

**Совет по правам человека**

Пятьдесят шестая сессия

18 июня — 12 июля 2024 года

Пункт 3 повестки дня

**Поощрение и защита всех прав человека,  
гражданских, политических, экономических,  
социальных и культурных прав,  
включая право на развитие****Поездка в Сербию и Косово\*\*****Доклад Специального докладчика по вопросу о поощрении  
и защите права на свободу мнений и их свободное выражение  
Айрин Хан\*\*\****Резюме*

Специальный докладчик по вопросу о поощрении и защите права на свободу мнений и их свободное выражение Айрин Хан совершила поездку в Сербию и Косово с 28 марта по 6 апреля 2023 года. В настоящем докладе Специальный докладчик признает наличие прочной правовой основы для свободы выражения мнений в Сербии, но выражает обеспокоенность тем, что эта основа подрывается некоторыми политическими мерами и практикой, включая широко распространенные угрозы, нападения, язык ненависти и клеветнические кампании онлайн и офлайн против журналистов, правозащитников и политических оппонентов, сохраняющуюся безнаказанность за совершенные в прошлом преступления, медленное и неэффективное судебное преследование и слабый орган по регулированию средств массовой информации, который не в состоянии выполнять свои обязанности независимым, эффективным и компетентным образом. Она настоятельно призывает правительство Сербии провести правовые, политические и институциональные реформы и продемонстрировать более твердую, недвусмысленную политическую приверженность защите свободы выражения мнений онлайн и офлайн в соответствии с международными обязательствами в области прав человека. Что касается Косово, то Специальный докладчик приветствует формирующийся динамичный медиаландшафт, но отмечает необходимость повышения инклюзивности и разнообразия средств массовой информации, в том числе путем предоставления более устойчивой поддержки независимым сербоязычным СМИ. Специальный докладчик по-прежнему привержена сотрудничеству с Сербией и Косово в их усилиях по выполнению требований международного права прав человека.

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\*\* Все ссылки на Косово следует понимать в контексте резолюции 1244 (1999) Совета Безопасности.

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## Приложение

### **Доклад Специального докладчика по вопросу о поощрении и защите права на свободу мнений и их свободное выражение Айрин Хан о ее поездке в Сербию и Косово\***

#### **I. Introduction**

1. Pursuant to Human Rights Council resolution 52/9, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, carried out a visit to Serbia and Kosovo from 28 March to 6 April 2023. The main objective of the visit was to assess the state of freedom of opinion and expression in Serbia and Kosovo in the light of international human rights norms and standards.

2. The present report is focused on the measures taken by Serbia and Kosovo to respect and uphold the right to freedom of opinion and expression, including with regard to the rights to information, non-discrimination and protection from online and offline harassment, threats and incitement to violence, hatred and discrimination, in particular against journalists, human rights defenders, political opponents, social activists and minorities.

3. In Belgrade, the Special Rapporteur met with the Minister for Foreign Affairs, the Minister for Justice, the Minister for Information and Telecommunications, the Minister for Human and Minority Rights and Social Dialogue and representatives of the Ministry of the Interior. She also met with the Speaker of the National Assembly, the President of the Constitutional Court, judges of the Supreme Court of Cassation and officials of the Republic Public Prosecutor's Office. She had the opportunity to interact with representatives of State institutions, including the head of the Regulatory Authority for Electronic Media, the Protector of Citizens, the Deputy Commissioners for the Protection of Equality and the Commissioner for Information of Public Importance and Personal Data Protection.

4. In Pristina and Çagllavicë/Çaglavica in Kosovo, she met with the Deputy Prime Minister for Minority Issues and Human Rights. She also met with representatives of the Office for Good Governance, the Legal Office and the Office for Public Communication, as well as with the Commissioner for Information and Privacy and the Language Commissioner. She held meetings with members of the Assembly of Kosovo who serve on the Committee on Public Administration, Local Governance, Media and Rural Development and the Committee on Human Rights, Gender Equality, Victims of Sexual Violence During the War, Missing Persons and Petitions. Furthermore, she had the opportunity to meet with the acting Chief Prosecutor of Kosovo, the Ombudsperson, representatives of the Independent Media Commission and the Director General and a member of the Board of Radio-Television Kosovo.

5. In Serbia and Kosovo, the Special Rapporteur engaged with a wide range of civil society organizations, media associations, media outlets, journalists, legal experts and human rights defenders, as well as with representatives of international and regional organizations and members of the international community.

6. The Special Rapporteur is grateful to all individuals, government officials and representatives of State institutions and civil society for meeting with her and for sharing information and insights.

7. The Special Rapporteur expresses her appreciation in particular to the officials of the Ministry of Foreign Affairs of Serbia, the United Nations Interim Administration Mission in Kosovo (UNMIK) and the authorities in Kosovo for their assistance and support during her visit and for organizing various appointments and meetings.

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\* Все ссылки на Косово следует понимать в контексте резолюции 1244 (1999) Совета Безопасности.

8. She thanks the United Nations Resident Coordinator in Serbia and her team, the Special Representative of the Secretary-General and Head of UNMIK and the UNMIK Human Rights Section and Representative of the United Nations High Commissioner for Human Rights for their valuable support prior to and during her visit.

## **II. Freedom of opinion and expression in Serbia**

9. Serbia has a strong constitutional and legal framework to protect freedom of expression, and the Government informed the Special Rapporteur that it was working to strengthen it through further legal reforms, in line with international and European standards. While the Special Rapporteur welcomes those measures, she is concerned about the increasingly wide gap between what is promised in law and what is being done, or simply not done at all, by the relevant authorities at the policy level or in practice.

10. The present report is focused on two major concerns in relation to freedom of expression in Serbia: first, the high prevalence of hate speech and toxic public discourse, often in the form of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, which is prohibited under international human rights law; second, threats to media freedom and the safety of journalists and human rights defenders. The recommendations reflect the need for a stronger political commitment and institutional and policy reforms to address these problems.

### **A. Strong legal framework**

11. Serbia is a party to various international and regional human rights treaties, including the International Covenant on Civil and Political Rights. Article 19 of the Covenant protects the right to freedom of opinion and expression. In the context of the universal periodic review, in May 2023, Serbia committed to ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, both of which contain protective provisions related to freedom of expression. The Special Rapporteur is pleased to note that the National Assembly of Serbia adopted a law on the ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights on 6 September 2023 and hopes that the Optional Protocol to the Convention on the Rights of the Child on a communications procedure will be ratified soon.

12. The right to freedom of expression is protected under article 46 (1) of the Constitution, which states that freedom of expression may be restricted by law only if necessary to protect the rights and reputation of others, uphold the authority and impartiality of the courts or protect public health, the morals of a democratic society and the national security of Serbia (art. 46 (2)). The Constitution also guarantees the freedom of the media (art. 50), the right to information (art. 51), freedom of assembly (art. 54) and freedom of association (art. 55). Article 49 of the Constitution prohibits incitement to national, racial or religious hatred. Article 79 protects the right of national minorities to express, preserve, foster, develop and publicly express their national, ethnic, cultural or religious distinctiveness; to complete, timely and objective information in their language, including the right to express, receive, send and exchange information and ideas; and to establish their own mass media.

13. The media sector is regulated primarily by two laws, namely, the Law on Public Information and Media and the Law on Electronic Media. In January 2020, the Government adopted the Strategy for the Development of the Public Information System for the period 2020–2025, which contains an analysis of the state of media freedom in Serbia and sets out measures to improve the situation of journalists. An action plan for the implementation of the strategy was adopted in December 2020. The strategy envisages amendments to media laws and other laws that impact the work of the media and journalists.

14. During her visit, the Special Rapporteur was informed that the Government planned to amend the Law on Public Information and Media, the Law on Electronic Media and the Law on Public Media Services to bring them fully into line with international human rights

law and European Union standards. The National Assembly adopted the new Law on Public Information and Media and the new Law on Electronic Media on 26 October 2023.

15. Under article 138 (3) of the Criminal Code, the offence of endangerment of safety, defined as the endangerment of the safety of an individual by threat of attack against her or his life or body or that of a person close to her or him, is punished with a fine or imprisonment for up to five years. The sanctions are higher when such threats are committed against “a person of importance to public information”, which includes journalists, human rights defenders and political actors. Other provisions of the Criminal Code that protect the safety of journalists include article 114 (1) (8), which establishes the offence of “aggravated murder”, and article 121 (6), which establishes the offence of “serious bodily harm”. The offence of stalking, which is commonly understood as the repeated harassment of individuals, perpetrated through digital or technological means, was recently added to the Criminal Code (art. 138A).

16. The Ministry of Justice informed the Special Rapporteur that the Government is considering amending the Criminal Code, including by adding a new provision to protect against incitement to discrimination and violence, which, if adopted in line with international standards, would provide welcome additional legal guarantees of freedom of expression for journalists, activists and others.

17. The Special Rapporteur notes that the offence of insult constitutes an aggravated offence when committed by means of the press, radio, television or other media or at public rallies (art. 170).

18. The Special Rapporteur is pleased to note that the offence of libel is no longer punishable by imprisonment, and she urges the Government to limit the penalty for dissemination of information relating to personal or family life (art. 172) to fines.

19. The Special Rapporteur acknowledges the constitutional and legal protections of freedom of expression in Serbia and welcomes the Government’s proposal to introduce further legal reforms in line with international and European standards. However, she is concerned that the legal framework is being undermined by the Government’s failure to implement the relevant laws effectively and act against the widespread threats, attacks and smear campaigns that are intended to intimidate, discredit and silence critical voices. The Special Rapporteur calls upon the Government to demonstrate a stronger political and institutional commitment to curbing such attacks and ensuring that the relevant laws are upheld by all State bodies and officials.

## **B. Tackling hate speech**

20. The Government of Serbia acknowledged in its national report submitted in connection with the universal periodic review of the Human Rights Council in 2023 that its “zero-tolerance” policy on hate speech “has not been achieved”.<sup>1</sup> The consequences for human rights, community relations and public participation are grave.

### **1. Toxic public discourse**

21. The Special Rapporteur notes with deep concern that safe civic space for the expression of diverse views is shrinking in Serbia because of the toxic state of public discourse, described by a range of stakeholders – from State institutions to civil society representatives and journalists – as “polluted”, “divisive”, “intolerant” and “aggressive”.

22. Although the Criminal Code explicitly prohibits incitement to national, racial and religious hatred, discord or intolerance (art. 317), the right to freedom of expression has been weaponized by politicians and populist media outlets to denigrate, delegitimize and suppress political dissent and feed ethnic and identity-based bias and hatred. Some political leaders, including in high-ranking government positions, and populist media outlets appear to interpret freedom of expression as the right of the majority to vilify minority or critical voices. In various meetings with the Special Rapporteur, interlocutors described a dangerous “us

<sup>1</sup> [A/HRC/WG.6/43/SRB/1](#), para. 45.

versus them” narrative, which often started with negative statements by high-ranking government officials, was amplified by tabloids and nationwide television programmes and led to threats from “unknown sources”, especially on social media.

23. Such a pattern was evident, for instance, in the aftermath of the tragic shooting of 18 children and young people in May 2023.<sup>2</sup> Following the killings, there were weekly public protests calling for accountability, better arms control and robust action against incitement to hatred and violence in the tabloid media, but the protests were attacked by government officials and tabloid media outlets for being “pro-Western” and provoking “chaos and the burning down of the Assembly”.<sup>3</sup> Some of the protesters, including family members of the survivors, and independent media outlets became targets of vilification campaigns.

24. Political opponents, civil society representatives, human rights defenders, environmental activists and journalists are among those who are most often disparaged, denigrated and discredited publicly, including in the parliament and in the populist, nationwide media, as part of what appear to be well-orchestrated, well-coordinated smear campaigns. Women journalists and activists are often subjected to misogynistic and gender-based attacks, especially online. Disinformation and misinformation are rampant online, eroding public trust in politicians, civil society and the media and undermining democracy and diversity. In major cities, such as Belgrade, giant graffiti were displayed in prominent locations, glorifying war criminals, promoting false narratives about the past and spreading anti-Western rhetoric and warmongering messages with implicit threats against minorities.

25. Journalists who are critical of the Government have been vilified by prominent public figures as “tycoon media”, foreign agents, traitors or enemies of the State. Such language increases the likelihood of threats and violence against journalists, leading many of them to self-censor. The Special Rapporteur was told that some journalists had relocated in fear for their own safety.

26. The Special Rapporteur acknowledges the efforts made by the Ministry of Human and Minority Rights and Social Dialogue, in particular the protocol that it has developed for State authorities to condemn toxic political discourse. She notes that the code of conduct for parliamentarians emphasizes the duty of parliamentarians to desist from incitement to hatred or violence. However, the measures have failed to have the desired effect in the absence of unequivocal political commitment from the highest levels of government to enforce them. She calls upon the Government of Serbia to comply with its own laws and policies and its international obligation to prohibit incitement to violence, hostility and discrimination, as set out in article 20 (2) of the International Covenant on Civil and Political Rights, discourage toxic public discourse and promote an environment conducive to safe, healthy and diverse public debate.

27. The Special Rapporteur draws the Government’s attention to the 2021 Joint Declaration on Politicians and Public Officials and Freedom of Expression, which she and relevant mandate holders of regional organizations, including the Organization for Security and Cooperation in Europe (OSCE), adopted. It provides useful guidance, based on international norms, on the roles and responsibilities of politicians and public officials to ensure a safe space for public debate, respect for media freedom and adherence to ethical and legal principles.<sup>4</sup>

28. Experience in the region, as well as elsewhere in the world, has shown that toxic expression exacerbates political, ethnic and social divisions, erodes democratic governance and endangers peacebuilding efforts.<sup>5</sup> Tackling advocacy of hatred and its root causes is vital for the enjoyment of freedom of expression and for developing peaceful, democratic societies. The Special Rapporteur echoes the call made by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence at the end of his

<sup>2</sup> See OHCHR, “Serbia: UN expert alarmed by rise in hateful rhetoric after mass shootings”, press release, 5 June 2023.

<sup>3</sup> See <https://informer.rs/vesti/politika/797792/opozicija-pokret-otpor-5-oktobar> (in Serbian).

<sup>4</sup> See [https://www.ohchr.org/sites/default/files/2022-04/Joint-Declaration-2021-Politicians\\_EN.pdf](https://www.ohchr.org/sites/default/files/2022-04/Joint-Declaration-2021-Politicians_EN.pdf).

<sup>5</sup> See [https://www.un.org/en/genocideprevention/documents/2022-04-06\\_Statement\\_by\\_Special-Adviser\\_Nderitu.pdf](https://www.un.org/en/genocideprevention/documents/2022-04-06_Statement_by_Special-Adviser_Nderitu.pdf).

country visit to Serbia and Kosovo in 2022, namely, that the authorities should adopt all measures necessary to address effectively the rise in radicalization and hatred in certain sectors of society and reverse the shrinking of the civic space.<sup>6</sup>

29. The Special Rapporteur urges the Government to invest more in the information, media and digital literacy of schoolchildren, young people and the general public so that they are better equipped to tackle disinformation and misinformation online. She draws the Government's attention to the recommendations contained in her report to the Human Rights Council on disinformation and freedom of expression.<sup>7</sup>

## 2. Weak media regulation

30. In addition to oversight functions related to the public broadcasting service, the Regulatory Authority of Electronic Media has the responsibility to ensure media pluralism by appropriately allocating licences for the provision of media services. It has the legal authority to issue a warning, temporarily ban a programme or revoke the media licence of an outlet if it violates the law.

31. Populist or tabloid media outlets are major producers and amplifiers of false narratives and hate speech in Serbia. Despite its mandate and the legal means at its disposal, the Regulatory Authority of Electronic Media has consistently failed to act promptly and effectively to stop the spread of harmful speech, even when it has reached the level of incitement to violence, hostility and discrimination.

32. In 2020, the Commissioner for the Protection of Equality produced a comprehensive report on hate speech in the Serbian media, according to which the Regulatory Authority of Electronic Media and the Press Council, the latter a self-regulatory body that brings together publishers, print and online media and news agency owners and professional journalists, "seem not to use all available means to combat hate speech and aggressive speech".<sup>8</sup> During her meeting with the Minister for Human and Minority Rights and Social Dialogue, the Special Rapporteur was informed that the Ministry had proactively and repeatedly reached out to the Authority and requested it to take more effective measures against outlets that spread disinformation and hatred, seemingly to no effect.

33. According to the report of the Commissioner for the Protection of Equality, the Regulatory Authority of Electronic Media has imposed only 67 penalties on media service providers in its seven years of existence, while, in the same period, citizens and organizations have submitted over 1,030 complaints. The largest number of complaints from citizens appear to have been filed against two nationally broadcast television channels with a reputation for sensationalist programmes that distort information (TV Pink and TV Happy).<sup>9</sup> Most of the complaints were dismissed by the Authority as incomplete.

34. It is noteworthy that the Regulatory Authority of Electronic Media did not react to complaints regarding the broadcast either of a live interview with the convicted war criminal Ratko Mladić on a nationwide television programme or of an interview with a serial rapist, which was widely distributed in the tabloid media. Regarding the latter, the Chair of the Council of the Authority reportedly said that she did not understand the "hysteria" that the interview had caused.<sup>10</sup>

35. The Special Rapporteur believes that the failure of the Regulatory Authority of Electronic Media to sanction the demonization of political opponents, human rights defenders and independent journalists in the tabloid media has emboldened the perpetrators, encouraged poisonous smear campaigns to thrive, caused harm to individuals and induced self-censorship, seriously undermining the right to freedom of expression in Serbia.

36. Not only has the Regulatory Authority of Electronic Media failed to act against media outlets disseminating hate speech; it has also awarded four of the available five broadcasting

<sup>6</sup> See 20121202-eom-statement-serbia-kosovo-sr-truth.pdf.

<sup>7</sup> [A/HRC/47/25](#).

<sup>8</sup> Ivana Krstić, *Report on the Use of Hate Speech in Serbian Media* (Council of Europe, 2020), p. 63.

<sup>9</sup> *Ibid.*, p. 40.

<sup>10</sup> See N1, "Media watchdog chief on rapist interview: I see no problem", 3 October 2022.

licences to outlets that are known to have consistently violated media regulations, as well as international standards and ethical and professional standards. The Authority thereby sent a dangerous signal to the media sector and the general public, undermining the Government's professed zero-tolerance policy and promoting the notion that the State condones pernicious public discourse.

37. In defiance of its mandate to uphold media pluralism, the Regulatory Authority of Electronic Media refused to proceed with the tender for the fifth licence, which triggered an open conflict with some media outlets. When some outlets decided to organize a broadcast blackout in protest at the Authority's refusal to proceed with the tender, the Authority's employees retaliated by going on strike, claiming that the outlets in question had "blackmailed and raped" the Authority. Such behaviour by a State institution, left unaddressed, brings the State into disrepute.

38. The Special Rapporteur is alarmed by two reports by the International Election Observation Mission of the Office for Democratic Institutions and Human Rights regarding the Regulatory Authority of Electronic Media. Following the parliamentary elections in 2022, the International Election Observation Mission noted that, despite its mandate to oversee the broadcast media, the Authority had "remained overall passive in the campaign period" and that "the combined impact of unbalanced access to media, undue pressure on public sector employees to support the incumbents, significant campaign finance disparities and misuse of administrative resources" had led to unequal conditions for candidates.<sup>11</sup> The International Election Observation Mission raised the same concerns regarding the early parliamentary elections of December 2023, noting that the Authority had "maintained a notably passive approach to regulating media conduct during the campaign".<sup>12</sup>

39. On the one hand, the Regulatory Authority of Electronic Media has failed to exercise its authority under the law to restrict smear campaigns and harassment by tabloid media and penalize outlets that are openly engaged in producing and disseminating harmful speech. On the other hand, it has used its power against outlets critical of the Government. For instance, the Authority reportedly held that the documentary series *Decade in Power*, broadcast by the channel N1, which had been critical of the decade-long leadership of Aleksandar Vučić, President of Serbia, had violated a number of provisions on media conduct.

40. The Special Rapporteur believes that failing to uphold media pluralism, refusing to sanction harmful speech by certain media outlets, working proactively against outlets critical of the Government and the ruling party and engaging in open conflict with them raise serious doubts about the independence and impartiality of the Regulatory Authority of Electronic Media and, more broadly, about its ability to promote and protect media freedom, diversity and pluralism, in line with democratic principles and the international obligations, national laws and policies of Serbia.

41. The Special Rapporteur is concerned that the failure of the Regulatory Authority of Electronic Media to act against harmful speech by pro-Government sources and outlets could be the result of undue influence on the part of political and commercial interests in Serbia, facilitated by the institution's weak leadership, legal gaps and a financing model that is based not on the State budget but on fees paid by media service providers. These risks are recognized in the Government's Media Strategy, according to which the independence of the Authority is not fully ensured in practice, "partly because of regulatory gaps, and partly due to the improper application or the absence of application of the existing regulatory framework".

42. Given the importance of the regulatory role assigned to the Regulatory Authority of Electronic Media, the Special Rapporteur believes that it is imperative that the Government, in consultation with all stakeholders, including a broad spectrum of civil society and media organizations, as well as the OSCE Representative on Freedom of the Media, assess the independence and effectiveness of the Authority and introduce measures to guarantee its

<sup>11</sup> See Office for Democratic Institutions and Human Rights, "Republic of Serbia: presidential and early parliamentary elections, 3 April 2022", final report (2022).

<sup>12</sup> See [https://www.osce.org/files/f/documents/6/8/560650\\_1.pdf](https://www.osce.org/files/f/documents/6/8/560650_1.pdf).

independence, transparency and accountability and the adequacy of its human and financial resources.<sup>13</sup>

### 3. Role of other State institutions

43. The independent State institutions of Serbia can make a decisive contribution to creating a culture of diversity and tolerance based on respect for human rights through awareness-raising campaigns targeting young people, assisting victims of discrimination and hate speech to seek legal recourse, organizing training to strengthen the capacity of law enforcement officials to detect hate speech and, where appropriate, holding government officials to account.

44. In 2020, the Office of the Commissioner for the Protection of Equality published a comprehensive report on hate speech in the Serbian media, in which it recommended that the authorities spread a culture of human rights, conduct awareness-raising campaigns on the rights of vulnerable social groups and conduct educational initiatives at all levels, from preschool onwards, in order to respect diversity and tolerance.<sup>14</sup> In 2022, the Office of the Commissioner provided training for at least 700 individuals, including editors-in-chief and journalists. It has also initiated strategic lawsuits in discrimination-related cases.

45. The Office of the Commissioner for Information of Public Importance and Personal Data Protection informed the Special Rapporteur that it responds promptly when members of the parliament publicly disclose the personal data of journalists in order to vilify them.

46. The judicial system has been less responsive to hate speech. According to a 2020 report, the civil courts do not have statistics on hate crime cases, and there have not been many cases in which they have identified hate speech.<sup>15</sup> In the same report, it is stated that prosecutors had not acted to penalize some criminal acts in relation to which the Commissioner had filed criminal complaints.<sup>16</sup>

47. The Special Rapporteur was informed by civil society that prosecutors often do not recognize hate speech and therefore do not bring criminal charges. Court practice is also problematic in that, in some cases, judges do not recognize hate speech. There is clearly a need for more training and capacity development for prosecutors and judges on hate speech and freedom of expression issues, as well as additional guidance and/or legal reform.<sup>17</sup>

48. Both State institutions and media organizations have an important role to play in enhancing the ethics and professionalism of the media sector. The Special Rapporteur reiterates the recommendation of the European Commission against Racism and Intolerance for the intensive training of journalists and media workers on the Serbian Journalists' Code of Ethics.<sup>18</sup> The Press Council and (a reformed) Regulatory Authority of Electronic Media should organize and support such training. The Commissioner for the Protection of Equality, which has already carried out some training for editors and journalists, could be given the resources to provide further such training.

## C. Protecting media freedom, journalists and human rights defenders

49. The legal framework recognizes the important role of journalists in society and affords them significant protection, which, regrettably, has not been translated effectively into practice. As mentioned in previous sections, journalists continue to be targeted, threatened and attacked because of the poor implementation of laws, institutional weaknesses and a lack of sufficient political commitment.

<sup>13</sup> See communication AL SRB 2/2023, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28574>.

<sup>14</sup> Krstić, *Report on the Use of Hate Speech*, p. 52.

<sup>15</sup> *Ibid.*, p. 33.

<sup>16</sup> *Ibid.*, p. 35.

<sup>17</sup> *Ibid.*, p. 35.

<sup>18</sup> European Commission against Racism and Intolerance, "ECRI report on Serbia (fifth monitoring cycle)", 2017, para. 38.



## 1. Inadequate protection mechanisms

50. The Government has put in place various mechanisms aimed at strengthening the safety of journalists. The multi-stakeholder Standing Working Group on the Safety of Journalists was established in 2016. Its members are representatives of media associations, the Republic Public Prosecutor's Office and the police who meet every three months or more frequently when necessary. In 2020, the Government founded two other working groups for the safety and protection of journalists, which are mandated to monitor and assess the efficiency of policy responses in cases of attacks against journalists and to advise on legal reforms.

51. A platform for registering cases of endangerment of the security of human rights defenders, journalists and other media workers was set up in 2020 by the Office of the Protector of Citizens (Ombudsman). A 24-hour telephone line for reporting attacks on journalists and media workers was introduced in 2021.

52. Police liaison officers from various police directorates have been appointed to strengthen the protection of journalists, as well as minorities, and a dedicated web portal has been set up to provide relevant information about the work and safety of journalists.<sup>19</sup> However, the Special Rapporteur understands from her meeting with representatives of the Republic Public Prosecutor's Office that few journalists reach out to the competent local authority for protection, which could be a sign of a lack of confidence in the system.

53. While these efforts by the authorities may appear promising, the fact remains that toxic verbal attacks, smear campaigns, intimidation and threats, including death threats and threats of sexual and gender-based violence, against journalists and human rights defenders have persisted with impunity. Smear campaigns against the Crime and Corruption Reporting Network (KRIK) intensified after it published reports of alleged corruption. Five media associations withdrew from the working groups in 2021, indicating their dissatisfaction with them. Some media associations also complained to the Special Rapporteur about the duplication of work across the different working groups and the strain that participation in them placed on their limited resources.

## 2. Persistent impunity

54. In December 2020, the Republic Public Prosecutor's Office issued a mandatory instruction on the role of public prosecutor's offices in criminal cases related to the safety of journalists,<sup>20</sup> which sets out an urgent procedure to be followed in cases of threats and attacks against journalists, in line with the Guidelines on the Prosecution of Hate Crimes in Serbia and the Instructions of the Republic Public Prosecutor. The mandatory instruction, which was developed in cooperation with civil society, provides for, inter alia, swift responses in certain situations, round-the-clock points of contact in all public prosecutor's offices, special registries for cases and disciplinary liability for prosecutors who fail to comply with their duties.

55. According to the information provided by the authorities, between 1 January 2016 and 31 March 2023, 460 cases of endangerment of safety (Criminal Code, art. 138 (3)) were registered by the public prosecutor's offices. Reasonable doubt that a criminal act against the safety of journalists had been committed was found in 267 of the 460 cases (58.04 per cent), while no element of a criminal act was found in 193 cases (41.96 per cent). In only 76 of the 267 cases that were tried (28.46 per cent) was some form of a criminal sanction imposed or was the case transferred to a foreign State.<sup>21</sup>

56. In various meetings with civil society, the Special Rapporteur was told that, while the police had provided a better and more rapid response to threats against journalists in recent years, the courts were too slow to process cases and often dismissed them.

57. A key reason appears to be that many judges interpret the applicable offences narrowly and do not recognize instances of verbal threats as likely to cause harm under the

<sup>19</sup> See <https://www.bezbedninovinari.rs/>.

<sup>20</sup> CCPR/C/SRB/4, para. 255.

<sup>21</sup> Statistics provided by the Government of Serbia.

criminal law. Nor do they appear to take fully into account the mental anguish caused to victims by verbal threats. Judicial practice has changed little, despite the training provided to judges on these issues.<sup>22</sup>

58. There appears to be a gap between the offence of endangerment of safety, as defined in the Criminal Code and interpreted by the courts, and the ways in which acts of intimidation or veiled threats are frequently made against journalists in practice. The Special Rapporteur recommends that the Government consider including “intimidation against journalists” as an offence in legislation related to the protection of journalists or clarify the issue through other means, such as judicial guidelines. She encourages the Government to take additional measures to speed up investigations and legal proceedings.

59. The Special Rapporteur is disappointed that impunity for past crimes, including murders of journalists in the 1990s, has remained unaddressed. It is of deep concern that not a single murder of a journalist has been solved in the nearly quarter of a century that has since passed. In 1993, Serbia established a commission to investigate unsolved cases of murders of journalists carried out during the conflicts of the 1990s. In February 2024, the Court of Appeal acquitted the four individuals accused of the murder of Slavko Ćuruvija, a particularly emblematic case, in a terrible blow to his family’s quest for justice.<sup>23</sup> The cases of Radoslava “Dada” Vujasinović, an investigative journalist killed in 1994, and Milan Pantić, a crime reporter killed in 2001, are still at the preliminary investigation stage.

### 3. New threat: strategic lawsuits against public participation

60. Increasingly, journalists and activists are being subjected to judicial harassment through vexatious or frivolous libel claims initiated by powerful public figures who demand exorbitant damages in retaliation for critical reporting or investigations. The purpose of these lawsuits, which are known as “strategic lawsuits against public participation”, is not necessarily to win but to distract, demoralize, intimidate and silence the journalists and activists.

61. Among those targeted by such measures is the Crime and Corruption Reporting Network (KRIK), which, at the time of the visit of the Special Rapporteur, was the subject of no fewer than 11 active lawsuits that had elements of a strategic lawsuit against public participation. Shortly after the visit, KRIK was targeted by another lawsuit, reportedly lodged by a close relative of the President, after it alleged that the individual in question had a business relationship with another individual who had at one point been involved in drug trafficking.<sup>24</sup> According to the information received, those who have brought cases against KRIK include an individual accused of organizing drug production, the head of the Serbian intelligence agency, police chiefs, individuals listed as wanted by the International Criminal Police Organization (INTERPOL), the best man at the President’s wedding, a tabloid publisher, a government agency and an international corporation. Furthermore, in May 2023, KRIK was found guilty of causing “emotional pain” to police officers whose names had been published in an article listing all those who had sued KRIK reporters. As a result, KRIK is now prevented from informing the public about those who are trying to silence it.

62. Strategic lawsuits against public participation not only threaten the economic viability of media outlets but also constitute an abuse of the judicial system. They have a strong chilling effect on critical media and reduce media pluralism. For these reasons, it is in the interest of the Government to introduce legal and policy measures, such as the possibility of an early dismissal procedure, to reduce the risk of vexatious and abusive lawsuits. Other mitigation measures by the authorities could include legal assistance for journalists and human rights defenders affected by such lawsuits and financial penalties for malicious

<sup>22</sup> The European Court of Human Rights reviewed the legal framework affecting the safety of journalists in *Gaši and others v. Serbia*, application No. 24738/19, Judgment, 6 September 2022.

<sup>23</sup> See Slavko Ćuruvija Foundation, “Protest rally ‘For Slavko Ćuruvija’ following shocking acquittals for journalist’s murder”, 14 February 2024.

<sup>24</sup> See <https://www.krik.rs/dvanaesta-tuzba-protiv-krik-a-stigla-od-vucicevog-kuma/> (in Serbian).

litigants who abuse the judicial system.<sup>25</sup> Both the Council of Europe and the European Union are in the process of adopting measures to deter such lawsuits, and Serbia should seek to match those standards.

#### 4. Other concerns relating to media freedom

63. The Special Rapporteur welcomes the Government's commitment to ensuring transparency regarding the ownership of media outlets, as affirmed in 2023 in the context of the universal periodic review.<sup>26</sup> The Special Rapporteur notes the efforts made by Serbian public media services to promote minority languages. Public service programmes are broadcast in 16 languages of national minorities, including Albanian.<sup>27</sup> In 2020, 33 newspapers or magazines were published in the languages of national minorities, three of them as part of bilingual or multilingual editions.

64. The Special Rapporteur is concerned that media pluralism and diversity could be threatened, as media outlets are confronting problems of financial viability.<sup>28</sup> In recent years, the financial sustainability of some media outlets has declined, largely due to the digital revolution and reduced State support for the media sector, especially outlets that are independent or known to be critical of the Government. State support plays a vital role in sustaining the vitality of the media, but, if provided unevenly or in opaque ways, it can become an instrument of political influence over editorial policies. During her visit, the Special Rapporteur was informed that State advertising is increasingly being channelled to media outlets that are aligned with government positions. The adverse effect on independent or critical outlets risks reducing the pluralism and diversity of information and viewpoints in the media.

65. Given the central importance of State advertising revenue for the viability of the media, information about the policies, processes and distribution of such funds should be made public.

66. The State has a vital interest in promoting media pluralism, which can be achieved by supporting the economic viability of independent news media outlets while respecting their professional autonomy and freedom, so that news media outlets can play their vital social role as a watchdog.

#### 5. Threat to civil society organizations

67. The Special Rapporteur is concerned about the targeting of civil society organizations under the Law on the Prevention of Money-laundering and the Financing of Terrorism. Although not originally aimed at civil society, the law appears to have been used disproportionately against individuals and organizations known for their work on human rights, the investigation of war crimes and other accountability issues.<sup>29</sup> While a number of individuals and organizations have been asked to provide documentation related to their local and foreign currency accounts and transactions as a legitimate measure to counter money-laundering, there is a risk that such requests are being used to intimidate and coerce civil society actors for their criticism of the Government.

### III. Freedom of opinion and expression in Kosovo

68. Kosovo is bound by international standards in relation to freedom of expression and has a vibrant media landscape. However, in practice, there are concerns in relation to impunity for crimes against journalists, media pluralism and the use of minority languages.

<sup>25</sup> See Council of Europe, "Draft recommendation CM/Rec(20XX)XX on countering the use of strategic lawsuits against public participation (SLAPPs)" (2022), available at <https://www.coe.int/en/web/freedom-expression/msi-slp>.

<sup>26</sup> A/HRC/54/18, paras. 130.36, 130.38 and 130.66.

<sup>27</sup> A/HRC/WG.6/43/SRB/1, para. 112.

<sup>28</sup> CCPR/C/SRB/CO/3, para. 38.

<sup>29</sup> See communication AL SRB 3/2020, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25652>.

## A. Legal framework

69. The Constitution of Kosovo stipulates the direct applicability of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Optional Protocols thereto and the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto, which contain specific provisions guaranteeing the right to freedom of expression and setting out the criteria for restricting that right.

70. The right to freedom of expression in Kosovo is guaranteed by article 40 of the Constitution, which defines it as including the right to express oneself and to disseminate and receive information, opinions and other messages without impediment. Article 40 (2) of the Constitution provides that this freedom may be limited by law in cases in which it is necessary to prevent the encouragement or provocation of violence and hostility on the grounds of race, nationality, ethnicity or religion. The Constitution guarantees the right to freedom of opinion in its article 24 on equality before the law, which includes “opinion” as one of the grounds for protection.

71. Kosovo has adopted a range of laws to protect the right to freedom of expression and the independence of the media. These include Law No. 04/L-046 on Radio-Television of Kosovo, Law No. 02/L-65 on the Civil Law against Defamation and Insult, Law No. 06/L-085 on Protection of Whistle-blowers, Law No. 06/L-081 on Access to Public Documents, Law No. 04/L-137 on the Protection of Journalism Sources and Law No. 06/L-082 on Personal Data Protection.<sup>30</sup> The Special Rapporteur welcomes the fact that defamation and insult remain civil offences, thereby removing a potential threat to freedom of expression and media freedom. She also commends Kosovo for adopting a law on the protection of whistle-blowers in line with Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law.

72. The Criminal Code of Kosovo prohibits inciting or spreading hatred, discord or intolerance between national, racial, religious, ethnic and other groups or based on sexual orientation, gender identity or other personal characteristics, in a manner that is likely to disturb public order (art. 141). Law No. 05/L-021 on Protection from Discrimination, which entered into force in July 2015, further prohibits incitement to discrimination when it amounts to promoting hatred based on one of the protected grounds, such as nationality, religion, ethnicity, gender identity or sexual orientation. Furthermore, the Law on the Independent Media Commission contains provisions that prohibit the expression of opinions that cause direct or indirect discrimination and are disseminated through a form of commercial audiovisual communication in the field of public information broadcasting.

73. Access to public information is guaranteed by Law No. 06/L-081 on Access to Public Documents. Article 1 of the law guarantees the right of every person, without discrimination on any grounds, to access public documents produced, received, maintained or controlled by public institutions, as well as the right to reuse public sector documents.

## B. Safety of journalists

74. The Special Rapporteur is concerned about instances of violence against journalists, including in the north of Kosovo. On 11 April 2023, the owner of Gazeta Metro, a news outlet, was followed and attacked by three individuals while returning home after giving an interview on television.<sup>31</sup> According to reports, approximately 40 cases of attacks on journalists in the north of Kosovo were registered over a period of a few weeks in May and June 2023.<sup>32</sup> These included cases in which the lives and physical safety of journalists had

<sup>30</sup> *Civil Society Report on Human Rights in Kosovo in 2021* (May 2022), para. 71. Available at <https://unmik.unmissions.org/civil-society-report-human-rights-kosovo-2021>.

<sup>31</sup> See communication OTH 137/2023, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28573>.

<sup>32</sup> See <https://oik-rks.org/en/2023/06/19/the-ombudsperson-visited-the-association-of-journalists-of-kosovo/>.

been endangered or material damage had been caused to equipment and vehicles. The Special Rapporteur was informed that journalists reporting from the north were not always provided with adequate protection either by local bodies or by international actors. The Special Rapporteur notes the efforts made by Kosovo to address this problem, including the prioritization by the Office of the Prosecutor of cases of violence and threats against journalists. She calls upon the authorities to ensure that all attacks and threats against journalists are investigated promptly, thoroughly and impartially.

75. To ensure accountability for violence against journalists, and with a view to building trust across all segments of society, it is vital that the authorities speed up their investigations into cases of killings of journalists that have gone unsolved for decades, especially in relation to the cases of the 17 journalists who were killed in the conflict and post-conflict period between 1998 and 2005.

76. The Special Rapporteur is concerned that investigative journalists are increasingly being threatened with vexatious lawsuits by businesspersons and politicians, which could have a chilling effect on their reporting. The Special Rapporteur recommends that the authorities make more substantive efforts to address this threat, for instance, by introducing the possibility of the early dismissal of lawsuits by the courts or providing appropriate training to the judiciary, in line with the proposed directive of the European Parliament and of the Council on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings (strategic lawsuits against public participation) and the recommendation of the Council of Europe on countering the use of strategic lawsuits against public participation.

### C. Diverse, independent and pluralist media sector

77. An independent, diverse and pluralist media sector is essential for ensuring the accountability of public institutions and building trust in society, especially in the post-conflict context in Kosovo. While acknowledging the emergence of a vibrant media landscape in Kosovo, the Special Rapporteur notes that it is fragile and faces some challenges.

78. In July 2023, following a criminal report to the police, the authorities decided to suspend the licence of Klan Kosova, one of the largest media outlets in Kosovo. Civil society actors have alleged that the suspension was politically motivated with the intention of silencing the outlet. These allegations raise serious concerns about interference with the independence of the media, in contravention of international standards. At the time of finalizing the present report, the suspension had been postponed, pending a final judgment by the courts.

79. During her visit, the Special Rapporteur met with representatives of the Independent Media Commission. The members of the Commission are elected by the Assembly of Kosovo, and it has a mandate to regulate the media, including by licensing broadcasters, setting ethical standards, monitoring content and addressing violations or complaints regarding media operations.<sup>33</sup> According to the Law on the Independent Media Commission, the Commission is an independent body for the regulation, management and oversight of the broadcasting frequency spectrum. Currently, the Commission licenses and regulates 89 radio stations and 18 television stations with terrestrial frequencies, 116 cable television stations and 36 cable service operators.

80. During the visit, the Special Rapporteur was informed that the Commission was not operational due to delays in the appointment of some of its members by the Assembly of Kosovo. She has since learned that the vacancies have been filled but that the appointment of one individual has been criticized as being “politicized” and as not meeting the requisite standards of impartiality and political independence.<sup>34</sup>

<sup>33</sup> See <https://www.kpm-ks.org/en/kpm/311/per-kpm/311>.

<sup>34</sup> See communication OTH 137/2023.

81. The Special Rapporteur believes that it is vital that the Independent Media Commission be able to operate independently and apolitically, in line with article 141 of the Constitution of Kosovo. She calls upon the authorities to safeguard the independence of the Commission so that it can retain the trust of all sections of society and operate in an independent and unbiased manner, upholding media pluralism in Kosovo.

82. The Special Rapporteur is concerned that a new draft law, which is currently under consideration in the parliament, would change the mandate and the design of the Independent Media Commission to enable it to exert State control over online media outlets. The law would introduce obligatory State licensing for online media and a sanctions regime with heavy fines of up to €40,000. The Special Rapporteur is concerned that such a law could be misused to silence critical reporting and censor online media, in particular if the independence of the Commission itself is affected.

83. The Special Rapporteur encourages the authorities to put in place, through a new law on Radio-Television of Kosovo, a robust funding structure for the public broadcaster while ensuring its full political independence.<sup>35</sup>

84. During her visit, the Special Rapporteur met with journalists and representatives of media outlets from both the majority and non-majority communities. With regard to the latter, she is concerned that some Serbian-language outlets are facing serious economic problems, which could affect their ability to operate as independent outlets or even survive at all. More sustained support should be provided to them through the United Nations, as their closure would reduce the pluralism and diversity of the media in Kosovo and impact negatively on the social and political inclusion of the non-majority community.

#### **D. Language barriers and equal access to information**

85. Various stakeholders informed the Special Rapporteur about the improvements that have been made in the field of access to information, especially through the work of the Commissioner for Information and Privacy and the provision of training. The Special Rapporteur was informed that, for requests for public information, the response rate had increased from 30 per cent to 60 to 70 per cent. She also commends the efforts of the authorities to increase access to information for vulnerable groups, for instance through the use of sign language interpretation.

86. The Special Rapporteur received reports of delays in the translation of official documents into Serbian. Some interlocutors shared concerns that, on a number of occasions, official debates in the Assembly of Kosovo were not interpreted into Serbian, hampering media coverage and jeopardizing the effective participation of the non-majority community in political debate. The authorities adopted the Decision on the Establishment of the Translation and Harmonization Unit under the Office of the Prime Minister to allow for the recruitment of professional translators, which will ensure that every law adopted by the executive is translated into and harmonized in all official languages. The process is ongoing and will end in 2024. The Special Rapporteur stresses that equal participation, including the lifting of language barriers, is essential for building trust in society, and urges the authorities to fully implement the Law on the Use of Languages without delay. The international community should provide technical assistance, if necessary, to support the Kosovo authorities to implement that law as a matter of priority.

#### **E. Incitement and disinformation**

87. During her meetings with civil society, the Special Rapporteur was informed about attacks, including by public figures, against ethnic groups and LGBTIQ+ communities and sexist and misogynistic speech against women. Such statements hamper freedom of expression and public participation. The Special Rapporteur urges political leaders and public figures to uphold their responsibility to create a safe and enabling environment for expression

<sup>35</sup> See <https://balkaninsight.com/2023/02/01/kosovo-ruling-party-accused-of-capturing-public-broadcaster/>.

and to foster a culture of tolerance and diversity. In particular, she encourages the Assembly of Kosovo to adopt a code of ethics for its members.

88. The Special Rapporteur notes with concern reports of allegedly uneven and selective prosecution under incitement laws, along ethnic lines. The Special Rapporteur stresses the paramount importance of upholding the highest standards of non-discrimination and equality before the law.

89. In various meetings, interlocutors expressed concern about hate speech, smear campaigns and disinformation, in particular on social media platforms. The Special Rapporteur encourages the authorities in Kosovo to address the problem of disinformation through a proactive public information strategy and the provision of digital and information literacy training for the public and by nurturing an independent, diverse and pluralistic media, providing appropriate training to enable journalists and civil society organizations to serve as fact checkers<sup>36</sup> and protecting journalists and human rights defenders against acts of harassment and incitement.

#### **IV. Conclusions and recommendations**

90. The Special Rapporteur acknowledges the strong constitutional and legal framework on freedom of expression in Serbia and welcomes the Government's plan to carry out further legal reforms in line with international and European standards. She commends Serbia as one of the few countries in the world to have introduced aggravated criminal penalties for attacks against journalists and human rights defenders and for having developed a specialized network of prosecutors and police officers covering all jurisdictions.

91. The Special Rapporteur underscores, however, that the adoption of laws alone is not sufficient to protect freedom of opinion and expression or to ensure the safety of journalists and human rights defenders. The inadequate implementation of laws and policies, the failure of the Government to tackle hateful, divisive speech and smear campaigns by powerful actors, the targeting, denigration and endangerment of journalists, human rights defenders, activists and political opponents and the inability of the Regulatory Authority of Electronic Media to carry out its responsibilities in an independent, effective and competent manner raise serious concerns about the state of freedom of expression in Serbia.

92. While further legal and institutional reforms are needed to address these problems, the Special Rapporteur emphasizes that the most important factor will be strong, unequivocal political commitment and leadership on the part of the Government to uphold its own laws and policies.

93. With regard to Kosovo, the Special Rapporteur is encouraged by a legal framework largely in line with international standards and an overall environment conducive to the right to freedom of expression and media freedom. However, recent political tensions along ethnic lines have highlighted the polarized environment in which journalists and human rights defenders operate, which creates a concomitant need for the Kosovo authorities to investigate and act promptly on all instances of threats, attacks and hate speech against journalists and human rights defenders.

94. The media market is small and precarious in some parts of Kosovo. It is vital that, in the interest of maintaining media independence, diversity and pluralism, the Kosovo authorities work with support from the international community to preserve the space for independent media, including in the Serbian language.

<sup>36</sup> See [A/HRC/47/25](#).



## **A. Recommendations for the Government of Serbia**

### **1. Freedom of expression**

95. **The Special Rapporteur recommends that the Government of Serbia ensure that legal guarantees of the right to freedom of opinion and expression are effectively upheld by all State institutions and officials, in line with international human rights standards.**

### **2. Hate speech, disinformation and misinformation**

96. **The Special Rapporteur recommends that the Government of Serbia:**

(a) **Adopt a law prohibiting advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, in line with article 20 (2) of the International Covenant on Civil and Political Rights, and utilize relevant international guidelines, including the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, to ensure its effective application by State institutions and officials;**

(b) **Systematically investigate and, where relevant, prosecute all instances of “hate speech”, acts of harassment, intimidation and threats against journalists, civil society actors and those who report critically on government policies;**

(c) **Publicly, unequivocally and systematically condemn, in a timely manner, all instances of intolerance, discrimination or threats, including implicit threats and intimidation, made against any individual or group by politicians and other public figures;**

(d) **Ensure that State officials, including political leaders, promote a culture of tolerance and diversity in public discourse and desist from making public statements that endanger, denigrate or delegitimize journalists, human rights defenders, social activists and minorities and other vulnerable groups;**

(e) **Enforce the code of conduct for parliamentarians and encourage all political parties to adopt similar ethical standards for their leaders and members;**

(f) **In line with the recommendation of the European Commission against Racism and Intolerance, encourage relevant State institutions and professional authorities to provide training to journalists on the Serbian Journalists’ Code of Ethics;**

(g) **Adopt policies, programmes and public campaigns to promote inclusion, tolerance of diversity and awareness about human rights, including the rights of minorities and vulnerable social groups;**

(h) **Harmonize national legislation with the Digital Services Act of the European Union to ensure that digital platforms respect human rights;**

(i) **Incorporate information, media and digital literacy into the national curriculum for school children and young people, as well as into adult education programmes for the general public, so that they are equipped and empowered to tackle disinformation and misinformation online.**

### **3. Media freedom**

97. **The Special Rapporteur recommends that the Government of Serbia:**

(a) **Ensure that the implementation of the new Law on Public Information and Media and Law on Electronic Media complies with international human rights standards;**

(b) **Ensure the implementation of the national media strategy;**

(c) **Review the independence and effectiveness of the Regulatory Authority for Electronic Media through a transparent, consultative process involving civil society and media organizations, and take appropriate action to guarantee its independence**



and accountability and ensure that its work is guided by a culture of transparency, inclusiveness, professionalism and cooperation with other relevant national institutions and stakeholders;

(d) Take steps to ensure the transparency of media ownership and financing, and guarantee that there is no discrimination in the allocation of financial resources to media outlets, both in law and in practice;

(e) Regularly publish information relating to the policies, processes and distribution of State advertising revenue, given the central importance of such funds for the viability of the media;

(f) Ensure that politicians and public officials treat participants in press conferences with respect and ensure that the journalists present have equal opportunities to pose questions and obtain meaningful responses.

#### 4. Safety of journalists and human rights defenders

98. The Special Rapporteur recommends that the Government of Serbia:

(a) Review, in consultation with civil society and media organizations, existing structures for the protection of journalists with a view to assessing their effectiveness, and set up effective, well-resourced multi-stakeholder coordination mechanisms to provide prompt and effective protection to journalists, human rights defenders and social activists against online and offline intimidation, threats, attacks and violence;

(b) Ensure that all cases of threats and attacks against journalists, human rights defenders and activists are investigated promptly, effectively, thoroughly and impartially and that perpetrators are brought to justice;

(c) Ensure that the investigation and prosecution of killings, including cases of killings of journalists that have long remained unsolved, are completed promptly, effectively, thoroughly, impartially, independently and transparently, in line with the principles of the Minnesota Protocol on the Investigation of Potentially Unlawful Death;

(d) Provide appropriate training and capacity development for prosecutors and judges on issues relating to hate speech, the safety of journalists and freedom of expression;

(e) Consider establishing an offence of “intimidation against journalists” in legislation or issuing appropriate guidelines to cover cases of threats and intimidation, including online attacks, that are harmful but do not meet the current definition of “endangerment of safety”;

(f) Adopt laws and policies against vexatious libel claims (strategic lawsuits against public participation), allowing for the possibility of their early dismissal and other mitigation measures, and provide relevant training for the judiciary, while upholding access to justice and support to victims.

#### B. Recommendations for the authorities in Kosovo

99. The Special Rapporteur recommends that the authorities in Kosovo:

(a) Promptly, effectively, thoroughly, impartially and independently investigate and, where appropriate, prosecute all cases of violence, threats or incitement to violence, hostility and discrimination against journalists, human rights defenders and others;

(b) Prioritize and complete the investigation of all unsolved cases of killings of journalists and ensure full accountability, including in relation to the 17 journalists who were killed in the conflict and post-conflict period between 1998 and 2005;

(c) Introduce and enforce a code of ethics for members of the Assembly of Kosovo, in line with best international practice;

(d) **Take measures to combat strategic lawsuits against public participation by training the judiciary, and allow for the possibility of early dismissal of such lawsuits and other mitigation measures, while upholding access to justice and support to victims;**

(e) **Consider setting up an appropriate, well-resourced and well-equipped mechanism to ensure the physical and psychological safety of journalists, human rights defenders and activists against any attacks, offline and online;**

(f) **After enhanced consultation with civil society, adopt and implement a new law on the Independent Media Commission and ensure that the appointment of members and the work of the Commission are free from political or other forms of interference;**

(g) **Rescind the decision to suspend Klan Kosova and ensure that all media outlets are free from any forms of threats, pressure or attacks;**

(h) **Fully implement the Law on the Use of Languages to ensure the full participation of non-majority communities, in all the official languages of Kosovo.**

### **C. Recommendation for the international community**

100. **The Special Rapporteur encourages the international community, including the European Union, to support Serbia and Kosovo to maintain a safe and pluralistic civic space in which freedom of expression can be exercised without intimidation, threats or reprisals of any sort.**

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