



**RESILIENCE:**  
For Media Free of Hate and Disinformation

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# **NATIONAL REGULATORY AND SELF-REGULATORY FRAMEWORK AGAINST HATE SPEECH AND DISINFORMATION**

## **FACTSHEET**

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**SERBIA**

## RESILIENCE : For Media Free of Hate and Disinformation

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### FACTSHEET

#### SERBIA

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## FACTSHEET

# NATIONAL REGULATORY AND SELF-REGULATORY FRAMEWORK AGAINST HATE SPEECH AND DISINFORMATION

*Jelena Jovović*  
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## 1. INTRODUCTION

In the process of accession to the European Union, Serbia is harmonizing laws with the EU legislation. In this process, the majority of regulations related to the prevention of hate speech and the spread of disinformation generally meet standards or are in the process of being amended.

This factsheet briefly summarizes the basic information on the regulatory and self-regulatory framework in this area. It also provides examples from the practice of competent institutions and bodies, illustrating the application of the presented regulatory mechanisms in each explored area.

This review is the fourth research report within the Resilience project<sup>1</sup>. Its goal is to serve as the basis for a national debate to oppose hate speech and disinformation. It also contains a proposal of recommendations that will be finalized during the national debate.

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1 The results of three previously realized research studies within the Resilience project can be found here:  
1. Valić Nedeljković, D. and Janjatović Jovanović, M., 2020. THE SERBIAN MEDIA SYSTEM MARKED BY A MEDIA THAT SYSTEMATICALLY SPREADS DISINFORMATION, HATE SPEECH AND PROPAGANDA. [online] SEENPM, Tirana, Peace Institute, Ljubljana and Novi Sad School of Journalism, Novi Sad. Available at: <https://seenpm.org/wp-content/uploads/2020/09/Resilience-research-publication-1-SRB-ENG.pdf>  
2. Jovović, J. and Valić Nedeljković, D., 2020. HATE NARRATIVES IN NEW MEDIA FORMS IN SERBIA. [online] SEENPM, Tirana, Peace Institute, Ljubljana and Novi Sad School of Journalism, Novi Sad. Available at: <https://seenpm.org/wp-content/uploads/2021/03/Resilience-research-publication-2-Serbia-English.pdf>  
3. Jovović, J. and Valić Nedeljković, D., 2021. POLARIZED MEDIA – POLARIZED AUDIENCE. [online] SEENPM, Tirana, Peace Institute, Ljubljana and Novi Sad School of Journalism, Novi Sad. Available at: <https://seenpm.org/wp-content/uploads/2021/05/Resilience-research-publication-3-Serbia-English.pdf>

## 2. HATE SPEECH REGULATION

### 2.1. Main legal documents and provisions

The legal framework regulating the field of hate speech begins with the highest legal act – the Constitution, where Article 18 stipulates that “provisions on human and minority rights shall be interpreted to the benefit of promoting the values of a democratic society, pursuant to valid international standards in human and minority rights” (Ustav Republike Srbije [Ustav], 2006). Thus, the Constitution guarantees freedom of opinion and expression and defines legitimate goals that can restrict this freedom “if necessary to protect the rights and reputation of others, to uphold the authority and objectivity of the court and to protect public health, the morals of a democratic society and national security” (Ustav, 2006, Article 46, paragraph 2). In addition, Article 50 guarantees the freedom of everyone to establish newspapers and other forms of public information without prior permission and in a manner laid down by the law. The same article stipulates that there is no censorship in Serbia but that the competent court can prevent the dissemination of information and ideas through the media if necessary “to prevent advocacy of racial, ethnic or religious hatred enticing discrimination, hostility or violence” (Ustav, 2006).

The umbrella law regulating the issue of hate speech is the Law on the Prohibition of Discrimination, which recognizes hate speech as a form of discrimination. In Article 11 it stipulates that it is forbidden “to express ideas, information and opinions inciting discrimination, hatred or violence against an individual or a group of persons on account of his/her or their personal characteristics”, in public communication, in publicly accessible places and in any way (Zakon o zabrani diskriminacije, 2021)<sup>2</sup>. Although broader than the constitutional one, the definition in Article 11 does not cover the whole spectrum of manifestations of hate speech. The opportunity to improve this article and make a clear distinction between hate speech and other forms of discrimination was missed in the latest amendments to this law from 2021.

Article 75 of the Law on Public Information and Media (Zakon o javnom informisanju i medijima, 2016) prohibits hate speech and specifies that

*ideas, opinions or information published in the media shall not incite discrimination, hate or violence against an individual or a group of individuals on grounds of their race, religion, nationality, sex, or their sexual orientation or other personal inclination, notwithstanding whether a criminal offence has been committed by such publication.*

If such information is published without the intent to incite discrimination, hatred, or violence as part of an objective journalistic report or with the aim to provide a critical view, there is no violation of the prohibition of hate speech.

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<sup>2</sup> Article 12 defines harassment, humiliating treatment, sexual and gender harassment.

The Law on Electronic Media (Zakon o elektronskim medijima, 2016) also bans hate speech. Namely, the Regulator (Regulatory Authority for Electronic Media/REM) is obliged to ensure that the programme content of the media service provider does not contain information

*which overtly or covertly encourages discrimination, hatred or violence based on race, colour, ancestry, citizenship, national origin, language, religion or political beliefs, sex, gender identity, sexual orientation, economic status, birth, genetic characteristics, health status, disability, marital and family status, criminal record, age, looks, membership in political, trade union and other organizations, and other actual or presumed personal characteristics (Article 51).*

In the online space, criminal-legal protection is realized in criminal proceedings conducted by state bodies determined by the Law on the Organization and Competences of Government Authorities Combating Cyber Crime (Zakono o organizaciji i nadležnosti državnih organa za borbu protiv visokotehnološkog kriminala, 2009).

In addition, by passing the Law on the Ratification of the Additional Protocol to the Convention on Cybercrime Concerning the Criminalization of Acts of a Racist and Xenophobic Nature Committed through Computer Systems (Zakon o potvrđivanju Dodatnog protokola uz Konvenciju o visokotehnološkom kriminalu koji se odnosi na inkriminaciju dela rasističke i ksenofobične prirode izvršenih preko računarskih sistema, 2009), Serbia prohibits the use of computer systems to promote ideas or theories that advocate, promote or incite hatred, discrimination or violence against individuals or groups based on race, skin colour, hereditary, national or ethnic origin and religion.

## 2.2. Main legal measures – sanctions and remedies stipulated

The abovementioned laws generally prescribe fines for violators. In addition to fines, the Criminal Code also specifies a prison sentence for offenders.

The Criminal Code (Krivični zakonik, 2019) criminalizes acts that essentially constitute hate speech by prescribing criminal offences and sanctions for the commission of criminal offences in two cases: Article 317, Instigating National, Racial and Religious Hatred and Intolerance, whose violation may be punishable by imprisonment from six months to five years (in defined circumstances up to 10 years), and Article 387, Racial and Other Discrimination, whose violation is punishable by imprisonment from three months to three years (in the circumstances defined in paragraphs 1 and 5 from six months to five years). The same law specifies criminal offences against honour and reputation, which restrict freedom of expression in order to protect the reputation of another person (Articles 170, 172, and 174) for which a fine is provided (except in the case of the criminal offence of

Dissemination of Information on Personal and Family Life, for which a prison sentence of up to three years is envisaged depending on the circumstances (Article 172).

### 3. HATE SPEECH REGULATION – IMPLEMENTATION

#### 3.1. Implementation by prosecutors and courts

Citizens can, with the consent of the injured party, exercise their rights in this area personally by initiating civil action by legal entities whose activities are aimed at protecting human rights, or by filing a criminal complaint according to which the prosecution, in case it finds a crime, files an accusatory motion or indictment. The prosecutor can initiate the procedure *ex officio* and without the request of the injured party.

The lack of statistical data on the number of processed cases and their outcome significantly complicates the analysis of the implementation of anti-hate speech regulation in practice. The number of cases in which the courts and the prosecutor's office has acted on this occasion can only be roughly estimated, based on publicly available data published in the reports of state bodies or civil society organizations dealing with the protection of human rights.

The results of the research on the application of the Law on Prohibition of Discrimination (Reljanović, 2017) show that in the first eight years of application of this law, only one of the 87 analyzed cases (out of 150 estimated for that period) initiated before the courts in Serbia concerned hate speech (based on Article 11 of the Law on Prohibition of Discrimination). That this trend has continued is illustrated by the fact that only two of the eight judges specializing in anti-discrimination law interviewed for the Report on Hate Speech in the Media in Serbia (Krstić, 2020) had experience with a case involving hate speech.

In its annual report, the prosecution states that in 2020 it filed charges against 11 persons for the criminal offence of Ruining the Reputation for Racial, Religious, Ethnic or Other Affiliation under Article 174 of the Criminal Code (in 2019 against five persons), and against 38 persons (in 2019 against 30) for the criminal offence under Article 317, Instigating National, Racial and Religious Hatred and Intolerance, as well as against two persons based on Article 387 of the Criminal Code (in 2019 against 22 persons). The report lacks data on the number of acts that contained elements of hate speech (Republika Srbija Republičko javno tužilaštvo, 2021). In the same period, the Special Prosecution Office for High Tech Crime filed criminal charges against six persons for the criminal offence under Article 317. At the same prosecutor's office from 2017 to 2019, only seven per cent of the total number of reported cases referred to crimes with elements of hate speech (Atanacković, 2020).



### 3.1.1. Case study: The Commissioner for Protection of Equality v AA

Proceedings on the lawsuit initiated by the Commissioner for the Protection of Equality against the author of the text “Domestic Violence and violence against the family”<sup>3</sup> due to discrimination against women based on gender, and LGBT+ persons based on sexual orientation “best depicts the attitude of [courts] towards hate speech” (Krstić, 2020, p. 34) and how courts treat the boundaries between prohibited speech and freedom of expression.

In his article, the author “exposed” and “explained” what the Law on the Prevention of Domestic Violence really means for “this afflicted country and the family in it” and thus claims that the Law does not serve to protect the weak, but to protect women

*whether they are strong or weak, loved or unloved, nervous, capricious or in a good mood, whether they have a lover or not, whether they earn or are supported, whether they brought any property into the marriage or they moved into the husband’s apartment, etc.*

In addition, listing the possible causes of the increase in domestic violence, he mentions police protection to the “homosexuals’ walk on the city streets, during which primitive violent, down-to-earth, bare and vulgar sexuality is openly celebrated.”

The Commissioner filed a lawsuit for protection against discrimination due to violation of Articles 12 and 20 of the Law on the Prohibition of Discrimination. The lawsuit states that in his article the author sent a message that protection from domestic violence is not justified in all cases, but that it should be selective, that the attitude that women deserve protection only if they are “weak” is based on stereotypes and generalization of the role of women. In addition to qualifying, the LGBT+ population and the activities they organize and sexuality that is different from heterosexual in a certain way, he publicly advocates or implies the restriction of guaranteed rights to freedom of movement and assembly and the right to protection. In May 2018, the High Court in Novi Sad determined that he had committed an act of discrimination against women based on gender and sexual orientation, and prohibited to expresses attitudes that belittle women and members of the LGBT+ population and support prejudices against these social groups in public media and other publications, at gatherings and places accessible to the public (Poverenik za zaštitu ravnopravnosti, 2019a). Acting on the defendant’s appeal, the Court of Appeals in Novi Sad reversed the judgement of the High Court. Referring to Articles 11 and 12 of the Law on the Prohibition of Discrimination, the verdict explains that the authors’ statements “do not recommend discrimination against women or LGBT+ population, and do not call for violence and incite hatred, nor do they contain factual allegations, but contain the personal value judgement of the author, which is why they cannot be considered discriminatory.” Nor can it be considered that “the text

3 <http://www.nspm.rs/kuda-ide-srbija/nasilje-u-porodici-i-nasilje-nad-porodicom.html?alphabet=l>

in question represents hate speech or a call for violence against women and members of the LGBT+ population because it was not published in a tense social environment.” The Panel of Judges explains its decision by referring to Article 46 of the Constitution of the Republic of Serbia and Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. It concludes that in this case, the conditions for restricting freedom of expression are not met (Apelacioni sud u Novovm Sadu, 2018). Upon the Commissioner’s appeal, the Supreme Court of Cassation assessed that the decision of the Court of Appeals was correct – that by presenting his value judgement, the author of the text did not overstep the context of the rights guaranteed by the Constitution and the European Convention (Vrhovni kastracioni sud, 2020).

### 3.2. Regulatory authority for electronic media

Under its legal powers, the Regulatory Body for Electronic Media (REM) oversees the work of media service providers and ensures the consistent application of the Law on Electronic Media (Zakon o elektronskim medijima, 2016, Article 22, paragraph 8). Due to the violation of obligations related to programme content, REM may issue a remonstrance, warning, temporary ban on publication of the programme content or may revoke the licence (Article 28), or if its act or omission has the characteristics of a crime punishable by law, initiate proceedings before the competent court or other state body (Article 24).

Proceedings against media service providers are initiated by the REM Supervision and Analysis Service, or upon the application of natural and legal persons if they believe that the content is violating or jeopardizing their personal interests or the public interest. By the end of 2020, 1,030 applications had been submitted to REM. Based on the available reports of REM and CSOs, the number of applications related to hate speech has increased during the last three years (Regulatorno telo za elektronske medije [REM], 2018; REM, 2019; Radović et al., 2021)<sup>4</sup>.

In the same period, the Regulator imposed a total of 67 measures on media service providers, of which 33 were remonstrances, 30 warnings and four temporary bans on broadcasting (Radović et al., 2021, p. 31.). Based on data collected by the end of September 2020, researchers note that from June 2020, the Regulator’s stricter penal policy in relation to media service providers is noticeable due to non-compliance with the provisions of the Law on Electronic Media and relevant regulations on the protection of minors’ rights and human rights (Radović et al., 2021). That such a trend continues in 2021 can be concluded based on decisions available on the Regulator’s website – by the end of September, REM issued four more remonstrances, two warnings and one temporary ban on broadcasting (Izrečene mere | REM, 2021)

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<sup>4</sup> In 2018, three applications were submitted related to a person’s dignity – inappropriate speech (REM, 2018); in 2019, two applications for hate speech and 153 reports for false reporting – hate speech (REM, 2019). For 2020, 78 applications are available on the REM website, mostly submitted on January 10, 2020. vs TV Pink relating to hate speech (Odluke po prijavama | REM, 2021)

So far, REM has not filed misdemeanour or criminal charges against media service providers “for hate speech, human rights violations, or violations of the rights of minors” (Radović et al., 2021, p. 53). The experts assesses that REM “does not act in accordance with its competencies in the fight against hate speech in Serbia” (Krstić, 2020, p. 39). The main obstacle to successful work is that the REM Council does not function under the principle of independence. The new Strategy for the Development of the Public Information System in the Republic of Serbia for the period 2020–2025 (Strategija razvoja sistema javnog informisanja u Republici Srbiji za period 2020 – 2025. godine, 2020) proposes measures to improve the independence, autonomy and efficiency of REM, while the Action Plan for the implementation of this strategy (Akcioni plan za sprovođenje Strategije razvoja sistema javnog informisanja u Republici Srbiji za period 2020-2025. godina, 2020) elaborates the envisaged measures and deadlines for their implementation.

### 3.2.1. Case study: Temporary ban on broadcasting the show “Goli život” on the commercial channel with national coverage “Nacionalna Happy TV”

Referring to Article 51 of the Law on Electronic Media (Zakon o elektronskim medijima, 2016) and Article 27, paragraph 1 of the Rulebook on the Protection of Human Rights in the Field of Provision of Media Services (Pravilnik o zaštiti ljudskih prava u oblasti pružanja medijskih usluga, 2015), the REM Supervision and Analysis Service initiated the procedure of imposing measures against Nacionalna Happy TV. Namely, on this television channel, on 23 April 2020, as a guest on the show “Goli život” Mihajlo Ulemek presented information that openly encourages discrimination against individuals and groups based on race. (REM, 2020, Rešenje br. 07-814/20-5).

In its decision, the REM Council confirms that the regulations mentioned above were violated and that Ulemek’s statement “represents discrimination and open incitement to hatred towards Čedomir Jovanović, but also towards the Roma population” (REM, 2020, Rešenje br. 07-814/20-5, p. 4.). Due to that, the measure of a temporary ban on broadcasting the show “Goli život” for seven days was imposed. This television channel was also ordered to broadcast in the future content that will not contain information that incites discrimination, hatred or violence, and to broadcast a statement on this decision in its programming twice within a certain period.

## 3.3. The Commissioner for Protection of Equality

Under the Law on the Prohibition of Discrimination (Zakon o zabrani diskriminacije, 2021), the Commissioner for the Protection of Equality receives and considers complaints of discrimination, issues opinions in specific cases and imposes measures, files lawsuits for protection against discrimination (with the consent of the discriminated person when necessary), files misdemeanour charges, warns the public about the most common, typical and severe cases of discrimination, monitors the implementation of

laws and regulations and recommends or initiates adoption or amendments of regulations, and recommends measures for achieving equality.

From 2015 to April 2021, the Commissioner issued 29 recommendations for the prevention of hate speech and filed 11 criminal charges (Od govora mržnje do nasilja put sve kraći • Poverenik za zaštitu ravnopravnosti, 2021). Two strategic lawsuits were also conducted<sup>5</sup>. In the annual reports of this institution, there is no separate data on the number of reports related to hate speech. Still, based on publicly available decisions, it can be concluded that the Commissioner more frequently finds a violation of Article 12 of the Law on the Prohibition of Discrimination than is the case with Article 11 which directly refers to hate speech. In addition to responding to complaints, the Commissioner also responds with warnings when she detects discriminatory behaviour. In 2020, when the public and media space “contained discriminatory and sexist comments, hate speech and various insults more than in previous years,” 12 warnings and reactions were issued (Upozorenja • Poverenik za zaštitu ravnopravnosti, 2021).

### 3.3.1. Case study: CSOs v the portal due to comments on the news

The CSO filed a complaint with the Commissioner for the Protection of Equality against the portal www... stating that several comments containing hate speech against the LGBT+ community were published on the portal under the news published at the end of March 2019.

Acting on the complaint, the Commissioner determined that the portal in question was registered as a media outlet and therefore responsible for the published content, whether produced by a service provider or another person. (Zakon o elektronskim medijima, 2016, Article 54). Taking into account the relevant provisions of the Constitution, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Law on the Prohibition of Discrimination, the Law on Public Information and Media, and the Law on Electronic Media, she found that among the published comments there were also those insulting the dignity of LGBT+ people, and inciting hatred or violence against people of a different sexual orientation. This violated the provisions of Articles 11 and 12 of the Law on the Prohibition of Discrimination. Regardless of the fact that the media defended itself by the fact that the moderation of the comments, which they normally conduct, was insufficient due to the absence due to sickness of the person in charge, the Commissioner, referring to Article 45 of the Law on the Prohibition of Discrimination, emphasizes in the decision that the defendant cannot be acquitted by proving that he is not guilty if an act of direct discrimination has been committed. In accordance with the opinion, the Commissioner recommended that the portal take measures to improve the system of moderation of comments and prevent the publication of content that is contrary to anti-discrimination regulations. (Poverenik za zaštitu ravnopravnosti, 2019, 191-19 Mišljenje po pritužbi).

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<sup>5</sup> One of them is presented in Chapter 2.1.1. of this report.

## 4. REGULATION OF DISINFORMATION

### 4.1. Main legal documents and provisions

Article 51 of the Constitution (Ustav Republike Srbije, 2006) guarantees that everyone has the right to be accurately, fully and timely informed about issues of public importance, and that the media are obliged to respect that right. This right is regulated in more detail by law, so the Law on Public Information and Media (Zakon o javnom informisanju i medijima, 2016) obliges editors and journalists to “prior to publishing the information about an occurrence, an event or a person, (...) check its origin, authenticity and completeness with due diligence appropriate for the circumstances.” (Article 9)<sup>6</sup> However, the second paragraph of the same article in some way amnesties journalists and editors if the published information conveys ideas and opinions credibly and completely, and if the information is taken from another media outlet – they credit that outlet. This law protects the dignity of the person and prescribes that

*it is not allowed to publish information that violates a person’s honour, reputation or piety, or portrays a person untruly by assigning him/her features or characteristics that he/she does not have or denying him/her features or characteristics that he/she does have, unless the interest for publishing information prevails over the interest of the protection of dignity and right to authenticity, and particularly if it does not contribute to the public debate on an occurrence, an event or a person that the information refers to. (Article 79).*

Article 47 of the Law on Electronic Media (Zakon o elektronskim medijima, 2016) obliges media service providers to “provide free, true, objective, complete and timely information.” Based on media reports, it can be concluded that cases in which the honour and reputation of individuals have been damaged by disinformation are most often brought before the courts.

The transmission of false news is also sanctioned by the Criminal Code (Krivični zakonik, 2019), which in Article 343 defines the criminal offence of causing panic and disorder. This criminal offence is committed by a person who “by disclosing or disseminating untrue information or allegations causes panic or serious disruption of public peace and order or frustrates or significantly impedes enforcing of decisions of government authorities or organizations exercising administrative authority. This criminal offence is punishable by imprisonment from three months to three years and a fine. If this criminal offence is committed through the media or similar or at a public gathering, a prison sentence of six months to five years is proscribed.

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<sup>6</sup> Article 15 of this law also defines the public interest as “Authentic, unbiased, timely and full information available to all citizens” (paragraph 1) as well as members of national minorities in their mother tongue (paragraph 2).

However, the Criminal Code does not define false news, but it is understood that it is news that does not correspond to the facts. To acquire elements of this crime, a person must be aware that the information he/she publishes is false, and its publication causes the consequences provided by the Criminal Code: to cause panic or serious disturbance of public order or significant obstacles to the implementation of decisions and measures of state bodies (Milić, 2020).

In 2020, 34 persons were reported for this crime, and eight were convicted (two prison sentences, three suspended sentences, and three persons sentenced to house arrest) (Republika Srbija Zavod za Statistiku, 2021). In early April 2021, the Special Prosecution Office for High-Tech Crime launched an investigation against several people on suspicion of committing the crime of causing panic and disorder by spreading false news on vaccines and vaccination on social networks. (Bogdanović, 2021). The epilogue of this investigation is still pending.

#### 4.2. Case study: CC vs www .... info and www .... org

CC filed a lawsuit with the Higher Court in Belgrade against www.... info and www....org seeking compensation for non-pecuniary damage due to violation of the honour, reputation and rights of the person by presenting disinformation about him in several published texts. This court found that the defendant portal transmitted information from another media outlet and indicated that on its portal, and in that case, was not obliged to examine the accuracy of the stated facts. The Court of Appeals assessed the opposite, believing that there was an obligation of the defendant that regardless of the transmission of news from another media outlet, media outlets must examine their accuracy and that it was obliged to verify the facts with the plaintiff. In this instance, a decision was made to change the first-instance verdict and the compensation awarded to the plaintiff. In its revision, the Supreme Court of Cassation decided that the position of the second instance court was not correct. Considering that the defendant transmitted on its internet portal information about the plaintiff that was originally published by another media outlet, that the paragraph was taken and marked with quotation marks, and that it was stated that the text was taken from another media outlet, the defendant portal acted in accordance with Article 9, paragraph 2 of the Law on Public Information and Media, due to which there is no responsibility for the damage (Vrhovni kastracioni sud, 2018).



## 5. SELF-REGULATION OF HATE SPEECH AND DISINFORMATION

The Press Council is an independent, self-regulatory body that brings together publishers, print, online media and news agency owners, and professional journalists. It monitors compliance with the Serbian Journalists' Code of Ethics in print and online media and news agencies and resolves complaints from individuals and institutions about the content of those media. The Press Council is also responsible for mediation between aggrieved individuals, i.e. institutions, and newsrooms, and issuing public warnings for violating ethical standards established by the Serbian Journalists' Code of Ethics.<sup>7</sup> Media outlets that accept the competence of the Press Council are obliged to publish the decision of the Press Complaints Commission if they have violated the Code. The media outlets that do not accept the jurisdiction are issued a public warning, which they are not obliged to publish.

### 5.1. Self-regulation documents and provisions on hate speech

The Serbian Journalists' Code of Ethics (Kodeks novinara Srbije, 2015) in the fourth chapter, which defines the journalists' responsibilities, stipulates that "a journalist must oppose anyone who violates human rights or promote any kind of discrimination, hate speech and incitement to violence" (point 1). In the chapter Journalistic Attention, it is pointed out in particular that a journalist must be aware of the danger of discrimination that can be spread by the media and "do everything to avoid discrimination based on, among other things, race, gender, age, sexual orientation, language, religion, political and other opinion, national or social origin" (point 4).

### 5.2. Self-regulation documents and provisions on disinformation

The entire first chapter of the Serbian Journalists' Code of Ethics refers to the Authenticity of Reporting and obliges journalists "to report on the events of public interest accurately, objectively, comprehensively and in a timely fashion, while respecting the public's right to know the truth and respecting the basic standards of the journalistic profession" (Kodeksa novinara Srbije, 2015, point 1). In chapter five, Journalist's Attention, it is pointed out that the concealment of facts that might significantly affect the public perception of an event is equal to their deliberate distortion or lying.

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<sup>7</sup> In Serbia, since 2019, in addition to the Press Council, there is also the National Association for Ethical Standards in Advertising, which monitors the application of ethical standards in advertising and marketing communications, promotes and encourages the application of ethical principles in marketing communications and compliance with the Marketing Communication Code (IAA Serbian Chapter), as well as other self-regulatory standards prescribed by the International Chamber of Commerce (ICC) and the European Advertising Standards Alliance.

### 5.3. Self-regulation related to comments sections in online media

Although the Serbian Journalists' Code of Ethics is equally applicable to all media, in 2016, the Press Council developed Guidelines on the Application of the Code of Ethics in a Digital Environment covering eight of the ten chapters of the Journalists' Code. When it comes to user-generated content, the Guidelines indicate that they too should be "subject to careful media evaluation" (Smernice za primenu Kodeksa novinara Srbije u onlajn okruženju, 2016, p. 7) [moderation] and recommend media to develop rules for publishing such content. In case a media outlet opts for pre-moderation, the user content it decides to publish falls under its own editorial responsibility. When opting for ex-post moderation, the media outlet must remove the comment after learning that the content is not allowed, and if it is not removed within a reasonable time, it also falls under the editorial responsibility of the media outlet.

Since 2015 the Online Media Association has operated, which gathers 23 internet portals. In addition to advocating for compliance with the Serbian Journalists' Code of Ethics and the Guidelines on the Application of the Code of Ethics in a Digital Environment, this association has also developed its own Code of Online Media (Stojković, 2017). It provides additional recommendations closely related to the work in the online newsroom, elaborates in detail the recommendations related to fact-checking (chapter two), the accuracy of information (chapter three) and moderation of user-generated content (chapter four) with detailed guidelines for the development of internal rules for posting user-generated content and the principles on which the list of impermissible behaviours should be based.

### 5.4. Implementation of self-regulation in practice

Although all media and journalists, regardless of whether they accept the competence of the Press Council, should be guided in their work by professional and ethical principles defined in the Code, the extent to which these self-regulatory principles are implemented in practice is best evidenced by research conducted in 2020. In the second half of 2020, the Press Council recorded 3643 articles in eight daily newspapers in which at least one point of the Code was violated. Compared to the previous year, this is a decrease in the number of violations. Violations of the points of the first chapter that refer to the authenticity of reporting are registered 873 times (Savet za štampu, 2021). When it comes to online media, the results of the monitoring of six portals on the coronavirus pandemic from April to September 2020 indicate that the observed media most often violate professional and ethical standards by not distinguishing between speculation and assumptions and by blindly believing one source without prior or subsequent verification of the presented facts (Grigorov and Išlić, 2021).



In addition, the Press Council received 163 complaints about media content in 2020, which is twice as many as in 2019 and significantly more than in all previous years. The Press Complaints Commission considered 118 complaints. In 59 of the considered cases, the Commission decided that the media outlets had violated the points from the first chapter of the Journalists' Code, referring to the truthfulness of reporting (Press Council, 2021). (Savet za štampu, 2021).

The new Strategy for the Development of the Public Information System in the Republic of Serbia for the period 2020–2025 and the Action Plan for the implementation of this strategy envisage several measures to create conditions for the full realization of self-regulation and co-regulation, which should improve the situation in this area. Relevant to the areas covered by this review, it is envisaged to prescribe mandatory compliance with the Serbian Journalists' Code of Ethics for the print and online media applying for public funds – to use funds through project co-financing media outlets must accept the competence of the Press Council. Allocation of funds should be given to those media outlets that respect the legal regulations and the Journalists' Code, ie, those that have fewer measures imposed by REM and decisions and public warnings issued by the Press Council<sup>8</sup>.

## 5.5. Case studies of self-regulation related to hate speech and disinformation

### 5.5.1. Case study: Belgrade Center for Human Rights against *Blic*, the portal *Srbija danas* and *Kurir*

In June 2020, the Press Complaints Commission considered the complaints of the Belgrade Center for Human Rights, which referred to the comments on the Facebook profiles of *Blic*, the portal *Srbija danas* and *Kurir*,<sup>9</sup> published below the text about the intrusion into the Reception Centre for Migrants in Obrenovac. The commission decided in the cases of *Blic* and the portal *Srbija danas* that point 1 of Chapter IV and point 4 of Chapter V of the Serbian Journalists' Code of Ethics referring to the prohibition of discrimination and hate speech were violated.

The Commission found that the comments were “undoubtedly discriminatory against migrants and offensive to them, as well as calling for violence, either directly or through support for a person who broke into the Reception Centre by car.” According to the Commission, the removal of such comments does not constitute a restriction on freedom of speech “but represents an obligation of the editorial board to oppose those who violate human rights and advocate

<sup>8</sup> The deadline for amending the Law on Public Information, which should include these provisions, is the fourth quarter of 2021.

<sup>9</sup> The controversial comments published on the *Kurir* Facebook page are the subject of an analysis of Case Study 1: Migrants published in the report HATE NARRATIVES IN NEW MEDIA FORMS IN SERBIA within the Resilience project, available at: <https://novinarska-skola.org.rs/sr/en/publication/hate-narratives-in-new-media-forms-in-serbia/>

discrimination, hatred and incitement to violence” (Savet za štampu, 2020a). As *Kurir*'s editorial office removed the disputed comments in the period between the filing of the complaints and the commission's decision, these complaints were withdrawn from the procedure. However, some commission members took the position that *Kurir* and other media outlets should have reacted faster and removed the comments with unacceptable content that they were warned about (Savet za štampu, 2020).

### 5.5.2. Case Study: Complaint Z.Č. on false claims presented in *Informer*

On 20 March 2020, the daily *Informer* published an article entitled “Dangerous! 100,000 guest workers entered Serbia, at least 6,000 of them have coronavirus!” Z.Č. filed a complaint with the Press Council, believing that several points of the Serbian Journalists' Code of Ethics had been violated in this article, pointing out that the headline made a claim, and the text suspected that at least “6,000 guest workers” were infected with the coronavirus. The Commission assessed that this was speculation presented as a fact for which there was no source, thus violating points 2 and 3 of Chapter I Authenticity of Reporting and issued a public reprimand to *Informer* (Savet za štampu, 2020b).

## 5.6. Implementation of self-regulation by global platforms and social networks in Serbia

In early April 2020, Twitter announced that it had removed 8,558 accounts from Serbia that participated in the coordinated promotion of the ruling party and its leader. In the explanation, this social networking platform stated that the orders were removed because the behaviours registered on the removed accounts are in violation of their policy and are “targeted attempt to undermine public conversation” (TwitterSafety, 2020).

In August 2021, the same company marked Radio Television of Serbia (RTS), Radio Television of Vojvodina, Politika, Tanjug, B92, TV Prva, TV Pink, TV Happy, *Kurir* and *Informer* on its platform with the tag: “Media outlet that cooperates with the Government of Serbia” with the explanation that they make a distinction between media outlets financed from public funds and those controlled by the state or government and that their “focus is on labelling the state-controlled media that are not free from political interference and government pressure” (Tviter: Važno da naši korisnici znaju kada vlada kontroliše medije u Srbiji, 2021).

## 5.7. Specific projects and platforms for reporting hate speech online

The Belgrade Center for Human Rights and the Lawyers' Committee for Human Rights (YUCOM) are civil society organizations focused on protecting human rights and freedoms. In their regular and project activities, they monitor and report on the human rights situation, providing legal assistance, and initiating proceedings before the relevant institutions in case of violation of these rights. The Lawyers' Committee for Human Rights (YUCOM) offers free legal aid, and citizens who need help can, among other ways, send their request through the online form "Free Legal Aid" at: [http://yucom.org.rs/bpp\\_nov/](http://yucom.org.rs/bpp_nov/)

## 5.8. Specific projects and platforms for debunking disinformation

There are three fact-checking platforms in Serbia, established by civil society organizations – Istinomer, Raskrikavanje and FakeNews tragač<sup>10</sup>. In addition to fact-checking media content, Istinomer (<https://www.istinomer.rs/>) analyzes important social and economic issues and evaluates the statements of public officials and politicians. Statements are evaluated according to the criteria of truthfulness, consistency and fulfilment of promises. Since July 2020, Istinomer has been an official partner of Facebook for Serbia in combating disinformation on this platform for social networking. Its founder is CSO Crta.

Raskrikavanje (<https://www.raskrikavanje.rs/>) is a project of the KRIK portal, which, in addition to exposing false and unverified news, deals with exposing crime and corruption, and various forms of violating the rules of the journalistic profession that should ensure independent, objective and truthful informing of the public in Serbia.

Only the FakeNews tragač deals exclusively with the deconstruction of disinformation. This fact-checking portal was founded by the Novi Sad School of Journalism, and in the focus of the journalistic-research team are cases of disinformation published in the media and platforms for social networking and sharing posted on the official profiles of important subjects of socio-political life in Serbia. Analyses and research results are published on the platform <https://fakenews.rs/>. During 2020 alone, Tragač identified and deconstructed 70 coronavirus-related pieces of disinformation published in a total of 283 media outlets or originating from profiles/groups on social networking platforms (Jovović and Mijatović, 2021). In March 2021, this portal published the Register of Fraudulent Websites, which includes 114 websites involved in manipulative advertising. (Registar 114 prevarantskih sajtova - FakeNews Tragač, 2021).

<sup>10</sup> In addition to them, the Agence France-Presse (AFP) has its branch in Serbia and publishes debunked disinformation on the portal <https://cinjenice.afp.com/>.

## 5.9. Self-regulation of political communication

The Code of Conduct for MPs was adopted on 24 December 2020. The process of drafting the Code lasted ten years, and in the end, within ten days, the Code was proposed and adopted without a public debate. CSOs criticized this process and the content of the Code, pointing out a number of shortcomings and ambiguities. The manner in which the Code was subsequently applied indicates “a misunderstanding of its essence, the unwillingness of members of the parliamentary majority to change the existing way in which political dissidents are spoken of in the Assembly, maliciously and erroneously interpretation of the role of the civil sector, and open and fierce verbal attacks on independent media and CSOs” (Jaraković, Tupanjac, Cvejin and Tepavac, 2021), which the European Parliament also pointed out in its report (Svi problemi sa vladavinom prava i stanjem demokratije u Srbiji iz Izveštaja EP - Progovori o pregovorima, 2021).

In September 2021, on the recommendation of experts from the Group of States against Corruption and the OSCE, again by urgent procedure and without public involvement, the decision on its amendments (Odluka o izmenama i dopunama Odluke o usvajanju Kodeksa ponašanja narodnih poslanika, 2021) was adopted. This decision supplemented the Code with provisions prescribing the formation and operation of the Ethics Commission and fines in case of violation of the Code.

## 6. POLICY RECOMMENDATIONS

- Enable full and timely implementation of the Strategy for Development of the Public Information System for the period 2020–2025 and its Action Plan, and the measures envisaged by them, especially those related to improving self-regulation and media regulation with the engagement and support of the Ministry of Culture and Information and other relevant ministries.
- Provide ongoing training for prosecutors and judges on freedom of expression and hate speech with the support of the Ministry of Justice.
- Provide the necessary technical and technological conditions for keeping separate records on hate speech cases processed by prosecutors and courts, and make publicly available statistical data and cases from court practice with the support of the Ministry of Justice, Legal and Information System of the Republic of Serbia and the Statistical Office of the Republic of Serbia.
- Enable REM and the Press Council to improve the monitoring of disinformation and illicit expression, including hate speech, and conduct continuous training of members of the REM Council and the Press Complaints Commission on illicit expression and hate speech with financial and professional assistance from relevant ministries (the Ministry of Culture and Information, the Ministry of Education, Science and Technological Development), the European Commission programmes and other donors as well as international and domestic organizations with expertise in these areas.
- Consider the possibility of amending the Journalism Code, which would refer to the adequate interpretation of disinformation, false news and manipulation, as well as hate speech by the journalists' associations.
- Enable the continuous work of portals dealing with the deconstruction of disinformation and CSOs dealing with media literacy of citizens with the financial support of the Ministry of Culture and Information, the Ministry of Education, Science and Technological Development, the European Commission programmes and other donors.

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This publication is a part of the RESILIENCE project research and advocacy component. It includes a series of factsheets on NATIONAL REGULATORY AND SELF-REGULATORY FRAMEWORKS AGAINST HATE SPEECH AND DISINFORMATION in Albania, Bosnia and Hercegovina, Kosovo, Montenegro, North Macedonia, Serbia and Turkey. The series also includes a factsheet with examples of regulatory and self-regulatory mechanisms on the EU level and in the EU member states.

Nine media development organizations in the Western Balkans and Turkey have joined forces under an EU-funded project 'RESILIENCE: Civil society action to reaffirm media freedom and counter disinformation and hateful propaganda in the Western Balkans and Turkey'. The three-year project is coordinated by the South East European Network for Professionalization of Media (SEENPM), a network of media development organizations in Central and South East Europe, and implemented in partnership with: the Albanian Media Institute in Tirana, the Foundation Mediacentar Sarajevo, Kosovo 2.0 in Pristina, the Montenegro Media Institute in Podgorica, the Macedonian Institute for Media in Skopje, the Novi Sad School of Journalism in Novi Sad, the Peace Institute in Ljubljana, and Bianet in Istanbul.