive health information reports were shared with employers, potentially compromising patient confidentiality. Alarmingly, despite being aware of these concerns, the Ministry of Health has yet to address and rectify the situation appropriately.

Background:

The Serbian Law and Rulebook on Health Documentation require that forms for reporting temporary incapacity for work be used in the health care system. According to regulations since April 2021, the forms should not include specific diagnoses.

[13] *Report of the Protector of Citizens on case number 311-396 / 22 with recommendations to the Ministry of Health and the Republic Health Insurance Fund*, June 27th, 2022, available at: https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/7503-rfz-i-inis-rs-v-zdr-vlj-rsh-pr-v-n-p-v-rljiv-s-p-d-zdr-vs-v-n-s-nju-p-ci-n

However, the Protector of Citizens found that forms with diagnosis data (OZ-6 form) have been used for over a year since the new regulation. The report should be compiled electronically, with paper forms only used during technological difficulties. But, in reality, paper forms are continuously used because the Ministry of Health still needs to address technical issues or provide clear instructions for electronic data exchange.

Case Details:

The Protector of Citizens has identified omissions in work and issued recommendations to the National Health Insurance Fund and the Ministry of Health due to violations of the right to respect the law and the right to the confidentiality of citizens' health information. In the conducted procedure, the Protector of Citizens determined that for more than a year, data on a patient's diagnosis have been illegally entered into a sick leave note (report of temporary incapacity to work). The National Health Insurance Fund, ignoring mandatory regulations, issued instructions to its branches and health centers, compelling selected doctors to continue to write the diagnosis according to the International Classification of Diseases in reports of temporary incapacity to work (sick leave notes), and to deliver such filled out printed report to the insured person, who then gives it to their employer.

The Ministry of Health, despite being aware of the irregularities in the work of the National Health Insurance Fund, did not take measures and actions against its competence that it had to take.

Legal Violations and Consequences:

While assessing the regularity and legality of the work of public authorities and identifying omissions, the Protector of Citizens was guided by the provisions of the Constitution of the Republic of Serbia, the Law on the Protector of Citizens, the Law on Ministries, the Law on Health Insurance, the Law on Patient Rights, the Law on Health Documentation in the Field of Healthcare, the Regulation on Forms in the Healthcare System, and the Regulation on the Manner and Procedure for Realizing Health Insurance Rights.

The determined omissions in the work of the National Health Insurance Fund and the Ministry of Health were made to the detriment of citizens' rights because their right to respect the law and the right to the confidentiality of their health information was violated.

Resolution and Recommendations:

Given these issues, the Protector of Citizens has issued the following recommendations:

To the Ministry of Health

- Stop the practice of including diagnosis details in reports.
- Provide instructions for issuing paper sick leave notes.
- Develop a form for issuing paper reports when electronic reports aren't possible.
- Supervise the work of RFZO more closely.

To the National Health Insurance Fund

- Don't refuse to pay workers' salary compensation during their sick leave if their reports don't include diagnosis details.
- Inform all branches about the above recommendation to prevent similar issues in the future.
- Act strictly within its powers, respecting citizens' rights.

2) Regulatory Bodies

Regulatory bodies are governmental institutions entrusted with overseeing and regulating specific areas of significant social interest. As deregulation, liberalization, and human rights protection doctrines have developed in modern comparative law, these bodies' roles and significance have become increasingly prominent. The establishment of regulatory bodies and public agencies aims to ensure a higher degree of independence and autonomy from the executive branch, allowing them to meet the needs of citizens and provide effective oversight of executive power. Some notable regulatory institutions in Serbia include the Agency for Prevention of Corruption, the Commission for Protection of Competition, the State Auditing Institution, and the Regulatory Authority for Electronic Media. In this text, we will focus on the competencies of the Regulatory Authority for Electronic Media and its role in safeguarding human rights.

Regulatory Authority for Electronic Media (REM)

a) Competencies

The Regulatory Authority for Electronic Media (hereinafter referred to as "the Regulator" or REM) is an independent regulatory organization with the status of a legal entity. Its primary objective is to effectively implement established policies in providing media services in the Republic of Serbia. The Regulator aims to enhance the quality and diversity of electronic media services while upholding and promoting freedom of thought and expression. It operates in a manner appropriate to a democratic society, aiming to protect the public's interests and users of electronic media services, as outlined in the Law on Electronic Media.[14]

[14] *Law on Electronic Media* ("Official Gazette of the RS", No. 83/2014, 6/2016 - other law and 129/2021), Art. 5

The Regulator maintains functional and financial independence from state bodies, organizations, media service providers, and operators. It is accountable to the National Assembly for its tasks within its jurisdiction. The Regulator has established professional services, the organization, and operating methods outlined in the Statute to facilitate its work.[15]

b) Procedure

Individuals and legal entities, including media service providers, have the right to submit complaints to the Regulator if they believe that the program content of a media service provider infringes upon or threatens their personal interest or the general interest. The Regulator may initiate proceedings upon complaint or ex officio. Complaints must be submitted in writing and should include the full name of the media service provider, the date and time of the broadcast, allegations of infringement or threat, and the complainant's personal details. The complaint must be submitted no later than 30 days from the day of the broadcast and should be sent directly to the Regulator via mail, fax, or email. Upon receipt of the complaint, the Regulator promptly forwards it to the media service provider, who must respond within eight days. [16]

The Regulator is responsible for inviting the representative of the media service provider and, in cases involving threats to personal interests, the complainant to a meeting. During this meeting, the imposition of measures will be discussed.[17] If the Regulator determines that there was no violation of media content regulations or conditions specified in the media service permit, the complaint will be rejected. However, if a violation is established, the Regulator will issue measures per the provisions of the Electronic Media Law against the media service provider. It may also initiate legal proceedings if necessary. [18]

c) Applicable Laws

The powers, rights, and jurisdiction of the Agency are exercised, implemented, achieved, and acted upon based on the following legal regulations:

- Law on Electronic Media[19];
- Law on Advertising[20];

[15] Ibid.
[16] Ibid., Art. 26
[17] *Rulebook on the method of imposing measures on media service providers* ("Official Gazette of RS", number 25/2015), Art. 8
[18] Ibid., Art. 9
[19] *Law on Electronic Media* ("Official Gazette of the RS", No. 83/2014, 6/2016 - other law and 129/2021)
[20] *Law on Advertising* ("Official Gazette of the RS", No. 6/2016, 52/2019 - other law)

- Law on Public Media Services[21];
- Law on Public Information and Media[22];
- Law on Electronic Communications[23];
- Law on General Administrative Procedure[24];
- Copyright and Related Rights Act[25];
- Law on Special Powers for the Effective Protection of Intellectual Property Rights[26];
- Law on the Confirmation of the European Convention on Cross-Border Television[27].

d) Efficiency and Effectiveness

1. Accessibility

The Regulator allows everyone, including media providers, to file complaints if they believe a media program is harmful or unfair to them or the public. However, despite the accessibility of this institution, the effectiveness of its work has been questioned. This is because citizens' complaints are largely dismissed as irregular, suggesting a need for improvement in handling and addressing these complaints. The Regulator is expected to take these complaints seriously, which may lead to formal investigations.

2. Transparency

There are issues with transparency in the operations and decision-making processes of REM. The lack of effective measures to address hate speech and violent content, as well as the perceived role of REM in creating an atmosphere of hate, indicates a need for more clarity in REM's decision-making criteria.

[21] *Law on Public Media Services* ("Official Gazette of the RS", No. 83/2014, 103/2015, 108/2016, 161/2020 and 129/2021)
[22] *Law on Public Information and Media* ("Official Gazette of the RS", No. 83/2014, 58/2015 and 12/2016 - authentic interpretation)
[23] *Law on Electronic Communications* ("Official Gazette of the RS" No. 35/2023)
[24] *Law on General Administrative Procedure* ("Official Gazette of the RS" No. 18/2016 and 95/2018 - authentic interpretation)
[25] *Copyright and Related Rights Act* ("Official Gazette of the RS" No. 104/2009, 99/2011, 119/2012, 29/2016-US, 66/2019)
[26] *Law on Special Powers for the Effective Protection of Intellectual Property Rights* ("Official Gazette of the RS" No. 46/2006, 104/2009 and 129/2021)
[27] *Law on the Confirmation of the European Convention on Cross-Border Television* ("Official Gazette of the RS" No. 42/2009)

This lack of transparency can contribute to the perception that REM is not fulfilling its regulatory responsibilities adequately. The insufficient transparency of certain aspects of REM's work, especially regarding the absence of proactive publication of findings by the Service for Supervision and Analysis of this body, diminishes the possibility for citizens to gain confidence that all reported violations of public interest will be investigated and fosters doubts about selectivity.[28] According to the Law on Electronic Media, all decisions by the Regulator on applications from individuals and legal entities must be publicly available. However, as already highlighted in the section on dealing with citizens' reports, not all decisions on applications from individuals and legal entities are available on the Regulator's website, but only about 18% of these decisions. The total number of registered applications from individuals and legal entities from 2017 to 2019 was 952, while 171 applications and decisions by the Regulator were registered on the website.[29]

3. Accountability

There are concerns regarding the accountability of REM. The inaction or imposition of mild sanctions in response to hate speech and violent content may indicate a lack of responsibility for addressing such issues. This situation can lead to a perception that REM is not effectively holding broadcasters accountable for their actions, potentially enabling the spread of harmful and dangerous messages. The broadcasters may believe that the benefits and profits gained from airing controversial or inflammatory programming outweigh the potential penalties. The inaction of REM against violent content and its perceived role in creating an atmosphere of hate has become a significant concern in Serbia, particularly following the two mass shootings in Belgrade in May 2023. The protests against violence reflect a growing sentiment that violent content on television contributes to an environment that enables and encourages such criminal acts. When regulatory bodies like REM fail to act against violent content, it can be seen as a lack of effective measures to prevent the spread of harmful and dangerous messages. This inaction may contribute to normalizing violence and perpetuating a culture that tolerates or even glorifies such behavior.

Despite their original establishment as autonomous entities, the Regulatory Authority of Electronic Media (REM), along with other regulatory bodies in Serbia, struggle to uphold their independence. This challenge is mainly due to the selection process of these bodies' members, which relies heavily on nominations from parliamentary committees but needs more stringent selection criteria. This issue, compounded by the political landscape of Serbia—where the ruling political party has held an unchallenged dominance for over a decade, enforced through an authoritarian governance style—

[28] *Transparency Serbia: Findings of the monitoring of the REM service and their (non)use*, CINS, accessed on July 7, 2023, available at: https://www.cins.rs/transparentnost-srbija-nalazi-nadzora-sluzbe-rem-i-njihovo-nekoriscenje/

[29] *Analysis of the effects of the work of the regulatory body for electronic media from 2017 - 2020*, Slavko Ćuruvija foundation, p. 63, available at: https://www.slavkocuruvijafondacija.rs/wp-content/uploads/2020/10/Analiza-efekata-rada-REM-a-2017-2020-Slavko-%C4%86uruvija-fondacija.pdf

collectively impedes the unrestricted functioning of these regulatory bodies and independent institutions. Consequently, this stifles their ability to fulfill the objectives and goals for which they were initially created.

The Law on Electronic Media allows the National Assembly to dismiss a Council member under certain conditions. These include long-term illness-preventing duties for over six months; providing false information or not revealing certain circumstances; failure to perform duties for three continuous months or six months within a year without valid reason; negligent or improper work that could disrupt the Regulator's operations. Before dismissal, the Council's opinion is needed, but without a deadline, the Council can halt the dismissal process.

4. Duration

There are doubts about the timely and effective solutions provided by REM. The prevalence of hate speech and violent content on television, along with the perceived inaction of REM, suggests that REM may need to address these issues promptly or effectively. Citizens' complaints are mostly dismissed as irregular or with the Council's statement that there is no place to initiate proceedings. There need to be more adequate explanations for such decisions. Considering the Regulator's competence to investigate the needs of media service users and protect their interests, it remains to be seen why it does not initiate ex officio proceedings when it is evident that specific program contents disturb many citizens.[30] Year after year, reports from professional services indicate a decrease in the quality of program content and numerous violations of laws and subsidiary legislation regarding program content and conditions under which commercial televisions have been granted licenses. Still, there needs to be an appropriate response regarding sanctioning violations of binding provisions. With such inaction, REM does not fulfill its duties, does not use its legal powers, and loses the authority of an independent body.

[30] *Analysis of the effects of the work of the regulatory body for electronic media from 2017 - 2020*, Slavko Ćuruvija foundation, pg. 69, available at: https://www.slavkocuruvijafondacija.rs/wp-content/uploads/2020/10/Analiza-efekata-rada-REM-a-2017-2020-Slavko-%C4%86uruvija-fondacija.pdf

e) Case Study

Warning Decision issued by The Regulatory Authority for Electronic Media to the media service provider TV Pink for hate speech: A Case Study[31]

Introduction:

In this case study, we analyze a situation where pro-government TV Pink aired a show in which a guest insulted members of the opposition on the basis of nationality. The Regulatory Authority for Electronic Media (REM) has issued a warning to TV Pink, a media service provider, for broadcasting program content that violated the Electronic Media Law and the Regulation on the Protection of Human Rights in the Provision of Media Services.

Background:

During a live broadcast of the show "Topic of the Day" on TV Pink on November 29, 2021, the guest, Dragoslav Bokan, a far-right nationalist and founder of the paramilitary organization 'Beli Orlovi' during the '90s, made insulting remarks based on the national affiliation of Marinika Tepić, the Vice President of the opposition Party of Freedom and Justice. These remarks violated Article 51 of the Electronic Media Law and Article 27, paragraph 1, of the Regulation on the Protection of Human Rights in the Provision of Media Services. Bokan's comments targeted Tepić's Romanian background and expressed hostility towards her.

Case Details:

On November 30, 2021, the NGO CRTA filed a complaint with the REM regarding TV Pink's program content, citing a violation of the Law on Electronic Media and the Regulation on the Protection of Human Rights in the Field of Media Services, which prohibits hate speech. REM initiated proceedings against TV Pink ex officio on December 6, 2021, in response to the complaint. On December 28, 2021, the REM Council issued a warning to TV Pink as a sanction measure. The decision stated that representing someone's political action as harmful and hostile and calling for the protection of the Republic of Serbia against such action amounted to inciting national and state confrontation against the Romanian minority. The decision also highlighted the discriminatory nature of the remarks targeting a person based on their belonging to the Romanian national minority.

[31] *Warning Decision issued by The Regulatory Authority for Electronic Media to the media service provider TV Pink for hate speech*, December 28th, 2021, available at: http://www.rem.rs/uploads/attachment/izrecena_mera/123/Mera_upozorenja_Pink_Media_Group_doo__Beograd-TV_Pink_07-2022-21-22-3.pdf

Legal Violations and Consequences:

The Regulatory Authority has the power to issue warnings, notices, temporarily ban program content, or revoke the license of a media service provider for violations of program content obligations, as outlined in Articles 47-71 of the Electronic Media Law. In this case, the Regulator issued a warning to TV Pink. Judita Popovic, a member of the REM, expressed concern that the Professional Service overlooked the Regulator's obligation to prohibit hate speech as prescribed by the Law on Electronic Media. Instead, they focused only on the discrepancy between the media service provider's behavior and the bylaws, which she believed downplayed the severity of the offense.[32]

3) Technology Companies

Grievance redress mechanisms are vital for tech companies to protect human rights. These mechanisms enable individuals and communities to voice concerns, seek resolution, and hold tech companies accountable for rights violations in the digital era. By providing accessible channels for reporting grievances and seeking remedies, these mechanisms empower users to challenge actions such as privacy breaches, content censorship, and discrimination. Establishing robust grievance redress mechanisms fosters transparency, accountability, and a more equitable digital ecosystem, where individuals trust that their rights are protected, and appropriate actions will be taken in response to grievances.

In the realm of data protection, Serbia's Law on Personal Data Protection (ZZPL) delineates a robust set of individual rights and prescribes internal procedures for data controllers, such as technology companies, to resolve complaints. Drawing upon the principles of the GDPR, this law stipulates a broad spectrum of rights for individuals whose data is being processed. The onus is on the data controller to ensure these rights are effectively implemented. Should the data controller fail to adhere to these rights or respond legally to requests for their execution, individuals have legal resources and remedies available to them. These primarily include the right to submit a complaint to the Data Commissioner and the right to initiate legal proceedings in court.

The controller is obligated to provide the subject of the data with all prescribed information in a concise, transparent, understandable, and easily accessible manner, using clear and simple language, especially if the information is intended for a child. As for deadlines, the controller is required to provide

[32] *Web portal of the Serbian Association of Journalists*, accessed on July 3rd, 2023 http://uns.org.rs/desk/vesti-iz-medija/124023/rem-pokrenuo-postupak-protiv-pinka-zbog-teskih-uvreda-koje-je-dragoslav-bokan-uputio-mariniki-tepic.html

the applicant with information on how their request is being handled, at the latest, within 30 days from the date of receipt of the request. This deadline can be extended by another 60 days if necessary.

Technology companies also have an obligation to adhere to the ZZPL and name a representative in Serbia, as the Law applies extraterritorially. In 2019, the SHARE Foundation NGO extended invitations to 20 global companies, urging them to designate representatives in Serbia. These representatives would serve as points of contact for both competent authorities and Serbian citizens concerning any matters regarding the processing of personal data. However, as of 2023, seven companies, including Meta and Twitter, have not yet appointed their representatives. [33]

In addition to data protection measures, businesses often establish other grievance redress mechanisms to empower users to resolve disputes. These mechanisms extend beyond data-related issues, offering a comprehensive approach to conflict resolution.

The mechanisms established under consumer protection laws and regulations, such as the Law on Electronic Communication[34], the Law on Consumer Protection[35], and the Digital Services Act (DSA)[36], hold significant importance in safeguarding consumer rights and protecting human rights in today's digital landscape. In an increasingly interconnected world, where digital platforms and online services have become integral to our daily lives, ensuring that individuals' rights are respected and upheld is crucial. These mechanisms empower consumers to voice their concerns, seek resolutions for grievances, and challenge decisions that may infringe upon their fundamental rights.

The Law on Electronic Communication in Serbia and the Digital Services Act (DSA) in the European Union (EU) both aim to protect user rights and provide complaint procedures in the digital realm. Additionally, the Law on Consumer Protection in Serbia contributes to consumer rights in the context of services of general economic interest. While there are some similarities regarding user rights and complaint procedures, these laws have notable differences.

The Law on Electronic Communication in Serbia focuses on end-users' rights regarding electronic communication services. It grants users the right to complain about service costs or quality issues to their service provider. The provider must acknowledge the complaint, provide a reference number, and respond within a specified timeframe, substantiating the bill amount or service quality. Complaints about roaming, international traffic, and value-added services must be resolved within 30 days. If the objection is rejected, the user can escalate the complaint to the Regulatory Authority for Electronic Communications and Postal Services (RATEL) within 60 days. RATEL then resolves the dispute based on

[33] *Share Foundation web portal*, accessed on July 5, 2023 https://predstavnici.mojipodaci.rs/

[34] *Law on Electronic Communication ("Official Gazette of RS", No. 35/2023)*

[35] *Law on Consumer Protection* ("Official Gazette of RS", No. 88/2021)

[36] The DSA was published in the Official Journal as of October 27, 2022 and came into force on November 16, 2022.

the provided documents, data, and statements within a specified timeframe, usually aiming for a decision within 90 days.

The Law on Consumer Protection in Serbia, on the other hand, focuses on services of general economic interest. It mandates that traders providing such services establish advisory bodies, including representatives of registered consumer protection associations or alliances. These bodies offer opinions on the rights and obligations of consumers. Traders are also required to form complaint resolution commissions that include representatives of consumer protection associations and alliances. The decisions of traders and other relevant bodies must be transparent, objective, and non-discriminatory.

The Digital Services Act (DSA) is a regulation introduced by the EU to regulate digital platforms and online services within the European Union. It provides users with mechanisms to challenge content moderation decisions made by service providers. Users can contest these decisions through internal complaint handling (redress mechanisms), alternative dispute resolution systems, or legal action. Users must demonstrate that the provider's decision to remove or restrict their content was erroneous and did not violate relevant laws. The DSA introduces an internal complaint-handling mechanism that allows users to file complaints directly through the service, electronically and free of charge. There is a time limit of six months from the date of the provider's decision for users to utilize this mechanism. The DSA requires online platform providers to handle complaints promptly, fairly, diligently, and unbiasedly, involving qualified staff rather than relying solely on automated processes. However, it does not prescribe specific time limits for the internal complaint-handling mechanisms.

In summary, while both the Law on Electronic Communication in Serbia and the DSA in the EU provide protection and complaint procedures for users, there are differences in their specific provisions and scope. The Law on Consumer Protection in Serbia complements the Law on Electronic Communication by focusing on services of general economic interest and mandating the establishment of advisory bodies and complaint resolution commissions. Here is a comparison:

Right to Complain	
Serbia: The end user has the right to complain to their electronic communication service provider about the cost or quality of the service.	DSA: The DSA focuses more broadly on users' rights to contest decisions made by service providers, including content moderation decisions.
Complaint Submission Timeframe	
Complaints must be submitted within 30 days of the invoice due date or 30 days from when the service was provided or became unusable.	Users have a maximum of six months from receiving the provider's decision statement to utilize the internal complaint-handling mechanism.
Provider's Response Timeframe	
The provider must respond to the complaint within the specified timeframe from the Law on Consumer Protection which is eight days. Complaints about roaming, international traffic, and value-added services must be resolved within 30 days.[37]	The DSA does not prescribe specific time limits for the internal complaint-handling mechanisms; they only require that the handling be done promptly.
Dispute Resolution	
If the objection is rejected and no out-of-court settlement procedure is initiated, the end user can contact the Regulator within 60 days of the provider's response. The Regulator resolves the dispute based on submitted documents, data, and statements.	The DSA introduces an alternative dispute resolution system outside of court, allowing users to challenge content moderation decisions. Users can also choose to take legal action per relevant laws.
Involvement of Advisory Bodies and Complaint Resolution Commissions	
Traders providing services of general economic interest must establish advisory bodies and complaint resolution commissions, including representatives of registered associations or alliances for consumer protection.	The DSA does not explicitly mention the involvement of advisory bodies or complaint resolution commissions.

Table 3 – Comparison of user rights in Serbia and the EU

Domestic Technology Companies

When researching grievance redress mechanisms, selecting relevant companies and representatives of their respective industries is essential. In the case of Serbia, five companies have been chosen: Yettel Serbia, Telekom Srbija (MTS), SBB (Serbia Broadband), Kupujemprodajem, and Limundo.com.

Yettel Serbia, formerly Telenor Serbia until 2022, is a telecommunications company operating in Serbia. It is the second-largest mobile telephony operator in the country, with a substantial market share of approximately 36.85%.[38] As a prominent player in the industry, Yettel Serbia's grievance redress mechanisms are of interest to ensure customer satisfaction and effective resolution of complaints or issues.

Telekom Srbija a.d. Beograd (MTS) is a state-owned telecommunications operator in Serbia. It offers various services, including mobile, fixed-line, internet, and IPTV. With a market share of approximately 35.30%, Telekom Srbija is Serbia's third-largest mobile telephony operator. Understanding their grievance redress mechanisms is crucial to evaluate how a state-owned company handles customer complaints and ensures efficient resolution.

SBB (Serbia Broadband) is a leading cable TV and internet service provider in Serbia. With a market share of approximately 31.55%, SBB holds a significant position as the second-largest high-speed internet provider in the country.[39] Researching SBB's grievance redress mechanisms can show how they address customer grievances and maintain satisfactory service quality.

Moving beyond telecommunications, Kupujemprodajem is a highly popular classified ads website in Serbia.[40] It boasts a vast number of active listings and registered users. With over 4.5 million offerings and 2.5 million registered users, Kupujemprodajem is one of Serbia's most frequently visited websites.[41] Given its popularity and significant user base, understanding the grievance redress mechanisms employed by Kupujemprodajem is crucial for maintaining trust and reliability for users. Limundo is a popular online marketplace in Serbia where users can buy and sell various products.

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[38] *An overview of the market of electronic communications and postal services markets in the Republic of Serbia in 2021*, RATEL, Belgrade, November 2021, available at: https://www.ratel.rs/uploads/documents/empire_plugin/Ratel%20Book.pdf

[39] *An overview of the market of electronic communications and postal services markets in the Republic of Serbia in 2021*, RATEL, Belgrade, November 2021, available at: https://www.ratel.rs/uploads/documents/empire_plugin/Ratel%20Book.pdf

[40] *Gemius Audience for Serbia*, accessed on July 5, 2023, available at: https://rating.gemius.com/rs/overview

[41] *"Alexa.rs: Top sites in Serbia"*. Alexa Internet. Archived from the original on September 30, 2019. Retrieved January 29, 2019.

Yettel Serbia			
Accessibility	**Transparency**	**Accountability**	**Duration**
Provides accessibility options to its customers through multiple channels. Customers can submit complaints or claims in person at designated sales points, by phone, electronically, or in writing.[42]	Lacks transparency in reporting the number of complaints received, the measures taken to address those complaints, user appeals, and the outcomes of the procedures.	Demonstrates accountability by establishing a Complaint Resolution Commission, which oversees complaint resolution and provides guidelines to the Customer Service Department.	The deadline for resolving written complaints is eight days for individuals and fifteen days for legal entities.

Telecom Serbia (MTS)			
Accessibility	**Transparency**	**Accountability**	**Duration**
Offers accessibility options for its customers. Complaints and claims can be submitted in writing, orally at Telekom branches, or electronically via email or phone.[43]	Lacks transparency in reporting complaint statistics, measures taken to address complaints, user appeals, and outcomes.	Establishes a Commission to oversee complaint resolution, address atypical cases, and provide general guidelines. This demonstrates accountability in the complaint resolution process.	Aims to deliver a resolution to the customer within 15 days, with an 8-day response time for consumers. It is also stated that the deadline for resolving the complaint is generally 15 days or 30 days for devices/technical goods.

[42] *Rulebook on the method of resolving user complaints about services by Telenor*, Telenor, 2021, available at: https://www.yettel.rs/static/file/Pravilnik%20o%20re%C5%A1avanju%20prigovora%20jul2021.pdf

[43] *Rulebook on the method of resolving user complaints about services by Telekom Serbia JSC and the formation and the work of the Commission for resolving complaints*, MTS, 2021, available at: https://mts.rs/Binary/1864/Pravilnik-o-nacinu-resavanju-prigovora.pdf

SBB (Serbia Broadband)			
Accessibility	**Transparency**	**Accountability**	**Duration**
Allows subscribers to submit written complaints regarding the charged amount or quality of the provided service within 30 days from the bill due date or service provision.	Lacks transparency in reporting complaint statistics, measures taken to address complaints, user appeals, and outcomes.	Does not foresee the establishment of a commission for overseeing complaint resolution. However, adherence to specified resolution timelines can ensure accountability by providing reasons for rejections.	Mentions that they respond to complaints within 15 days and propose resolutions within specified timeframes.

Kupujemprodajem			
Accessibility	**Transparency**	**Accountability**	**Duration**
Offers accessibility to its users by providing a user-friendly platform for submitting complaints. Users can report violations or issues through the website itself.	Needs more transparency in reporting complaint statistics, measures taken to address complaints, user appeals, and outcomes.	Does not have a formal grievance redress mechanism. However, it holds users accountable by imposing warnings, temporary or permanent account blocking, ensuring accountability within the platform.	No specific information is available on the timeframe for the appeal process. The guidelines state that complaints must be submitted within a reasonable timeframe, but the exact timeline for resolution is not mentioned.

Limundo			
Accessibility	**Transparency**	**Accountability**	**Duration**
Provides accessibility to its users by allowing them to lodge complaints within a reasonable timeframe. The platform specifies the procedure for lodging complaints and encourages users to provide detailed information about the deficiencies experienced. [44]	Lacks transparency in reporting complaint statistics, measures taken to address complaints, user appeals, and outcomes.	Does not have a formal grievance redress mechanism. However, it imposes warnings, temporary or permanent account blocking in cases of violations, ensuring accountability within the platform.	Does not provide specific information on the timeframe for the appeal process. It mentions that complaints need to be lodged within a reasonable timeframe, but the duration for resolution is not specified.

International Technology Companies

When researching grievance redress mechanisms, it is essential to select companies with significant market dominance, a large user base, and a substantial impact on their respective industries. In this regard, Meta (formerly Facebook) with its subsidiaries Facebook and Instagram, Google with YouTube, Apple with the App Store, and Amazon have been chosen for investigation.

Meta, owning the world's largest social media platforms, is at the forefront of online social interactions. As the owner of YouTube, Google dominates the video-sharing platform market, while Apple's App Store is a dominant marketplace for mobile applications. Amazon, on the other hand, is the largest e-commerce platform globally. These companies possess a considerable market share and significantly influence the digital landscape, making their grievance redress mechanisms of great interest.

The user base and impact of these companies cannot be understated. With billions of users worldwide, their platforms play a vital role in people's lives. From social media connections and video content consumption to mobile app distribution and online shopping, these companies profoundly impact user

[44] *Terms of Use*, LimundoGrad LLC, accessed on July 5, 2023, available at: https://www.limundo.com/pravila-uslovi

experiences. Therefore, researching their grievance redress mechanisms is crucial to ensuring user satisfaction, addressing concerns, and maintaining a positive user experience.

Moreover, these companies have faced numerous controversies and public scrutiny regarding content moderation, data privacy, and fair business practices. Understanding their grievance redress mechanisms allows for examining how they handle user complaints, policy violations, and dispute resolutions. This knowledge helps evaluate their policies' effectiveness and commitment to transparency and accountability.

Given their global operations, Meta, Google, Apple, and Amazon are subject to different legal and regulatory frameworks. Researching their grievance redress mechanisms enables an assessment of their compliance with local laws and regulations. It also sheds light on how they handle user complaints, navigate legal challenges, and address ethical concerns.

Additionally, these companies substantially impact the economy, job market, and market competition within their respective industries. By studying their grievance redress mechanisms, it becomes possible to evaluate their approach to resolving disputes with users, content creators, developers, and business partners. This knowledge contributes to ensuring fair practices, consumer protection, and healthy competition in the digital marketplace.

Meta (Instagram & Facebook)			
Accessibility	**Transparency**	**Accountability**	**Duration**
Provides accessibility options through its appeal process. Users can appeal content removal or account actions by following the specified procedure. They can provide additional information and rationale to support their appeal.	Provides some transparency through its quarterly transparency reports. However, it could improve by providing more detailed information on the number of complaints received, actions taken, user appeals, and outcomes.	Demonstrates accountability through its Oversight Board, which allows users to seek redress for content removal or account actions. Board ensures accountability in decision-making and provides users with an avenue for seeking resolution.	The information available does not mention the specific timeframe for the appeal process on Meta (Facebook and Instagram).

Google (YouTube)			
Accessibility	**Transparency**	**Accountability**	**Duration**
Offers an appeal process for users who receive strikes or content removals. Users have 30 days to appeal and provide additional information to support their case.[45]	Provides transparency reports, which include information on the number of videos removed, appeals made, and videos reinstated. However, Google could enhance transparency by providing more information on the reasons for removals and the outcomes.[46]	Lacks an escalation option like Meta's Oversight Board. However, it ensures accountability through its appeals process, where senior examiners review appeals and make decisions.	The information available does not mention the specific timeframe for the appeal process on YouTube.

Apple (App Store)			
Accessibility	**Transparency**	**Accountability**	**Duration**
Allows developers to appeal decisions made by Apple's review process.[47] Developers can submit an appeal and provide new information within a specified timeframe.	Transparency reports provide insights into the number of appeals and restorations. However, Apple could enhance transparency by providing more detailed information on the reasons for app removals and the outcomes.[48]	The appeal process allows developers to address decisions made by Apple's review process, ensuring accountability in the app review process.	The information does not provide a specific timeframe for the appeal process on the App Store.

[45] *Google Appeal Community Guidelines actions*, Google, accessed on July 6, 2023, available at: https://support.google.com/youtube/answer/185111?hl=en&ref_topic=9387060
[46] *Transparency Report*, Google, accessed on July 6, 2023, available at: https://transparencyreport.google.com/youtube-policy/appeals
[47] *Apple App Store Review Guidelines*, Apple, accessed on July 6, 2023, available at: https://developer.apple.com/app-store/review/guidelines/#introduction
[48] *App Store transparency Report*, Apple, 2022, available at: https://www.apple.com/legal/more-resources/docs/2022-App-Store-Transparency-Report

Amazon			
Accessibility	**Transparency**	**Accountability**	**Duration**
The appeal process may not be as clearly defined as other platforms, but it still allows users to appeal decisions. Sellers can send an email through Seller Central to appeal account suspensions.[49]	Needs more transparency in reporting the number of appeals received and the outcomes of the appeal process.	The appeal process, although not as clearly defined as other platforms, still offers an avenue for users to appeal decisions. Sellers can send an email through Seller Central to appeal account suspensions.	No specific information is available on the timeframe for the appeal process on Amazon.

4) Mediation

Mediation awareness and utilization in Serbia remain limited, despite the significant drawbacks of time-consuming and expensive court proceedings. Despite the provision of free mediation services for qualified users under the Law on Free Legal Aid for the past three years, its practical utilization has been rare. However, expanding awareness and utilization of mediation would yield several benefits. These include alleviating the burden on the judicial system, facilitating faster and more cost-effective resolution of disputes, and promoting peaceful and mutually agreed-upon conflict resolution. Mediation plays a crucial role in promoting access to justice and safeguarding human rights. This text focuses on two mediation models: one general model for consumer disputes and one specialized model for disputes involving companies operating in the field of electronic communication.

a) Applicable Laws

1) Law on Consumer Protection[50]
2) Law on Electronic Communication[51]

[49] *How to Avoid an Amazon Suspension on Your Seller Account*, Buy Box Experts, (2021), accessed on July 6, 2023, available at: https://www.buyboxexperts.com/blog/how-to-avoid-an-amazon-suspension-on-your-seller-account/#h owtoappealanamazonsuspension

[50] *Law on Consumer Protection* ("Official Gazette of RS", No. 88/2021)

[51] *Law on Electronic Communication ("Official Gazette of RS", No. 35/2023)*

3) Law on Mediation in Disputes Resolution[52]

b) Procedure

The Information Technology Platform for Out-of-Court Resolution of Consumer Disputes[53] is an online platform that offers consumers a convenient and expedient way to submit requests for resolving consumer disputes without going through traditional court proceedings. The platform facilitates the resolution of various consumer disputes, regardless of their nature or value, through the involvement of neutral, impartial, and independent third-party bodies.

These bodies, responsible for out-of-court resolution, are registered on the official List of Bodies for Out-of-Court Resolution of Disputes maintained by the Ministry of Trade, Tourism, and Telecommunications. To be listed, these bodies must meet specific requirements and qualifications. The Ministry also operates the information technology platform, a central hub for accessing relevant information and resources related to the out-of-court resolution process.

However, one notable issue is the need for more transparency in reporting and disclosing information about the resolution process. There is currently a dearth of comprehensive reports that provide details on the number of disputes received, the outcomes of the resolution process, and the measures taken to address consumer concerns. Greater transparency would enhance trust and confidence in the out-of-court resolution system.

It's important to note that before initiating the out-of-court resolution process, consumers must raise their complaint or objection with the trader involved in the dispute. This step encourages direct communication and potential resolution between the parties before involving the third-party resolution bodies.

Once the out-of-court resolution process is initiated, the bodies responsible for resolution have a maximum period of 90 days to reach a resolution. In cases where the dispute is particularly complex, this timeframe can be extended by an additional 90 days, with prompt notification to both the consumer and the trader. This flexibility allows for thorough examination and consideration of intricate disputes, ensuring that a fair and well-informed decision is reached.

Overall, the out-of-court resolution process provides an alternative avenue for consumers to seek resolution for their disputes, offering convenience, efficiency, and the involvement of neutral third-party bodies. However, increased transparency in reporting and disclosing information about the resolution process would further enhance its effectiveness and consumer trust.

[52] *Law on Mediation in Disputes Resolution* ("Official Gazette of the RS" No. 55/2014)
[53] *Ministry of Internal and Foreign Trade web portal*, accessed on July 7, 2023, available at: https://vansudsko.mtt.gov.rs/

The Platform for Out-of-Court Resolution of Consumer Disputes doesn't apply to the field of electronic communication, where the out-of-court resolution is regulated by the Law on Electronic Communication. Article 140 of this Law provides detailed information on the procedure for out-of-court dispute resolution before the Regulatory Agency for Electronic Communications and Postal Services (RATEL). This process is specifically applicable to disputes arising between the end user and the provider of publicly available electronic communication services.

When a dispute cannot be resolved through mutual agreement, RATEL takes the lead in facilitating a resolution. The Regulator's role is to impartially examine the case and make a decision that settles the dispute.

To make an informed decision, RATEL considers the relevant documents submitted by the parties involved, collects necessary data and reviews the statements made by the end user and the service provider. Importantly, the typical procedure does not involve conducting an oral hearing. Instead, the decision is primarily based on the available written materials and information.

Efficiency is a key aspect of the out-of-court dispute resolution process. RATEL aims to reach a decision as expeditiously as possible, ensuring a timely resolution. According to the law, RATEL must decide within 90 days of initiating the out-of-court procedure. However, it's worth noting that in complex cases where the subject matter of the dispute is particularly intricate, the 90-day timeframe can be extended for a maximum of an additional 90 days. In such cases, RATEL promptly notifies the parties involved about the extension to keep them informed about the progress of the resolution.

The law grants RATEL the authority to establish and define the specific procedural rules and requirements for out-of-court dispute resolution. These rules ensure a fair and transparent process for all parties involved, providing clarity on the steps, submission of documents, and any other relevant aspects.

It is essential to understand that resorting to the out-of-court dispute resolution mechanism before RATEL does not limit or preclude the parties from pursuing legal remedies through the judicial system. If a party wishes to pursue a legal course of action, they can seek redress by initiating proceedings before the competent court.

c) Efficiency and Effectiveness

1. Accessibility

The out-of-court dispute resolution process regulated by the Law on Electronic Communication provides accessibility to the parties involved. It allows the end user and the provider of publicly available electronic communication services to engage in the resolution procedure facilitated by the Regulatory Agency for Electronic Communications and Postal Services (RATEL). This mechanism

ensures that both parties have access to a fair and impartial resolution process outside of the traditional judicial system.

2. **Transparency**

The out-of-court dispute resolution process overseen by RATEL follows specific procedural rules and requirements established by the regulatory agency. These rules aim to ensure a transparent process for all parties involved. The parties are provided with clarity on the steps, submission of documents, and other relevant aspects of the resolution process. RATEL promotes transparency in handling and resolving disputes by adhering to these rules.

3. **Accountability**

RATEL, as the regulatory agency responsible for overseeing the out-of-court dispute resolution process, operates with accountability. The agency impartially examines the case and decides based on the parties' relevant documents and information. By doing so, RATEL holds the responsibility of settling the dispute in an unbiased manner. This accountability ensures that the resolution process is conducted fairly and justly.

4. **Duration**

The out-of-court dispute resolution process facilitated by RATEL is designed to be efficient and timely. According to the law, RATEL must decide within 90 days of initiating the out-of-court procedure. This timeframe emphasizes the importance of a prompt resolution. However, in complex cases where the subject matter of the dispute is intricate, RATEL can extend the 90 days for a maximum of an additional 90 days. This flexibility allows RATEL to ensure a thorough examination of complex cases while still maintaining a reasonable duration for resolution.

5) Courts

a) <u>Competencies</u>

Courts are part of the judicial branch of government, a key institution in democratic societies. Their main role is to interpret and apply the law. They do this by hearing and deciding cases that involve disputes between individuals, businesses, and government entities. Courts also play a crucial role in maintaining law and order, protecting rights and liberties, and upholding the Constitution. Courts handle complaints or disputes between parties and make binding decisions based on existing laws and regulations. They provide a way for individuals, businesses, and other entities to seek justice and resolution when they feel their rights have been violated or treated unfairly. There are different types of courts, each designed to handle specific types of legal issues. Judicial power

in the Republic of Serbia belongs to general and special jurisdiction courts. Courts of general jurisdiction are Basic, High, and Appellate Courts, and the Supreme Court is the country's highest court. The courts of special jurisdiction are the Misdemeanor Courts, the Misdemeanor Appellate Court, the Commercial Court, the Commercial Court of Appeal, and the Administrative Court. While civil courts may have jurisdiction over human rights violations, such as freedom of speech, violation of the right to privacy, or discrimination, the subsequent analysis will primarily concentrate on criminal proceedings. Specifically, the focus will be on a series of criminal offenses associated with privacy violations. These offenses include:

- **Violation of Privacy of Correspondence and Other Mail (Article 142):** This criminal offense pertains to unlawfully infringing upon the privacy of letters and other forms of mail.
- **Unauthorized Photographing (Article 144):** This offense involves the unauthorized capturing of someone's image through photography without their consent.
- **Unauthorized Publication and Presentation of Another's Texts, Portraits, and Recordings (Article 145):** This offense encompasses the unauthorized dissemination or exhibition of someone else's written works, images, or recordings.
- **Unauthorized Collection of Personal Data (Article 146):** This offense addresses the illegal gathering of personal information without the individual's knowledge or consent.

a) Applicable Laws

1. Criminal Code[54]
2. Criminal Procedure Code[55]

b) Procedure

In cases involving privacy violations, the criminal procedure typically begins with a private criminal lawsuit unless the defendant is a public official, in which case it can be initiated ex officio. A criminal complaint mistakenly filed for an offense that does not fall under ex officio prosecution is treated as a private lawsuit. However, certain limitations are imposed on private prosecutors compared to public prosecutors. Private prosecutors cannot conduct investigations, must pay the procedure costs in

[54] *Criminal Code* ("Official Gazette of the RS", No. 85/2005, 88/2005 - corr., 107/2005 - corr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 and 35/2019)

[55] *Criminal Procedure Code* ("Official Gazette of the RS", No. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 - decision of the Constitutional Court and 62/2021 - decision of the Constitutional Court)

advance, and are liable for the defense costs in the event of an acquittal, which can exceed civil litigation expenses. Some private prosecutors may be entitled to free legal aid and exemption of court fees. However, they are still obliged to pay the cost of the defense in the case of an acquittal.

c) Efficiency and Effectiveness

Table 4 - Criminal offenses related to personal data protection 2019- 2021.[56]

Criminal offense		Criminal complaints	Rejected criminal complaints	Deferral of criminal prosecution	Suspended investigation	Indictments	Convicting verdicts	Acquitting verdicts
Violation of Privacy of Letter and Other Mail Article 142	**2019**	6	6	1	0	0	0	0
	2020	8	5	0	0	1	0	1
	2021	5	4	0	1	3	0	1
Unauthorized Photographing Article 144	**2019**	9	8	0	0	0	0	0
	2020	21	14	2	0	5	1	3
	2021	24	19	0	0	11	5	0
Unauthorized Publication and Presentation of Another's Texts, Portraits, and Recordings Article 145	**2019**	18	11	0	0	7	2	0
	2020	11	9	0	0	8	3	1
	2021	20	14	1	0	14	5	4
	2019	32	19	5	0	2	2	0

[56] Statistics collected from 2019, 2020, and 2021 Bulletins on Adult Perpetrators of Crime, Statistical Office of the Republic of Serbia.

Unauthorized Collection of Personal Data Article 146	**2020**	24	13	4	0	6	3	1
	2021	29	20	5	0	5	3	1

The data reveals a concerning pattern with consistently low numbers of criminal complaints filed yearly and a minimal percentage of cases resulting in successful prosecutions and convictions. Several plausible explanations can shed light on these trends.

One significant factor contributing to these statistics is the underreporting of crimes. Many instances of criminal activity may go unreported due to fear of retaliation or a lack of trust in the criminal justice system. Consequently, this leads to fewer formal complaints being lodged, resulting in an incomplete representation of the actual extent of the problem.

Challenges in gathering evidence also play a role in the low conviction rates. The nature of the unauthorized collection of personal data can make it difficult to gather concrete evidence, especially when it occurs online or in digital environments. This poses hurdles to successful prosecution and conviction as the burden of proof becomes more challenging.

Resource constraints within the criminal justice system, such as limited personnel, funding, and time, can further contribute to the low numbers of successful prosecutions. These constraints often necessitate the prioritization of more severe offenses, diverting attention and resources away from lesser crimes, including the unauthorized collection of personal data. As a result, these offenses may receive less focus and have a lower likelihood of reaching prosecution and conviction.

However, it is important to note that modest statistics should not be taken as an indication that crimes related to data protection are non-existent in practice. Instead, they highlight a lack of recognition regarding the significance of personal data and the importance of criminal protection in this area.

Victims of criminal offenses under Article 146 of the Criminal Code lack sufficient criminal law protection, which has proven neither efficient nor effective. Worryingly, none of the criminal complaints filed by the Data Commissioner in the past five years have reached a resolution. This significant lack of progress is the primary reason behind the underdeveloped judicial practice concerning Article 146 of the Criminal Code.[57]

[57] *Privacy and protection of personal data in Serbia - Analysis of selected sectoral regulations and their application*, Partners Serbia, 2021, available at: https://www.partners-serbia.org/public/news/Privatnost_i_za%C5%A1tita_podataka_o_li%C4%8Dnosti_u_Srbiji-_Analiza_odabranih_sektorskih_propisa_i_njihove_primene.pdf

1. Accessibility

Access to justice in Serbia has improved to some extent through the implementation of the Law on Free Legal Aid. However, challenges remain due to inadequate budget allocation by local governments and a need for more awareness among the public about available free legal services. Affordability poses a significant obstacle for Serbian citizens seeking justice. Inconsistent court fee waivers result in unequal access to justice, as procedures are not standardized.[58] Attorney fees are more strictly regulated compared to most EU member states, with payment based on hearings or motions, which can lead to unnecessary procedural steps. Concerns arise regarding the quality control and impartiality of ex officio attorneys appointed for low-income clients.[59] The Bar Association of Serbia has introduced a call center and tracking software to ensure a fair distribution of cases among them.

2. Transparency

The accessibility of court information has seen notable improvements for court users in Serbia. The introduction of the Portal Pravosuđe[60] has facilitated access to comprehensive information about the courts in general and individual cases. Users can now access information on the progress of ongoing procedures across all types and instances of courts, including details on cases handled by private bailiffs. Furthermore, the e-court system (e-sud) development has enhanced communication with the court and enabled electronic correspondence.

3. Accountability

Serbia's judicial system continues to face concerns regarding its independence and impartiality. Lawyers perceive selective enforcement of laws and limited access to information available to prosecutors and judges. Prosecutors express frustration over a lack of cooperation from the police during investigations.[61] The ability of wealthier individuals to potentially avoid prosecution by making charitable payments through the prosecution deferral raises fairness concerns. There remain significant opportunities for undue influence on the judicial system. Although recent constitutional amendments[62] removed the executive and legislative branches from appointing judges and the High Judicial Council, the necessary legal framework for implementing these changes is still pending. Government officials, including some in prominent positions, and certain members of Parliament

[58] *Serbian Judicial Functional Review - 2021 Full Report*, World Bank Group, June 2022, p. 176, available at: http://www.mdtfjss.org.rs/archive/file/2021_Serbia_Judicial_Functional_Review-_Full_Report_-_EN.pdf

[59] Ibid.

[60] *Portal of the Judiciary of Serbia*, accessed on July 8, 2023, available at: https://portal.sud.rs/sr

[61] Ibid. pg. 134 and pg. 140

[62] *Text of the Act on Amendments to the Constitution which will be voted on January 16th, 2022*, Open Doors of the Judiciary platform, accessed on July 8th, 2023, available at: https://www.otvorenavratapravosudja.rs/teme/ustavno-pravo/tekst-akta-o-promeni-ustava-o-kome-se-glasa-16012022-godine

publicly comment on ongoing cases and single out individual judges and prosecutors.[63] Tabloid newspapers contribute to the issue by publishing articles aimed at discrediting judiciary members, intensifying worries about the system's independence and integrity.

4.Duration

Serbia has implemented several judicial reforms since 2014; however, their impact on the overall performance of the judicial system, beyond the efficiency of case processing, has been limited. In comparison to other European countries, Serbia's performance still needs to catch up to the expected standards. Nevertheless, there have been positive developments in recent years, specifically regarding the efficiency of the judicial system:

The total time taken by Serbian courts to handle cases has significantly decreased by 47%, from 580 days in 2014 to 274 days in 2020.[64] The backlog of old utility bill enforcement cases has been resolved since 2014. The Law on Enforcement and Security has transferred a significant portion of enforcement cases from courts to private bailiffs.[65]

However, despite these improvements in case processing speed, there has been an increase in the number of pending court cases.[66] The available data do not differentiate between judicial performance and the increased demand for court services, which is beyond the control of the judiciary, as the cause for this rise in demand.

Moreover, significant disparities persist in efficiency, quality, workload, and service delivery among different courts. The workload is not evenly distributed, with some courts experiencing a heavy caseload while others handle considerably fewer cases. The transfer of investigative responsibilities from courts to prosecutors was intended to improve the efficiency and objectivity of the courts. However, the courts have delayed case disposition in the short term due to the time required for prosecutors' offices to implement this transfer.[67]

[63] *2022 Country Report on Human Rights Practices: Serbia*, U.S. Department of State, 2023, available at: https://www.state.gov/wp-content/uploads/2023/03/415610_SERBIA-2022-HUMAN-RIGHTS-REPORT.pdf
[64] *Serbian Judicial Functional Review - 2021 Full Report*, World Bank Group, June 2022, pg. 32, available at: http://www.mdtfjss.org.rs/archive/file/2021_Serbia_Judicial_Functional_Review-_Full_Report_-_EN.pdf
[65] Ibid. pg. 33
[66] Ibid. pg. 68
[67] Ibid. pg. 34

d) Case Study

Privacy Violation- Article 144 and Article 145 of Criminal Code, A Case Study[68]

Introduction:

This case concerns unauthorized photography and unauthorized publication and display of someone else's written work, portrait, and recording. In this specific case, two individuals unlawfully took several photographs of a person without her prior permission while she was nude on a beach where a sign prohibiting photography was placed, while the other two persons published the same photos without permission.

Background:

The widespread availability of cameras on "smart" phones has facilitated the ability to capture video recordings in various situations. However, this ubiquity often leads to inquiries regarding the legality of recording individuals in public spaces. Specifically, it raises the question of whether it is permissible to film others in public without their consent, regardless of the type of camera used (e.g., a phone or any other device). One of the most prevalent criminal offenses related to social media involves the unauthorized photography, publication, and display of others' photographs, videos, portraits, audio recordings, documents, and similar content. These offenses are typically pursued through private criminal lawsuits.

Case Details:

In this particular case, two individuals, acting in collusion, unlawfully disseminated photographs of an individual taken at a nudist beach. Two other individuals subsequently published these photographs on written and electronic media platforms, causing a significant intrusion into the person's private life. The accused parties were fully aware of the illegality of their actions and deliberately intended to carry them out despite being aware of the prohibition stated in Article 80 of the Law on Public Information and Media. It is important to note that in this specific instance, the private plaintiff did not provide consent for either capturing the photographs or the subsequent publication of the said images.

Legal Violations and Consequences:

In this particular case, according to the Supreme Court of Cassation, the interest of the public in seeing the nude photographs of the private plaintiff, taken at a nudist beach where photography is

[68] Supreme Court of Cassation Court Decision Kzz 184/2019[68]

prohibited, is not more important than preventing the publication of such photos. These pictures significantly invade the plaintiff's private life and reveal personal and intimate details that should remain private.

The court determined that publishing these photos doesn't serve purposes like national security, public safety, economic well-being, preventing disorder or crime, protecting health or morals, or safeguarding the rights and freedoms of others. Moreover, the situation doesn't fall under the exceptions mentioned in the same article. The private plaintiff, through her professional statements, didn't attract public attention to the degree that justifies publishing photos that invade and violate the personal and private lives of individuals.

Resolution and Recommendations:

In the verdict issued by the First Basic Court in Belgrade, case number 26K 1494/16, on June 5, 2018, two individuals were found guilty of the criminal offense of unauthorized photography under Article 144, paragraph 1, of the Criminal Code. Additionally, two other individuals were found guilty of the criminal offense of unauthorized publication and display of another person's document, portrait, and recording under Article 145, paragraph 1 of the Criminal Code. The court imposed individual fines of 200,000.00 Serbian (1,700 euros) dinars on each defendant.

6) International Human Rights Instruments

International human rights instruments are treaties and other international texts that serve as legal sources for international human rights law and general human rights protection. International human rights instruments can be divided further into global instruments, to which any state can be a party, and regional instruments, which are restricted to states in a particular region. These instruments have played significant roles in promoting and protecting human rights worldwide. However, challenges persist, such as enforcing these rights, differences in interpretation, and ongoing human rights abuses in various contexts worldwide. International human rights instruments can be divided further into global instruments, to which any state can be a party, and regional instruments, which are restricted to states in a particular region. A good global example is the International Covenant on Civil and Political Rights (ICCPR); regional is the European Convention on Human Rights, and Serbia has ratified both instruments. The further text will describe the mechanism before the ECtHR, a court established by the European Convention on Human Rights.

European Court of Human Rights

a) Competencies

In some jurisdictions, including Serbia, international treaties may have constitutional status, meaning they are considered above ordinary domestic laws. This implies that the provisions of ratified treaties can have a direct effect and can be applied by the courts without the need for further domestic legislation. Regarding the European Convention on Human Rights (ECHR) and the practice of the European Court of Human Rights (ECtHR), Serbia is a signatory to the ECHR and has accepted the jurisdiction of the ECtHR to hear cases against it. As such, the decisions of the ECtHR are legally binding in Serbia.

Any person who feels their rights have been violated under the convention by a state party can take a case to court. Judgments finding violations are binding on the states concerned, and they are obliged to execute them. The Committee of Ministers of the Council of Europe monitors the execution of judgments, particularly to ensure payments awarded by the court appropriately compensate applicants for the damage they have sustained. The job of the ECtHR is to consider applications submitted by individuals, organizations, or states for violations of rights guaranteed by the Convention or its protocols. The Court only determines whether a violation of a right guaranteed by the Convention or any of the protocols has occurred and determines the amount of compensation that the member state is obliged to pay or orders a retrial before a domestic court if the harmful consequences for the applicant can be removed in this way.

b) Procedure

If a person believes their rights under the European Convention on Human Rights have been violated, they can lodge an application directly with the Court. Applications must be submitted in writing and should include an outline of the alleged violations and any relevant supporting documents. Importantly, a person can only apply to the ECtHR after exhausting all domestic legal remedies – meaning the applicant has taken the case through all possible levels of courts or legal systems in Serbia. The first task of the ECtHR is to decide whether the application is admissible. For an application to be admissible, it must meet several criteria:

- it must be lodged within four months of the final decision in the domestic system;
- it must not be anonymous, substantially the same as a matter already considered by the Court or another international body, or devoid of intent;

- it cannot be incompatible with the Convention, manifestly ill-founded, or an abuse of the right of application.

If the application is deemed admissible, it is then considered by a Chamber of the Court, typically made up of seven judges. At this stage, the Court may ask the parties to submit further written comments or hold a hearing. In some cases, a friendly settlement may be proposed. After considering all the arguments, the Court will deliver a judgment. If the Court concludes there has been a violation, it can award "just satisfaction" to the victim if the domestic law of the member state concerned does not allow full reparation to be made. Judgments of the ECtHR are binding. Member states are required to execute them promptly and fully. The Committee of Ministers of the Council of Europe supervises the execution of judgments. If either party is not satisfied with the judgment, they can request a referral to the Grand Chamber of the Court, which is made up of 17 judges. This request must be made within three months of the Chamber's judgment. If the Grand Chamber accepts the request, it will hear the case afresh and deliver a final judgment.

The high number of applications to the European Court of Human Rights (ECtHR) from Serbia, both in terms of per capita and the total number, indicates a significant awareness among the general population about this instrument for seeking justice and protection of human rights. The fact that Serbia has a heavy backlog of cases in its Constitutional Court, which is more burdened per capita than the ECtHR, suggests potential challenges in the domestic judicial system. The backlog may indicate delays in the resolution of constitutional matters within Serbia, leading individuals to seek redress at the ECtHR instead. When individuals perceive a lack of timely and effective resolution of constitutional issues within their own country, they may resort to external mechanisms like the ECtHR as a means to ensure their rights are protected.

c) Efficiency and Effectiveness

1. Accessibility

The requirement to exhaust all domestic legal remedies before approaching the ECtHR creates a significant obstacle for citizens in Serbia. It adds an additional step to the process, which can be costly and time-consuming. Citizens are required to navigate through avenues like Constitutional Appeals, which can further delay access to the ECtHR. This requirement increases the burden on individuals seeking justice and can limit the accessibility of the ECtHR as a recourse for human rights violations.

2. Transparency

The summary rejection of applications by the ECtHR without providing reasons for rejection undermines transparency in the process. Applicants are left without a clear understanding of the grounds for dismissal, which can create a sense of uncertainty and frustration. The lack of explanation hinders the transparency of the decision-making process of the ECtHR, making it difficult for applicants

to address any potential deficiencies in their applications or seek recourse for perceived unfair rejections.

3. **Accountability**

The inadequate enforcement of ECtHR judgments undermines accountability both in Serbia and other countries. While the judgments of the ECtHR hold importance within Serbia's constitutional system, their effectiveness relies on the domestic authorities responsible for implementing them. When these authorities fail to adequately enforce the judgments, it creates a gap between the recognition of human rights violations and their remedies. This gap undermines accountability by allowing violations to go unaddressed, perpetuating a culture of impunity. Inadequate enforcement impedes the effectiveness of the ECtHR in upholding human rights standards and protecting individuals.

4. **Duration**

The lengthy proceedings at the ECtHR significantly impact the ability to provide timely and effective solutions. The average six-year duration for cases to be resolved indicates a substantial delay in the administration of justice. Such prolonged proceedings can undermine the effectiveness of the ECtHR as a mechanism for protecting human rights. Delays can hamper access to justice, prolong suffering for victims, and hinder the timely resolution of human rights violations. This underscores the need for more efficient processes within the ECtHR to ensure timely and effective solutions.

a) Case Study

Given Serbia's plans to implement biometric surveillance on the streets, it is crucial to examine how the European Court of Human Rights (ECtHR) addresses cases involving emerging surveillance technologies and their potential impact on rights protected under the European Convention on Human Rights (ECHR). Glukhin v. Russia serves as a relevant case study in this regard, shedding light on the Court's approach to facial recognition technology and its implications for fundamental rights such as the right to privacy and freedom of expression.

Additionally, the "Youth Initiative for Human Rights v. Serbia" case offers valuable insights into the ECtHR's examination of disputes concerning the right to access information and its intersection with freedom of expression. Given Serbia's intentions to implement biometric surveillance, this case study is particularly relevant in understanding how the ECtHR addresses issues related to information access and freedom of expression in the context of governmental surveillance practices. These precedents can serve as essential guidelines in navigating the delicate balance between security measures and protecting individual rights in the digital age.

Breach of Rights: Facial Recognition Technology Breaches Article 8 and Article 10 in the Case of the Moscow Underground Protestor

Glukhin v. Russia

(Application no. 11519/20)

Introduction

This case study examines the violation of Nikolay Sergeyevich Glukhin's rights as a Moscow underground protestor due to the unauthorized use of facial recognition technology by the authorities. The case highlights the infringement of Article 8 (right to respect for private life) and Article 10 (freedom of expression) of the European Convention on Human Rights (ECHR). This study explores the background, key events, legal arguments, court decisions, and implications of the case.

Background

Nikolay Sergeyevich Glukhin, a Russian national, participated in a solo demonstration in the Moscow underground on August 23, 2019. During the protest, Glukhin carried a life-size cardboard figure of Konstanin Kotov, a well-known protestor, and displayed a banner expressing his support for peaceful protests. The protest aimed to draw attention to Kotov's case, which had received significant media coverage.

Key Events

a) Identification and Arrest: After Glukhin's protest, law enforcement authorities used facial recognition technology to identify him from screenshots of the social media site where his demonstration was uploaded. They further collected footage from closed-circuit television (CCTV) surveillance cameras installed in the Moscow underground to track Glukhin's movements. Days later, live facial recognition technology was used to locate and arrest him while he was traveling in the underground.

b) Conviction and Administrative Proceedings: Following his arrest, Glukhin faced administrative-offense proceedings for failing to notify the authorities about his solo demonstration. The screenshots and CCTV footage were used as evidence against him. Glukhin was subsequently convicted and fined 20,000 Russian rubles.

Legal Arguments

a) Article 10: Glukhin argued that his peaceful protest was a legitimate expression of his opinion on a matter of public interest. The Court acknowledged that his right to freedom of expression under Article 10 had been violated. The authorities demonstrated intolerance towards Glukhin's protest without assessing whether it constituted a protected expression of his views.

b) Article 8: Glukhin claimed that the use of facial recognition technology violated his right to respect for private life under Article 8. The Court acknowledged the difficulty in providing direct evidence of the technology's use but noted the absence of any other plausible explanation for Glukhin's rapid identification. The Court found that the processing of Glukhin's personal data, including the use of facial recognition technology, infringed upon his right to respect for private life.

Court Decision

The European Court of Human Rights held unanimously that Glukhin's rights had been violated under Article 8 and Article 10 of the ECHR. The Court concluded that the use of facial recognition technology against Glukhin for his peaceful demonstration was incompatible with the principles of a democratic society governed by the rule of law. The measures taken against him were considered particularly intrusive and disproportionate to the peaceful nature of his protest.

Implications

The case highlights the need for clear regulations governing the use of facial recognition technology to safeguard individuals' privacy and freedom of expression. It underscores the importance of balancing legitimate aims, such as crime prevention, with the protection of fundamental rights. The Court's decision serves as a precedent to guide future cases involving the use of facial recognition technology by authorities.

Conclusion

The Glukhin v. Russia case exemplifies the violation of an individual's rights through the unauthorized use of facial recognition technology. The judgment emphasizes the significance of protecting privacy and freedom of expression in democratic societies. By analyzing this case, policymakers, legal experts, and the public can better understand the ethical and legal implications surrounding the use of emerging surveillance technologies.

Violation of Article 10 (freedom of expression) of the European Convention on Human Rights

Youth Initiative for Human Rights v. Serbia

(Application no. 48135/06)

Introduction:

The subject matter of this case revolved around the Serbian Intelligence Agency's access to information acquired through electronic surveillance. The NGO that filed the complaint expressed dissatisfaction with the agency's denial to disclose the requested information, which pertained to the number of individuals subjected to electronic surveillance in 2005. The NGO argued that this refusal hindered its ability to fulfill its role as a "public watchdog."

Background:

The applicant, Youth Initiative for Human Rights, is a non-governmental organization set up in 2003 and based in Belgrade. It monitors the implementation of transitional laws with a view to ensuring respect for human rights, democracy, and the rule of law. In October 2005, the applicant NGO requested that the Serbian Intelligence Agency provide it with information on how many people the agency had subjected to electronic surveillance in 2005. The agency refused the request, relying on the statutory provision (section 9(5) of the Freedom of Information Act 2004) applicable to secret information. The applicant NGO then complained to the Information Commissioner, a domestic body set up to ensure the Freedom of Information Act 2004 observance. In December 2005, the Commissioner held that the agency had breached the law and ordered that it make the information available within three days. The Commissioner's decisions are final and binding. The agency's appeal to the Supreme Court was dismissed in April 2006.

Case Details:

In September 2008, the Intelligence Agency notified the NGO that it did not have the information requested. Under Articles 6 and 10 of the Convention, the NGO complained about a refusal of Serbia's Intelligence Agency to provide it with certain information concerning electronic surveillance, notwithstanding a final and binding decision of the Information Commissioner in its favor. The applicant NGO had legitimately requested information of interest to the general public to disseminate it and contribute to the public debate. The refusal to give access to that information had therefore been an interference with the applicant NGO's right to freedom of expression. Furthermore, the agency's refusal had not been in accordance with domestic law, as the domestic body set up precisely to ensure that the Law on Free Access to Information of Public Importance be observed had

examined the case and decided that the information had to be made available. The agency's final response – that it did not have the information – was not persuasive given the nature of the information (the number of people subjected to electronic surveillance in 2005) and the agency's initial refusal on the grounds of secrecy. The Court, therefore, concluded that the agency's obstinate reluctance to comply with a final and binding order by a domestic body had been in defiance of domestic law and had been tantamount to being arbitrary.

Legal Violations and Consequences:

The Court held that there had been a violation of Article 10 (freedom of expression) of the Convention. It found that the agency's obstinate reluctance to comply with a final and binding order to provide information it had obtained was in defiance of domestic law and was tantamount to being arbitrary. Under Article 46 (binding force and implementation) of the Convention, the Court further held that the most natural way to implement its judgment, in this case, would be to ensure that the agency provided the applicant NGO with the information it had requested on how many people had been subjected to electronic surveillance in 2005.

V. Conclusion

The impact of technological developments on human rights is undeniable. From a practical perspective, technology can help advance human rights. For example, satellite data can track displaced populations, artificial intelligence can aid in gathering evidence of human rights violations, and forensic technology can recreate crime scenes for accountability. But along with the positive aspects, there is also a potential for technology to hinder human rights efforts. Surveillance technologies used by oppressive regimes and the rise of "deepfakes" that disrupt democratic dialogue are examples of how technological advancements can have negative ethical and policy implications. Moreover, technological progress brings new players to the human rights arena. While the focus used to be primarily on the state's responsibility in protecting rights and delivering justice, now engagement, cooperation, and alignment with business and technology leaders are equally crucial alongside government collaboration.

In this context, grievance redress mechanisms play a crucial role in protecting human rights, especially in the context of technological advancements. These mechanisms are essential since they ensure accountability by allowing individuals to hold perpetrators responsible for human rights abuses facilitated by technology. Also, grievance redress mechanisms provide accessible avenues for individuals, particularly marginalized groups, to seek justice and redress, overcoming barriers created by technology. Finally, by providing deterrents, grievance redress mechanisms discourage potential

abusers from engaging in technology-enabled human rights abuses. In essence, these mechanisms are vital for safeguarding human rights in the face of technological progress.

The previously mentioned grievance redress mechanisms (GRMs) related to human rights abuses influenced by technology operate in unison to manage and respond to complaints or disputes of citizens. These systems are critical in any society, ensuring individual grievances are heard, processed, and addressed effectively.

Independent Institutions hold immense importance due to their impartiality. Serving as unbiased platforms, they enable individuals to voice their concerns about rights violations without fear of undue influence from external entities. Government regulatory bodies are significant in maintaining a safe and fair society. They hold the power to set and enforce regulations to prevent and address potential violations. Their oversight and control over various activities ensure standards are upheld, and transgressions are kept in check. Internal mechanisms within corporate structures of technology companies are equally crucial. They often serve as the first point of resolution for disputes related to their specific products or services. By offering a space for addressing issues quickly and efficiently, they can prevent many cases from escalating, saving time, resources and maintaining relationships. Alternative dispute resolution mechanisms, such as mediation, offer a valuable alternative to more formal judicial processes. They provide a platform for parties to resolve their disputes in a less formal, often quicker, and potentially less confrontational manner. Lastly, the availability of legal remedies through the judicial system is critical. It provides a final, more formalized platform for individuals seeking redress. It ensures the enforcement of law and order, deters potential violations, and ensures accountability.

Considering the complexity of these institutions, which includes detailed structures, varied regulations, distinct competencies, histories of performance, and the specific societal and political context in Serbia, devising a one-size-fits-all set of recommendations is quite challenging. Therefore, it becomes necessary to formulate recommendations with an individualized approach tailored to the unique needs and circumstances of each GRM institution.

VI. Recommendations

COMMISSIONER FOR INFORMATION OF PUBLIC IMPORTANCE AND PERSONAL DATA PROTECTION
Allocate Adequate Resources for Efficient Complaint Handling: Ensure sufficient resources, including staffing and technology, are allocated to handle complaints efficiently and effectively.
Streamline Complaint Submission Process for Accessibility: Make the complaint submission process simple and accessible through clear instructions and alternative channels, such as online forms or dedicated helplines.
Publish Transparent Guidelines for Complaint Evaluation: Publish transparent guidelines outlining the criteria and process for evaluating complaints, ensuring fairness and consistency.
Provide Public Access to Complaint Handling Policies: Make complaint-handling policies easily accessible to the public, updating them regularly to reflect best practices and legal requirements.
Develop Strategies to Reduce Backlog of Pending Complaints: Address backlog by streamlining processes, allocating resources, and prioritizing urgent cases, providing timely and efficient resolutions.
Assure financial independence to minimize the risk of external influence: This will safeguard institutions' independence.

PROTECTOR OF CITIZENS
Ensure Sufficient Resources for Effective Complaint Handling: Allocate adequate resources, including staffing and funding, to the Protector of Citizens' office to handle complaints efficiently.
Increase Awareness of the Protector of Citizens' Jurisdiction Through Targeted Campaigns: Conduct focused campaigns to educate the public about the specific types of grievances the Protector of Citizens can address.
Establish Channels for Gathering Input to Enhance Transparency and Accountability: Create mechanisms for stakeholders to provide feedback on the institution's activities and annual reports.

Simplify the Complaint Process for Better Accessibility: Develop a clear and user-friendly complaint submission process.

Foster Effective Communication with Administrative Bodies for Efficient Complaint Resolution: Establish protocols and mechanisms for coordination between the Protector of Citizens' office and relevant administrative bodies.

Develop a System to Prioritize Cases for Timely Resolution: Create a framework for assessing each case's urgency and impact and assigning priority levels accordingly.

Assure financial independence to minimize the risk of external influence: This will safeguard institutions' independence.

REGULATORY INSTITUTIONS

Regulatory Body Independence: Fortify the independence of Serbia's regulatory bodies by implementing necessary legislative modifications.

Professionalism in Appointments: Reform existing legislation to guarantee that the election of members to bodies is primarily based on professionalism criteria. This would ensure that appointees are selected due to their qualifications, expertise, and demonstrated competence in the relevant field.

Administrative Capacity Building: Strengthen the capabilities of administrative offices and staff for improved efficiency and effectiveness in their duties. Eliminate possibilities for partisan employment within regulatory bodies, promoting a culture of professionalism and impartiality.

Budgetary Independence: Assure financial independence for regulatory bodies to minimize the risk of external influence, thus safeguarding their autonomy.

Compliance with Laws and Bylaws: Strive for comprehensive implementation of all existing laws and bylaws within the purview of regulatory institutions to foster standardization and adherence.

Transparency Practices: Encourage greater openness by requiring all regulatory body decisions to be published as the law dictates.

Execution of Prescribed Measures: Ensure the thorough enactment of all measures that regulatory bodies are empowered to use in order to fulfill their obligations.

Financial Sanctions for Regulatory Violations: Consider introducing financial penalties and supplementing existing measures in response to regulatory breaches in sectors where such sanctions are currently not stipulated by law.

DOMESTIC TECH COMPANIES

Enhanced Transparency: Improve transparency by regularly reporting complaint statistics, actions taken to address complaints, user appeals, and final outcomes. This will give customers a clearer understanding of the complaint-handling process and increase trust in the company's operations.

Strengthened Duration: Aim to resolve written complaints quickly, especially for individuals, to improve customer satisfaction. Reducing the resolution time will demonstrate a commitment to prompt complaint resolution. Specify the exact resolution timeframes for different types of complaints, including devices/technical goods.

Clear Accountability Measures: Establish a formal committee or commission to oversee complaint resolution. This will provide a clear structure for accountability in the complaint-handling process.

Formal Grievance Redress Mechanism: Establish a formal grievance redress mechanism to properly handle complaints. This mechanism should include clear guidelines, timelines, and procedures for resolving disputes and addressing the Terms and Conditions violations.

LEGAL REMEDIES - COURTS AND PUBLIC PROSECUTORS
Protection of Fair Trial Rights: Investigate additional safeguards to ensure the right to a fair trial within a reasonable timeframe. This could involve introducing legislative or policy measures explicitly addressing timely trial rights.
Equitable Caseload Distribution: Conduct a thorough analysis of caseload distribution in Serbia's courts. Based on the findings, reconsider the rules and practices around case delegation to promote an equitable workload among courts.
Procedural Efficiency: Identify and remove procedural hurdles that hamper timely case resolution. Develop strategies to counter common factors contributing to delay, such as the non-appearance of parties involved, overuse of expert witnesses, and complications in process service.
Refining Scheduling Practices: Improve the efficiency of court procedures by refining scheduling practices, an area identified as a weak point in Serbian legal procedures.
Digitalization of Justice: Amplify using e-Justice tools to streamline case management and proceedings, enabling more efficient, accessible, and transparent justice.
Access to Legal Aid: Bolster public awareness about the availability and benefits of legal aid. Improve access to these services for individuals needing them, especially those who might otherwise struggle to navigate the legal system.
Legal Reforms: Reform the judicial package of laws to align them with the 2022 Constitutional amendments. This should aim to strengthen the independence and integrity of the judiciary.
Continuous Training: Expand and enhance training programs for judges, prosecutors, and staff members in courts and Public Prosecutor's Offices (PPOs). Training should cover all facets of a modern European judiciary, ensuring all personnel have the skills and knowledge about new technologies to execute their duties effectively.
Inter-Agency Cooperation: Address the complaints of prosecutors regarding police cooperation during investigations. Create a more cooperative inter-agency environment to ensure the smooth operation of the judicial process.
Resource Allocation to PPOs: With the shift of investigation responsibilities from courts to PPOs, it's crucial to ensure that these offices have sufficient resources to process cases efficiently. Ensure that an adequate allocation of resources matches any increase in prosecutors' responsibilities. Currently, this is not the case in Serbia.

INTERNATIONAL HUMAN RIGHTS MECHANISMS - INHRM
Dialogue with the INHRM (e.g., Committee of Ministers of the Council of Europe): Maintain open and constructive dialogue with the INHRM throughout the implementation process of their decisions.
NGOs and Civil Society Engagement: Engage with non-governmental organizations (NGOs) and other civil society actors throughout the implementation process.
Interdepartmental Cooperation: Implementing ECtHR judgments or international human rights regulations often requires coordinated actions across various government departments. States should establish effective mechanisms for interdepartmental cooperation to ensure a coordinated and effective response.
Domestic Legislation Review: States should comprehensively review their domestic legislation to ensure its compliance with international human rights standards. This should be an ongoing process, not just after a judgment has been handed down.

VII. References

1. Analysis of the effects of the work of the regulatory body for electronic media from 2017 - 2020, Slavko Ćuruvija Foundation, available at: https://www.slavkocuruvijafondacija.rs/wp-content/uploads/2020/10/Analiza-efekata-rada-REM-a-2017-2020-Slavko-%C4%86uruvija-fondacija.pdf

2. An overview of the market of electronic communications and postal services markets in the Republic of Serbia in 2021, RATEL, Belgrade, November 2021, available at: https://www.ratel.rs/uploads/documents/empire_plugin/Ratel%20Book.pdf
3. App Store transparency Report, Apple, 2022, available at: https://www.apple.com/legal/more-resources/docs/2022-App-Store-Transparency-Report.pdf
4. Copyright and Related Rights Act ("Official Gazette of the RS" No. 104/2009, 99/2011, 119/2012, 29/2016-US, 66/2019)
5. Annual Report for 2020, Commissioner for Information of Public Importance and Personal Data Protection, Belgrade, available at: https://www.poverenik.rs/images/stories/dokumentacija-nova/izvestajiPoverenika/2020/ENGIzvestaj2020.pdf
6. Annual Report for 2021, Commissioner for Information of Public Importance and Personal Data Protection, Belgrade, available at:

https://www.poverenik.rs/images/stories/dokumentacija-nova/izvestajiPoverenika/2021/Izve%C5%A1taj2021CIR_eng_ceo.pdf

7. Annual Report for 2022, Commissioner for Information of Public Importance and Personal Data Protection, Belgrade, available at: https://www.poverenik.rs/images/stories/dokumentacija-nova/izvestajiPoverenika/2022/Godi%C5%A1nji_izve%C5%A1taj_2022_-_16_03_20235_EN.pdf
8. Bulletin on Adult Perpetrators of Crime, Statistical Office of the Republic of Serbia, 2019, Belgrade, available at: https://publikacije.stat.gov.rs/G2020/Pdf/G20205665.pdf
9. Bulletin on Adult Perpetrators of Crime, Statistical Office of the Republic of Serbia, 2020, Belgrade, available at: https://publikacije.stat.gov.rs/G2021/Pdf/G20215677.pdf
10. Bulletin on Adult Perpetrators of Crime, Statistical Office of the Republic of Serbia, 2021, Belgrade, available at: https://publikacije.stat.gov.rs/G2022/Pdf/G20225689.pdf
11. Constitution of the Republic of Serbia ("Official Gazette of the RS", No. 98/2006 and 115/2021)
12. Criminal Code ("Official Gazette of the RS", No. 85/2005, 88/2005 - corr., 107/2005 - corr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 and 35/2019)
13. Criminal Procedure Code ("Official Gazette of the RS", No. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 - decision of the Constitutional Court and 62/2021 - decision of the Constitutional Court)
14. Digital Services Act: a Handbook For Public Service Media, EBU - Operating Eurovision and Euroboard, February 2023, available at: https://www.ebu.ch/files/live/sites/ebu/files/Publications/Reports/open/10022023-Digital-Services-ActHandbook%E2%80%93Public-Version.pdf
15. Law on Advertising ("Official Gazette of the RS", No. 6/2016, 52/2019 - other law)
16. Law on Consumer Protection ("Official Gazette of RS", No. 88/2021)
17. Law on Electronic Communications ("Official Gazette of the RS" No. 35/2023)
18. Law on Electronic Media ("Official Gazette of the RS", No. 83/2014, 6/2016 - other law and 129/2021)
19. Law on General Administrative Procedure ("Official Gazette of the RS" No. 18/2016 and 95/2018 - authentic interpretation)
20. Law on Mediation in Disputes Resolution ("Official Gazette of the RS" No. 55/2014)
21. Law on Public Information and Media ("Official Gazette of the RS", No. 83/2014, 58/2015 and 12/2016 - authentic interpretation)
22. Law on Public Media Services ("Official Gazette of the RS", No. 83/2014, 103/2015, 108/2016, 161/2020 and 129/2021)
23. Law on Special Powers for the Effective Protection of Intellectual Property Rights ("Official Gazette of the RS" No. 46/2006, 104/2009 and 129/2021)
24. Law on the Protector of Citizens ("Official Gazette of the RS", No. 105/2021)

25. Law on the Ratification of the Convention on the Protection of Persons in Relation to Automatic Processing of Personal Data („Official List of the FRJ – International Agreements“, No. 1/92 and „ Official List of the FRJ – International Agreements“, No. 11/2005 – other law)
26. Law on the Confirmation of the Additional Protocol to the Convention on the Protection of Persons in Relation to Automatic Processing of Personal Data and Cross-Border Data Flow ("Official Gazette of the RS - International Agreements", No. 98/2008)
27. Law on the Confirmation of the European Convention on Cross-Border Television ("Official Gazette of the RS" No. 42/2009)
28. Law on the Confirmation of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Official Gazette of the RS", International Agreements No. 7/2011-1)
29. Law on the Confirmation of the Protocol on Amendments to the Convention on the Protection of Persons in Relation to Automatic Processing of Personal Data ("Official Gazette of the RS", International Agreements No. 4/2020-129)
30. Law on the Serbian Armed Forces ("Official Gazette of the RS", No. 116/2007, 88/2009, 101/2010 – other laws, 10/2015, 88/2015 - decision of the Constitutional Court, 36/2018, 94/2019 i 74/2021 - decision of the Constitutional Court)
31. Law on Personal Data Protection ("Official Gazette of the RS", No. 87/2018)
32. Personal data protection: Attitudes, opinions, and practice of the Commissioner - Publication no. 8, 2023, available at: https://www.poverenik.rs/images/stories/dokumentacija-nova/Publikacije/8Publikacija_ZZPL/Publikacija_8_ZZPL.pdf
33. Privacy and protection of personal data in Serbia - Analysis of selected sectoral regulations and their application, Partners Serbia, 2021, available at: https://www.partners-serbia.org/public/news/Privatnost_i_za%C5%A1tita_podataka_o_li%C4%8Dnosti_u_Srbiji-_Analiza_odabranih_sektorskih_propisa_i_njihove_primene.pdf
34. Privacy Notice, MTS, available at: https://mts.rs/Binary/1896/Privatnost-korisnika-portala-i-aplikacija-Telekoma-Srbija.pdf
35. Regular Annual Report of the Protector of Citizens for 2020, Belgrade, available at: https://www.ombudsman.org.rs/attachments/article/396/Regular%20Annual%20Report%20of%20the%20Protector%20of%20Citizens%20for%202020.pdf
36. Regular Annual Report of the Protector of Citizens for 2021, Belgrade, available at: https://www.ombudsman.org.rs/attachments/article/566/Regular%20Annual%20Report%20of%20the%20Protector%20of%20Citizens%20for%202021.pdf
37. Regular Annual Report of the Protector of Citizens for 2022, Belgrade, available at: https://www.ombudsman.org.rs/attachments/article/767/Regular%20Annual%20Report%20of%20the%20Protector%20of%20Citizens%20for%202022.pdf
38. Report of the Protector of Citizens on case number 311-396 / 22 with recommendations to the Ministry of Health and the Republic Health Insurance Fund, June 27, 2022, available at: https://www.Protector of Citizens .rs/index.php/2012-02-07-14-03-33/7503-rfz-i-inis-rs-v-zdr-vlj-rsh-pr-v-n-p-v-rljiv-s-p-d-zdr-vs-v-n-s-nju-p-ci-n

39. Rulebook on the method of imposing measures on media service providers ("Official Gazette of RS", number 25/2015)
40. Rulebook on the method of resolving user complaints about services by Telekom Serbia JSC and the formation and the work of the Commission for resolving complaints, MTS, 2021, available at: https://mts.rs/Binary/1864/Pravilnik-o-nacinu-resavanju-prigovora.pdf
41. Rulebook on the method of resolving user complaints about services by Telenor, Telenor, 2021, available at: https://www.yettel.rs/static/file/Pravilnik%20o%20re%C5%A1avanju%20prigovora%20jul2021.pdf
42. Serbian Judicial Functional Review - 2021 Full Report, World Bank Group, June 2022, available at: http://www.mdtfjss.org.rs/archive/file/2021_Serbia_Judicial_Functional_Review-_Full_Report_-_EN.pdf
43. Warning Decision issued by The Regulatory Authority for Electronic Media to the media service provider TV Pink for hate speech, December 28, 2021, available at: http://www.rem.rs/uploads/attachment/izrecena_mera/123/Mera_upozorenja_Pink_Media_Group_doo__Beograd-TV_Pink_07-2022-21-22-3.pdf
44. 2022 Country Report on Human Rights Practices: Serbia, U.S. Department of State, 2023, available at: https://www.state.gov/wp-content/uploads/2023/03/415610_SERBIA-2022-HUMAN-RIGHTS-REPORT.pdf
45. 2022 Global Transparency Report, Ebay, 2023, available at: https://static.ebayinc.com/assets/Uploads/Documents/eBay-2022-Global-Transparency-Report.pdf
46. Apple App Store Review Guidelines, Apple, accessed on July 6, 2023, available at: https://developer.apple.com/app-store/review/guidelines/#introduction
47. Customer Service, Ebay Plus, accessed on July 6, 2023, available at: https://www.ebay.com.au/help/selling/managing-returns-refunds/appeal-ebays-decision-return-missing -item-sellers?id=4369
48. European Commission, accessed on July 5, 2023, available at: https://digital-strategy.ec.europa.eu/en/policies/digital-services-act-package
49. Gemius Audience for Serbia, accessed on July 5, 2023, available at: https://rating.gemius.com/rs/overview
50. Google Appeal Community Guidelines actions, Google, accessed on July 6, 2023, available at: https://support.google.com/youtube/answer/185111?hl=en&ref_topic=9387060
51. How to Avoid an Amazon Suspension on Your Seller Account, Buy Box Experts, (2021), accessed on July 6, 2023, available at: https://www.buyboxexperts.com/blog/how-to-avoid-an-amazon-suspension-on-your-seller-account/#h owtoappealanamazonsuspension
52. Law Enforcement Information Requests, Amazon, accessed on July 6, 2023, available at: https://www.amazon.com/gp/help/customer/display.html?nodeId=GYSDRGWQ2C2CRYEF

53. Ministry of Internal and Foreign Trade web portal, accessed on July 7, 2023, available at: https://vansudsko.mtt.gov.rs/
54. Portal of the Judiciary of Serbia, accessed on July 8, 2023, available at: https://portal.sud.rs/sr
55. Privacy Notice, Yettel, accessed on July 4, 2023, available at: https://www.yettel.rs/sr/o-yettelu/obavestenje-o-privatnosti/
56. Privacy Policy, KupujemProdajem, accessed on July 5, 2023, available at: https://novi.kupujemprodajem.com/polisa-o-postovanju-privatnosti
57. Privacy Policy, SBB, accessed on July 5, 2023, available at: https://sbb.rs/politika-privatnosti/
58. Room for Improvement. Analysing Redress Policy on Facebook, Instagram, YouTube and Twitter, 4EU Disinfo Lab, (2022), accessed on July 6, 2023, available at: https://www.disinfo.eu/publications/room-for-improvement-analysing-redress-policy-on-facebook-instagram-youtube-and-twitter/
59. Serbian Association of Journalists, accessed on July 4, 2023, available at: http://uns.org.rs/desk/vesti-iz-medija/124023/rem-pokrenuo-postupak-protiv-pinka-zbog-teskih-uvreda-koje-je-dragoslav-bokan-uputio-mariniki-tepic.html
60. Share Foundation web portal, accessed on July 5, 2023, https://predstavnici.mojipodaci.rs/
61. Supreme Court of Cassation Court Decision Kzz 184/2019, Supreme Court, accessed on July 8, 2023, available at: https://www.vk.sud.rs/sr-lat/kzz-1842019-odbijen-zahtev-kriv-delo-neovla%C5%A1%C4%87eno-fotografisanje-i-dr
62. Terms of Use, LimundoGrad LLC, accessed on July 5, 2023, available at: https://www.limundo.com/pravila-uslovi
63. Text of the Act on Amendments to the Constitution which will be voted on January 16, 2022, Open Doors of the Judiciary platform, accessed on July 8, 2023, available at: https://www.otvorenavratapravosudja.rs/teme/ustavno-pravo/tekst-akta-o-promeni-ustava-o-kome-se-glasa-16012022-godine
64. Transparency Report, Google, accessed on July 6, 2023, available at: https://transparencyreport.google.com/youtube-policy/appeals
65. Transparency Serbia: Findings of the monitoring of the REM service and their (non)use, CINS, accessed on July 7, 2023, available at: https://www.cins.rs/transparentnost-srbija-nalazi-nadzora-sluzbe-rem-i-njihovo-nekoriscenje/
66. What to Do if My eBay Seller Account is Blocked, Ebay, accessed on July 6, 2023, available at: https://export.ebay.com/en/first-steps/how-use-ebay-seller-account/what-do-if-my-ebay-seller-account -blocked/