

## Open Parliament Newsletter

# PARLIAMENTARY INSIDER

Issue 12 / March - April 2020

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## ● INTRODUCTORY REMARKS

### From discussing weapons to reviewing the fundamental role of the MPs in the state of emergency

*The key highlights of March and April in the Parliament are the reduced activities of the MPs during Spring Session, proclamation of the state of emergency and convening of the first sitting during the state of emergency. .*

During March and April, the **MPs worked for five days** in total and adopted only four laws and two decisions. After more than a year of absence from plenary sittings, the MPs from Social Democratic Party (SDS) Marko Djuric and Nenad Konstantinovic **have ended the boycott** of the Parliament. During this period, **a new parliamentary group** Vojvodina Front -Serbia 21 was established gathering MPs from Social Democratic Party, League of Social Democrats of Vojvodina and Democratic Alliance of Croats in Vojvodina. Slobodan Velickovic, an MP candidate from the electoral list "ALEKSANDAR VUCIC – SERBIA WINS", gained a mandate of a colleague from Party of United Pensioners of Serbia, Vera Paunovic, who had died at the end of February.

**The regular Spring Session** started on 2 March by singing the national anthem in the Assembly Hall. Among other, the agenda of the first regular sitting included Proposal of the amendment to the **Law on Weapons and Ammunition**, related to the extending of the registration deadlines. The MPs discussed about complicated procedures, citizens' general lack of information, but also laziness of the system to solve such matters. The proposers of the Law, Marijan Risticovic, Djordje Komlenski and Bojan Torbica suggested to extend the deadline for replacing weapons licence for two years, which was supported by the Assembly majority. In addition, two international agreements and the Decision on dismissal and appointment of members and deputy members of the Republic Electoral Commission were adopted.

On 4 March, **the Speaker of the National Assembly Maja Gojkovic called and scheduled local and parliamentary elections for 26 April**. The Republic Electoral Commission, which also works in the parliamentary premises, confirmed nine electoral lists during March, and on 15 March when the state of emergency was declared in entire country it has stopped its activities. **Method of proclaiming state of emergency** by the signatures from the President of Serbia, Speaker of the Assembly and the Prime Minister ignited the discussion in the public on different interpretations of the highest legal act of the country, as well as the importance and role of the Parliament. Out of 250 MPs, only eight MPs signed the request to urgently convene the Assembly.

After the first regular sitting had finished, there were no plenary sittings until the end of the month, and in the hall of the National Assembly only press conferences of Sasa Radulovic, a leader of the Enough is Enough movement, were held. In the second half of March, Radulovic daily addressed the journalists as an MP with the inevitable sentence that Assembly convened during the wars, in exiles, so this was the first time that Government suspended the Parliament with its own decree. However, the Speaker of the Assembly made only one statement when she quoted the sentence from the Constitution that "decisions are verified as soon as the Assembly is in a position to convene".

## THE OPEN PARLIAMENT INITIATIVE

The Open Parliament Initiative has been monitoring the work of the Serbian Parliament every day since 2012. The Open Parliament collects and publishes data on the Parliament's work and results and deals with the analysis of various processes from the perspective of transparency, accountability and participation.

The main goal of the Open Parliament Initiative is to increase transparency and accountability of the work of the Parliament, to inform the citizens about the work of the Parliament and to establish regular communication between citizens and their elected representatives. Our work is based on the values contained in the international Declaration on Parliamentary Openness, and the Open Parliament took part in the development of this initiative.

Since January 2018, the Open Parliament team has increased the focus of this initiative's activities on democratism and accountability in the conduct of MPs and the work of the institution.



The Federal Foreign Office of the Federal Republic of Germany has been supporting the Open Parliament Initiative since August 2018, including drawing up the newsletter. The views expressed in the newsletter are the views of the Open Parliament team, but they do not necessarily reflect the views of the donor.

During April, the activities of the MPs included one administrative committee, one session and dozens of press conferences. At the sitting of the Committee on Administrative, Budgetary, Mandate and Immunity Issues the MPs have approved the reduction of the Assembly budgets. The MP from Serbian Radical Party, Nemanja Sarovic, then asked what had changed and how they could meet at the time, and before it had been impossible, but the Chairman of the Committee Aleksandar Martinovic from Serbian Progressive Party responded that everything was done under law and that the parts of the decree concerning the ban on gathering do not refer to the members of parliament.

On the **first session during the state of emergency**, by the majority votes of all members of parliament, the MPs have confirmed **proclamation of state of emergency and all decrees that the Government adopted** in fighting coronavirus. Long-awaited sitting was organised with full measures of precaution, everyone's temperatures were checked, all the present received protective masks, gloves, disinfectants, and in the Plenary Hall the MPs seats were separated with Plexiglas. For the first time after a while, the group of opposition MPs who had boycotted the work of the Assembly plenary participated in the sitting, including the group of MPs from Democratic Party, Social Democratic Party, movement Enough is Enough and New Party. The highlights of the two-day sitting were the discussion on the state of emergency after the assassination of the Prime Minister, leaders of opposition, primarily Dragan Djilas, Labour Day holiday, and the enormously important role of Aleksandar Vucic in saving citizens' lives and procuring ventilators. What the MPs failed to discuss to such great extent were 44 decrees integrated into one law proposal that they had scrutinised together, along with amending budget, which was submitted to MPs as a decree and it was voted as such.

As a response to eternal question who had estimated that the Assembly cannot convene in March when the MPs were not even invited, Government Prime Minister Ana Brnabic had constantly repeated that the session of the National Assembly at the beginning of the pandemic would have been extremely unsafe and irresponsible, because there we have, as she said "not only 250 people, but definitely more than 500 people who work in administration, security and all the other needed to organise one sitting of the National Assembly". The Speaker of the Assembly Maja Gojkovic added that none of the parliaments in the world did convene in the presence of all MPs, eventually just heads of parliamentary groups had met, but she assessed that it would have been impossible in our Parliament.

The MPs from the Alliance for Serbia, and a group of Democratic Party MPs did not participate in the work of the Assembly during this sitting too, and they only addressed the journalists in the hall. They used the press conference to reiterate that measures during the state of emergency were drastic and inappropriate, that the Government had maintained an ongoing political campaign, and that they were using the Assembly session for that purposes at the moment as well.

## 2020 Month in the Parliament MARCH

**2.** The first and the last sitting of the Spring Session was held at the beginning of March. The agenda included amendments to the Law on Weapons and Ammunition, which will extend the deadline for preregistration of weapons for two years, so the citizens would have enough time to make required examinations and submit the documents. Also, the agenda included the Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, International agreement on economic and technological cooperation between Serbia and Azerbaijan and the Decision on dismissal and appointment of members and deputy members of the Republic Electoral Commission.

**3.** In addition to proposed acts, statements of the representatives of the opposition were also discussed in the sitting. Serbian Progressive Party MP, Vladimir Orlic, wanted Djordje Vukadinovic, who became a Member of Parliament four years ago under the list that included Dveri, to detach himself from the recent statements of Bosko Obradovic, the leader of this movement. Discussion on this topic outside of the agenda went on for more than two hours. However, the sitting was concluded on 4 March on the Voting Day, when all the acts from the agenda were adopted.

**4.** During the sitting, the Speaker of the National Assembly, Maja Gojkovic took note that mandate of Vera Paunovic, the Party of United Pensioners of Serbia MP, has ended on the day of her death. Slobodan Velickovic, an MP candidate from the electoral list "Aleksandar Vucic – Serbia Wins" took her seat. Velickovic is a retired army air force engineer. He was an MP in the IX legislature (2012-2014), and during the X legislature he was appointed the MP in January 2016 and remained in that office until June 2016.

## 2020 Month in the Parliament APRIL

**9.** Since 15 March, when the state of emergency was introduced by the signatures of the President of Serbia, Speaker of the Assembly and the Prime Minister due to the coronavirus pandemic, the MPs from the movement Enough is Enough addressed from the hall every working day, demanding the MPs to convene and, as Sasa Radulovic repeated, "to restore the system in the framework of the Constitution". Sasa Radulovic, the President of the movement Enough is Enough, said that "the President of Serbia, Speaker of the Assembly and the Prime Minister had no constitutional right to proclaim state of emergency because to do that outside of the Assembly they first had to prove that the Assembly is not in a position to convene". Radulovic added that all parliaments in the neighbourhood were convening, and only Serbian Parliament was suspended.

**13.** Only eight independent MPs signed the request to immediately convene the extraordinary session. Srdjan Nogo was among those MPs, saying that the form was the last defence of the law. At the press conference, regarding the coronavirus and state of emergency, Nogo said: "We placed our destiny in the hands of the people who had sent contradictory messages for ten days, first laughing, saying that it was the funniest virus in the world, that we should go shopping to Milan, and just a week later, we had the state of emergency and the ban on movement". Also at the press conference, MP Djordje Vukadinovic, supported the request for convening the sitting. He believed that "the manner of proclaiming the state of emergency was outside the framework of the Constitution", and that "none of the countries pulled out of the framework of a Constitution in such a way".

# PARLIAMENT IN NUMBERS

Statistical review of the work of the 11th Convocation is concluded with April 30th

23.

The sitting of the Committee on Administrative, Budgetary, Mandate and Immunity Issues was the first one held after the introduction of the state of emergency to scrutinise the proposal of amending the Assembly budget for this year. The MPs supported the proposal that as a result of the COVID-19 pandemic the Assembly expenditure should be reduced for 20 per cent. The members of the Committee had protective masks due to the pandemic, and live streaming was available on the Assembly website.

23.

The MPs were the most curious how can the Committee meet now, and at the time of the proclamation of the state of emergency, the Assembly was not in the position to convene. The MP from the Serbian Radical Party, Nemanja Sarovic said that the Radicals definitely were not to break the law, so he asked the Chairman of the Committee if he had received some special authorisation before he had convened them. The Chairman of the Committee Aleksandar Martinovic from Serbian Progressive Party responded that they had convened under the Decree concerning measures during the state of emergency and he quoted the part of the Decree: "It clearly says, that the ban from para. 1 point 1 and 2 of this Article shall not refer to the persons elected, such as you and me, appointed or employed in the national authorities, authorities of the Autonomous Province or units of local self-government, if their presence is required for work, and other."

28.

The first sitting during the state of emergency was convened for 28 April, and the agenda included two items: Proposal of the Decision concerning confirmation of the state of emergency and Proposal of the Law on confirmation of the decrees which the Government had adopted during the state of emergency with the co-signature of the President of the Republic, when 44 decrees were integrated. Prime Minister Ana Brnabic submitted the verbal report on the Government measures in fighting against coronavirus, saying that Serbia had a very responsible state politics. However, the MPs discussed on banging the pots, the migrants, the importance of the Labour Day holiday, Chetniks songs and Operation Sabre. The amending budget was not discussed much, however, it was adopted as a decree, with simple majority voting, along with the proposal of the law.

28.

This time, the group of opposition MPs who had previously boycotted the work of the Parliament, the group from Democratic Party and Social Democratic Party and those from the Alliance for Serbia, also refrained from, as they had said, providing legitimacy to the violation of the Constitution, so they gave statements in the hall. However, in the Plenary Hall, Vojislav Seselj, the leader of Serbian Radical Party, reminded Speaker of the National Assembly Maja Gojkovic that the Assembly had convened during the 1999 bombing when she had to join the session by crossing the military raft and he estimated that the state of emergency had to be proclaimed by the Assembly.

29.

The parliamentary group Social Democratic Party, People's Party was dissolved since the Social Democratic Party MPs, Zdravko Stankovic and Goran Bogdanovic, shifted to the parliamentary group of the Democratic Party whose majority MPs boycott the work of the Parliament. Two MPs from Social Democratic Party, Marko Djuriscic and Nenad Konstantinovic, ceased the boycott of the Parliament after more than a year of absence from plenary sittings. They have formed a new parliamentary group Vojvodina Front – Serbia 21 together with Nenad Canak from League of Social Democrats of Vojvodina (LSV), Olena Papuga (LSV), Nada Lazic (LSV) and Tomislav Zigmanov (Democratic Alliance of Croats in Vojvodina).

29.

During the sitting, the MPs discussed the officials campaigning. Government representatives rejected the accusations that officials campaigning happened during the state of emergency, and Defence Minister Aleksandar Vulin emphasised that now they have something they never had: "Aleksandar Vucic brought you ten ventilators, and you had none before. Not a single one, and I think you should say thank you for that"! Enis Imamovic, the MPs of the Party of Democratic Action of Sandzak, believed that Novi Pazar had not been assisted on time, so he replied to the minister: "I have heard the Defence Minister now saying that we should be grateful that we were to wait all the time to become a new coronavirus outbreak point so the President would distribute the ventilators which were purchased with our money to us in person".



## LEGISLATIVE ACTIVITY

**367** days of legislative activity

**612** adopted laws

**97.22%** of adopted laws were proposed by the Government

The common practice of the parliamentary agenda dominated by the proposals submitted by the government, or in some cases the MPs from the ruling majority, continued throughout the spring 2020. Hence, the noteworthy case in March 2019, when two proposals of MPs not belonging to the ruling majority were included in the agenda of the plenary session, remains the exception that proves the rule.<sup>1</sup>

Another exception in 2020, are two law proposals submitted by an MP from the opposition Democratic party, Gordana Čomić, which were included in the agenda of the plenary session: Law amending the Law on Local Elections and Law amending the Law on Election of Members of the Parliament. **These two laws were adopted at the Extraordinary session in February 2020.**



## URGENT PROCEDURE

**35.78%** of all laws (including new laws, amendments to laws and ratifications of international agreements) were adopted by an urgent procedure.

**48.26%** are adopted by an urgent procedure if we exclude the laws on the ratification of international agreements, which are generally adopted by a regular procedure, and consider only new laws and amendments to laws



## PAY ATTENTION TO:

- boycott of the parliament by less than 50 opposition MPs;
- changes in "filibuster" activities decreased since the summer - decreased number of "bravo" amendments (that used to be submitted by the ruling majority) and consolidating agenda items into a single debate;
- the most recent European Commission Report 2019 on Serbia highlights the state in the parliament, urging for immediate changes of negative practice and restitution of inter-party dialogue.

<sup>1</sup> In March 2019, for the first time since 2015, two proposals submitted by the opposition MPs Nenad Canak, Olena Papuga and Nada Lazic were included in the agenda of the plenary session: the Proposal of the Law on Financing of the Autonomous Province of Vojvodina, and the Proposal of the Resolution of the National Assembly of the Republic of Serbia on Vojvodina. Proposals were not adopted as they have not received support from the sufficient number of MPs.

## PARLIAMENT'S SUPERVISORY ROLE:

**14 sessions of the “MPs Question Time” held during the 11th convocation**, including: one in 2016 (October); one in 2017 (October); five in 2018 (March, April, September, October, and November); and five in 2019 (March, June, July, November and December) and two in 2020 (January and February). In addition, it is questionable how much time is effectively dedicated to discussing the topics.

**16 public hearings organized during the 11th parliamentary convocation:** In 2016 - six public hearing sessions held (one in October, four in November and one in December); only one public hearing held per year in 2017 and 2018 (both in November); in 2019 - six public hearing sessions held (two in June, one in September and three in November); in 2020 - two public hearing sessions were held (both in February).

**In March 2019, the independent institutions submitted their annual reports for 2018 to the Parliament. After a five-year break, the annual reports of several independent institutions were discussed in the plenary and the conclusions of the parliament on the following reports were passed:**

**in June 2019 (State Audit Institution, Fiscal Council and Commission for the Protection of Competition); in July 2019 (Ombudsman, Commissioner for Information of Public Importance and Personal Data Protection, and Anti-Corruption Agency); in October 2019 (the annual report of The Commissioner for Protection of Equality). Three members of the Council of Regulatory Body for the Electronic Media have been elected in December 2019, following a two-year delay. Another two members of the Council of Regulatory Body for the Electronic Media have been elected in Extraordinary session in February 2020.**

**Parliamentary committees increasingly chaired by the ruling majority MPs: out of 20 parliamentary committees, only 2 are chaired by non-majority MPs (European Integration Committee and Committee on Education, Science, Technological Development and the Information Society).**

The State Budget for 2020 was adopted in November, without violating the Rules of Procedures.

A total of 17 Laws on Budget Expenditure were adopted in December 2019.

## ● ANALYSIS OF THE OPEN PARLIAMENT

### Women in Parliament: XI Legislature

Since the multi-party system was established, the National Assembly legislature was dominated by male MPs. For example, during the Seventh Legislature (2007-2008), 80% of male MPs carried out the office of deputies. In recent years, the status of women in the highest legislative body has improved. More versatile structure was a result of the Law on Gender Equality and amendments to the Law on Election of Members of Parliament. The first law guarantees equal opportunity policy in all spheres of social life, whilst the other law determines the quotas for electing at least 40% of less represented gender. This should also take into consideration the impact of Women Parliamentary Network, which was founded in 2013 with the aim of influencing adoption of new laws in areas of women and family health, fight against gender and family violence and economic empowerment and education of women and family. Functioning of Women Parliamentary Network is an important instrument which strengthens the role of women in the highest legislative institution since it was the only organisation which managed to gather the representatives of different political options under the same cause.

**Due to quotas, the current, outgoing Parliamentary legislature, which was constituted on 3 June 2016, held a record of female MPs – 37.2%, i.e. 93 out of 250 MPs.** However, although the legal framework concerning the position of women in the Assembly is relatively well regulated, the question remains to what extent its practical application has contributed to the higher impact of women inside the Parliament?

In this issue of Open Parliament Bulletin, which will be published in May 2020, we are underlining the most important results of the analysis on the position and impact of women in the Parliament during the XI Legislature of the National Assembly.

### What is the representation of women in management positions?

A member of Serbian Progressive Party, Maja Gojkovic, is currently the Speaker of Parliament, but higher representation of women in the structure of this representative body is a relatively new thing compared to the entire multi-party system period (since 1991). **In this period, during 4 out of 11 constituted legislatures, merely three women had an opportunity to be speakers of the Assembly.** Natasa Micic from Liberal Democratic Party was the Speaker in the V legislature (2001- 2004), Slavica Djukic Dejanovic from Socialist Party of Serbia was the Speaker of Parliament during the VIII legislature (2008- 2012), and Maja Gojkovic from Serbian Progressive Party was a Speaker during two legislatures: in the X legislature (2014-2016) and in current XI legislature which was constituted in 2016.

The statistics is even more unfavourable as regards the Parliament Deputy Speakers. **Out of six Deputy Speakers of the Parliament, only two women had this office in the outgoing legislature:** Gordana Comic from Democratic Party and Vjerica Radeta from Serbian Radical Party. This maybe a small step forward, since in the previous, Tenth Legislature (2014-2016), only one out of six MPs was a woman.

As regards the committees' chairpersons, the gender representation is somewhat more balanced. **Women chair eight committees out of 20 (40%).** However, disproportionality is even higher

if we analyse the members of this working bodies. **Five committees are championing as regards extremely low representation of women.** Out of nine members of the Security Services Control Committee only one is a woman, and the 17-member Committee on Kosovo-Metohija has only two female MPs. In the remaining three committees (Committee on Administrative, Budgetary, Mandate and Immunity Issues, Committee on Finance, State Budget and Control of Public Spending and Defence and Internal Affairs Committee) the representation of women is 17.6%. In other words, as a consequence of the absence of quotas for electing less represented gender in the committees, **men represent the majority members in working bodies.** However, **women are more represented in committees working on matters such as human and minority rights (82.3%), children rights (75%), culture (70.5%), social matters, social exclusion and poverty reduction (52.9%).**

#### Who are the most active female MPs?

The female MPs from the current legislature are not exactly the paragons of intensive activity in plenary sessions. **From the total number of activities, the share of women requesting for the floor is 31%.** Female MPs from Serbian Radical Party Vjerica Radeta and Nataša (Spasoja) Jovanovic are the champions in the overall speaking activities. Third place goes to Jelena Žarić Kovačević from Serbian Progressive Party whose score is almost twice smaller than Nataša Sp. Jovanovic, and the fourth place is for Aleksandra Jerkov from Democratic Party. One should also take into consideration the group of opposition male and female MPs who boycotted the parliament during entire 2019 and a part of 2020 which has also influenced the number of times the female MPs requested the floor during this legislature.

Member of Parliament	Political party	Number of times speaking
Vjerica Radeta	Serbian Radical Party	1430
Nataša (Spasoja) Jovanović	Serbian Radical Party	642
Jelena Žarić Kovačević	Serbian Progressive Party	328
Aleksandra Jerkov	Democratic Party	316
Aleksandra Tomić	Serbian Progressive Party	300
Gordana Čomić	Democratic Party	277
Milanka Jevtović Vukojičić	Serbian Progressive Party	220
Branka Stamenković	Enough is Enough	219
Maja Gojković	Serbian Progressive Party	215
Marinika Tepić	Party of Freedom and Justice	213

#### How are women represented in parliamentary groups?

Out of 14 parliamentary groups, the women represent the majority of members just in two: Party of United Pensioners of Serbia Parliamentary Group and Independent MPs Club Parliamentary Group. **The latter with 60% of women is the biggest in the last three legislatures. However, the minimum participation of women in current legislature was noticed in three parliamentary groups: Liberal Democratic Party – SDA Sandzak Parliamentary Group, Alliance of Vojvodina Hungarians Parliamentary Group and Socialists’ Movement – People’s Peasant Party – United Peasant Party Parliamentary Group.** In Liberal Democratic Party - SDA Sandzak Parliamentary Group there is only one women representative out of six members of the parliamentary group, and the Alliance of Vojvodina Hungarians Parliamentary Group and Socialists’ Movement – People’s Peasant Party – United Peasant Party Parliamentary Group had only one women member out of four MPs.

There is no equal representation of both genders among the heads of parliamentary groups either. **Women are heads of only three out of 14 parliamentary groups.** As mentioned before, Party of United Pensioners of Serbia Parliamentary Group, in proportion to its size, has the highest share of women among its members. The head of this parliamentary group is a woman, Mira Petrovic. Tatjana Macura is the head of the Party of Modern Serbia, and the head of New Serbia – Movement for Serbia’s Salvation Parliamentary Group, is also a woman, Sanda Raskovic Ivic.

The representation analysis of less represented gender in the Parliament demonstrates that although there are legally prescribed quotas, the female MPs still do not have the equal influence, power or credibility in the highest legislative institution as their male counterparts. Improving the Assembly heterogeneity is definitely contributing to higher representativeness of the Assembly, but the Assembly could be different in practice. Higher representation of one gender in working bodies is not an example of good practice. Also, a fact that out of nine members of the Security Services Control Committee only one is a woman, should be an alarm for the respect of gender equality in working bodies of the Parliament. We had a red alarm long time ago as regards the heads of parliamentary groups, because women are heads of only three out of 14 parliamentary groups. It could be inferred that male MPs really do (not) have confidence in female leadership.

## ● SELECTION OF LAW ABSTRACTS

### *Abstracts of the laws adopted in March-April*

#### **LAW CONCERNING THE CONFIRMATION OF THE PROTOCOL AMENDING THE CONVENTION FOR THE PROTECTION OF INDIVIDUALS WITH REGARD TO AUTOMATIC PROCESSING OF PERSONAL DATA**

The Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (hereinafter: Convention) was adopted by Council of Europe in 1981, and ratified by Republic of Serbia in 1992. The Protocol amending the Convention is adopted due to the modernisation of the Convention text in the aim of improving the protection of right to privacy in the context of automatic processing of personal data.

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#### **PREAMBLE AND GENERAL PROVISIONS**

Protocol has extended the scope of the Convention to other Parties in addition to Council of Europe member states. The focus is the necessity to secure the human dignity, protect human rights and fundamental freedoms of every natural person and, having in regard the intensification and globalisation of data processing and personal data flows. Thereby the purpose of adopting this Protocol was to protect every individual, whatever his or her nationality or residence, with regard to the processing of their personal data.

Protocol introduces new definitions such as “data processing” which includes any operation or set of operations performed on personal data, as well as the definitions of “controller”, “recipient” and “processor” of data. The opportunity for Parties applying the text of the Convention at their own discretion has been reduced, as the author of the amended text of the Convention has more clearly, precisely and directly obliged each Party to apply the Convention both in public and private sector.

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#### **BASIC PRINCIPLES FOR THE PROTECTION OF PERSONAL DATA**

The Protocol imposed Parties to undertake necessary measures in their law to give effect to the provisions of this Convention. The Convention Committee evaluates the effectiveness of the undertaken measures which did not exist so far in this form, and it neither had this scope of authority.

The Protocol amending the Convention introduces the obligation for the Parties to proportionately carry out data processing in relation to the legitimate purpose pursued and reflect at all stages of the processing a fair balance between conflicting interests concerned. It is introduced that the data subject whose data are being processed must consent or it must be done on some other legitimate basis laid down by law. Personal data may be collected only for explicit, specified and legitimate purposes and not processed in a way incompatible with those purposes; must be processed in a transparent manner, adequate, relevant and not excessive in relation to the purposes for which they are processed.

Special categories of data such as genetic data, personal data relating to criminal offences and proceedings, biometric data and other can be processed only where appropriate safeguards are

enshrined in law, complementing those of this Convention.

Every individual – data subject, shall have a right to be informed on the reasons and purpose of the planned data processing, the recipients of data processing, to receive upon personal request the confirmation on processing data relating to him or her, reasoning underlying data processing, to object at the processing of personal data and a right to remedy where his or her rights under this Convention have been violated. The Parties shall take measures to demonstrate to the competent supervisory authority of the Committee that the data processing is in compliance with the provisions of this Convention.

The exceptions to this Chapter are allowed only in the aim of protecting national security, defence, interests of the State, the impartiality and independence of the judiciary or the prevention, investigation and prosecution of criminal offences. The Parties now undertake to establish judicial and non-judicial sanctions and remedies for violations of the provisions of this Convention.

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#### **TRANSBORDER FLOWS OF PERSONAL DATA**

The Protocol introduces clear legal framework for transborder flows of personal data precisely defining measures and levels of the protection. An appropriate level of protection can be secured by the law of the State or international organisation, or ad hoc safeguards provided by legally-binding instruments. Each Party shall be obliged to ensure and enable the supervisory authority with all relevant information and demonstrate the effectiveness of safeguards.

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#### **SUPERVISORY AUTHORITIES**

Each Party shall provide for one or more authorities to be responsible for ensuring compliance with the provisions of this Convention. Such authority may carry out investigations and interventions, perform the functions relating to the approval of standardised safeguards, to issue decisions with respect to violations of this Convention and impose administrative sanctions. Moreover, it shall have the power to engage in legal proceedings and promote public awareness of the rights of data subjects. The supervisory authority shall act with complete independence and impartiality and prepare and publish a periodical report outlining its activities.

A supervisory authority which has received information from another supervisory authority, either accompanying a request or in reply to its own request, shall not use that information for purposes other than those specified in the request. A supervisory authority to which a request is addressed may not refuse to comply with it unless the request is not compatible with its powers or with the sovereignty, national security or public order of the Party.

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#### **CONVENTION COMMITTEE**

Instead of the former Consultative Committee, the Protocol introduces the Convention Committee. Additionally, the Committee has powers to give recommendations (instead of former proposals), to facilitate the application of the Convention, it may express an opinion on any question concerning the interpretation or application of this Convention, develop or approve models of standardised safeguards, and also review the implementation of this Convention by the Parties.

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## FINAL PROVISIONS

In the final provisions of the Protocol, the Convention shall be open for signature to the European Union, other international organisation or any State not member of the Council of Europe. It is particularly important that no reservation may be made to the provisions of this Protocol.

Law concerning the confirmation of the Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data shall enter into force on the eighth day following that of its publication in the "Official Gazette of Republic of Serbia – International Agreements".

### *Abstracts of the key laws in the Assembly procedure*

## PROPOSAL OF THE LAW AMENDING THE LAW ON ID CARD

### **Government of the Republic of Serbia submitted this Law proposal to the Assembly on 7 February 2020**

Proposal of the Law amending the Law on ID card (hereinafter: Law) regulates all the rights and obligations as well as the procedures related to ID card as the public document proving identity of the citizens of the Republic of Serbia, and other facts therein, and the cases when it was set under the international agreement that the ID card could be used as a travel document.

The Law was adopted in 2006, amended for the last time in 2011. The main reasons for adopting proposed amendments are the deficiencies identified in the applicable law, as well as the obligations stemming from the Government of Republic of Serbia project "Stop Bureaucracy", i.e. the Government Conclusion adopting the priority actions plan for decreasing administrative burden in the Republic of Serbia. The proposed amendments reduce the administrative burden for citizens of the Republic of Serbia in the event of losing the ID card.

The remaining amendments of the applicable law concern the following: amending data from the ID card format (information on the address of the notified residence is added); aligning with the decrees on electronic document, electronic identification and trust services for electronic transactions; deleting part of the provision concerning the submitting of the request for issuing ID card for a minor older than 16, therefore, on the basis of the proposal, the minor older than 16 will be issued an ID card with the consent of only one parent, irrelevant if the other parent has custody; limiting the use of ID card to cross the state border.

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## ID CARD FORMAT

### **Format content**

Proposed amendment provide for adding the data on the notified residence address in the ID card format. Citizen's residence address is an important element which is used to determine the local jurisdiction of the acting authority in administrative matters, to be demonstrated with ID card which includes the residence address, irrelevant if the address is recorded in the ID card chip or written on the ID card format (ID card without a chip). Information on the residence address in the ID card format already exists in valid ID cards (on the format or in the chip which is the integral part of the ID card format).

## Automatic reading of data and safeguarding elements

The proposal for amending the applicable law is such to provide for the entry of the electronic identification certificate in the microcontroller (chip), thus enabling the ID card to be used as a means of distant identification and electronic identifications scheme of medium reliability level. It also provides for registration. In this way, the ID card shall become a qualified means for the creation of the electronic signature and electronic identifications scheme of high reliability level.

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## PROCEDURE OF ISSUING ID CARD

In the part of the Law providing for the procedure of submitting request for minors older than 16, the former rule that for minors one of the parents with the written consent of the other parent (if the other parent does not have custody, his/her consent is not required) should submit the request, the rule is being introduced that a minor older than 16 will be issued an ID card with the consent of only one parent, irrelevant if the other parent has custody.

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## LIMITING USE OF ID CARD FOR CROSSING STATE BORDER

The Law provides for the possibility to carry the ID card as a travel document (passport) if stipulated under the international agreement. However, there are exceptions. The ID card may not be used as a travel document and it may not replace it to cross the state border if the requirements for confiscating the travel document were fulfilled – as established under the Law governing the travel documents for citizens of Republic of Serbia travel abroad (Law on Travel Document). If the legal requirement were met, the competent authority adopts the decision on ban of using the ID card as a travel document. Under the applicable decrees this decision is valid for six months and it shall be delivered to both the ID card holder and the authority submitting the request. Under the proposed amendments, instead of six months, the referred ban will be in force as long as the requirements for confiscating the document are met.

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## INVALID ID CARD

Ministry of Interior (MI) shall announce the missing ID card invalid. The ID card was announced invalid in the "Official Gazette of Republic of Serbia" on the expense of the person whose ID card had to be announced invalid. Ministry of Interior shall issue a new ID card after the decision on announcing the ID card invalid was adopted and the decision was delivered to the "Official Gazette of Republic of Serbia". The proposed amendments of the Law provide for that, in the event of the ID card loss, the citizen will not have to announce the ID card invalid in the "Official Gazette of Republic of Serbia", as following the adoption of the decision on announcing the ID card invalid, the competent authority – the Ministry of Interior will announce the ID card invalid on the official website of Ministry of Interior. This shall be done for the purpose of reducing the administrative burden for the citizens of the Republic of Serbia.



## PROPOSAL OF THE LAW AMENDING THE LAW ON ROAD SAFETY

**The Government of Republic of Serbia submitted the proposal of this law to the Assembly on 29 November 2019.**

Amendments to the Law on Road Safety are proposed through the initiatives of Chamber of Commerce of Serbia and Carriers and Transport Operators Association. Although for the last two years, this is a fifth time amending this law, these amendments are done for numerous reasons. First of all, there is a deficit of professional drivers in companies working in services of road passenger and goods transport operations. In addition to this, it was recognized that the deficiency of the former law could be remedied by removing obstacles for fitting imported motor vehicles. Furthermore, the amendments regarding the level crossings are introduced as well as two-colour traffic lights and signalisation regarding the breakdowns on a railway line. The procedure for establishing the status of a vehicle of historical importance is simplified and explained. Finally, new administrative solutions are introduced for simplifying the regulation "e-PAPIR" which regulates the deadlines and request forms.

### **Vehicles of Historical Importance**

As for the amendments regarding the vehicles of historical importance, the competences of Road Safety Agency are extended as it shall establish the status, revoke it, classify the vehicles of historical importance and keep the records on their status. Furthermore, the legislator provides for that these vehicles will have to be registered as well.

### **Level Crossing**

To increase the safety of road users, the provision regarding the level crossing is amended by introducing two-colour traffic lights with red and yellow lights for crossings unlike the previous legislative solution which stipulated one-colour signalisation for crossings. Furthermore, signalling sounds are introduced so the road user would be informed about the malfunctioning traffic lights.

### **Issuing Provisional Driving Licence**

Under the provisions of the Law on General Administrative Procedure and Law on E-Government, it is stipulated that authorities should keep electronic records, therefore the provision of this Law shall be aligned with it, defining precisely which documents are required in order to issue provisional driving licence. One of the results of the initiative as regards the issuing of provisional driving licence was the amendment concerning the students of army schools as regards the driving licence for S category, since they are just 18-year-old when they meet the requirement for driving this category of vehicles.

### **Fitting Imported Vehicles**

In practice, the former experience demonstrated that non-compliance of decrees in various markets was an obstacle for fitting of used imported vehicles, primarily as regards the conformity with the Agreement concerning the adoption of uniform technical prescriptions for wheeled vehicles. The legislator wants to solve this problem by introducing the necessary technical inspection and fitting so the vehicle would conform with the decrees in Serbia. Also, all fittings should be done under the guidelines of the manufactures, if such are available, unless the manufacturer or a representative of manufacturers in Serbia gives consent that the concerned guidelines could be derogated. If there are no manufacturers' guidelines, the fittings are carried out under the rules of the profession.

## **Organising Road Safety Operations in Company**

Another amendment following the initiative is a need to delete the duration of time provided for driving and resting of a driver as this provision is regulated in another law and it is necessary to adopt the by-laws to keep the records and monitor the approved authorities.

### **Simplifying Procedure of Notifying Competent Authority**

The procedure of submitting notice to competent authority that a legal entity training drivers as well as technical inspection of vehicles has been dissolved is being simplified. There is an e-form for this procedure, in accordance with the decrees governing the electronic documents and electronic business.

## *Abstracts of the laws adopted in May 2020*

## **LAW AMENDING THE LAW ON LOCAL ELECTIONS**

Law on Local Elections (hereinafter: Law) regulates the election and end of the term of office of the councillors in the assemblies of the units of local self-government.

The Law was adopted in 2007, and amended for the last time in 2020. The proposed amendments concern the authentication of signatures of the voters supporting the electoral lists.

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### **AUTHENTICATING VOTERS' SIGNATURES**

Under the applicable legal provisions, the signatures of the voters supporting the electoral lists for the election of the councillors in the cities assemblies, and/or municipality assemblies may be authenticated only by public notaries. The exception is provided for the cities and municipalities where there are no public notaries appointed, where the signatures could be authenticated by basic courts, judicial units and reception offices of the basic courts.

The proposed law amendments introduce the possibility that in addition to public notaries, the signatures of the voters supporting the specific electoral list shall be authenticated by municipal, and/or city administrations. Those may authenticate the signatures of the voters supporting the electoral list in all the cities and municipalities, both with and without appointed public notaries. The basic courts, judicial units and reception offices of the basic courts may continue to authenticate the signatures of the voters supporting the electoral list, but only in those cities and municipalities without appointed public notaries.

At the time when the specific rules of behaviour concerning the necessity of physical distancing between people are in force, the main reason for adopting the proposed amendments, which have an aim to protect the population from the COVID-19 infectious disease, concern the fact that collecting and authenticating the voters' signatures has been made more difficult, since the Law provides for the strict number of signatures (30 signatures per proposed candidate on the electoral list, and/or 200 signatures for local self-government units with less than 20,000 voters) and deadlines (15 days before the Election Day).

Simultaneously, increasing the number of authorised authenticators will lower the danger of electoral actors and activities gathering in big groups, as well as many persons gathering in the premises and in front of the premises of the competent authorities, which is definitely not desirable, es-

pecially as it should be taken into consideration that measures against spreading of the COVID-19 infectious disease must be maintained in the future.

## LAW AMENDING THE LAW ON ELECTION OF THE MEMBERS OF PARLIAMENT

Law on Election of the Members of Parliament (hereinafter: Law) regulates the election and the end of the term of office for the National Assembly of the Republic of Serbia deputies.

The Law was adopted in 2000, and amended several times, for the last time in 2020. The proposed amendments concern the authentication of signatures of the voters supporting the electoral lists.

### AUTHENTICATING VOTERS' SIGNATURES

Under the applicable legal provisions, the signatures of the voters supporting the electoral lists for the election of MPs may be authenticated only by public notaries. The exception is provided for the cities and municipalities where there are no public notaries appointed, where the signatures could be authenticated by basic courts, judicial units and reception offices of the basic courts.

The proposed law amendments introduce the possibility that in addition to public notaries, the signatures of the voters supporting the specific electoral list shall be authenticated by municipal, and/or city administrations. Those may authenticate the signatures of the voters supporting the electoral list in all the cities and municipalities, both with and without appointed public notaries. The basic courts, judicial units and reception offices of the basic courts may continue to authenticate the signatures of the voters supporting the electoral list, but only in those cities and municipalities without appointed public notaries.

At the time when the specific rules of behaviour concerning the necessarily of physical distancing between people are in force, the main reason for adopting the proposed amendments, which have an aim to protect the population from the COVID-19 infectious disease, concern the fact that collecting and authenticating the voters' signatures has been made more difficult, since the Law provides for the strict number of signatures (10,000) and deadlines (15 days before the Election Day).

Simultaneously, increasing the number of authorized authenticators will lower the danger of electoral actors and activities gathering in big groups, as well as many persons gathering in the premises and in front of the premises of the competent authorities, which is definitely not desirable, especially as it should be taken into consideration that measures against spreading of the COVID-19 infectious disease must be maintained in the future.

## LAW AMENDING THE LAW ON POPULATION PROTECTION FROM THE INFECTIOUS DISEASES

Taking into consideration that by the Decision of the National Assembly the state of emergency introduced due to the prevention of spreading of COVID-19 infectious disease was called off, and that the pandemic is not over, the Law Proposer believes that it is necessary to strictly conform with the measures stipulated under the Law on Population Protection from the Infectious Diseases, so thereby it is introducing a new offence under the penalty provisions of this law and imposing

higher legal minimum of the fines for the violation of the provisions of this Law.

The applicable law does not provide for the penalty for failing to obey the decisions and orders of specific authorities setting the measures of protection of population from infectious diseases. For the purpose of that, the Law Proposal provides for law amendment so that the failure to obey the decrees, decisions or orders adopted by competent authorities, which are setting the measures of protection of population from infectious diseases, would be considered an offence.

In addition, the legal minimum of fines for natural persons who make offences established under this law was raised from RSD 30,000 to 50,000, and for responsible persons in the legal entity the range of fines would be from RSD 50,000 to 150,000.

### In case you missed it

#### Open Parliament audio reports #StrofaRefrenReplika

In March, Open Parliament prepared three #StrofaRefrenReplika episodes focusing on MPs debate during [the First sitting of the First regular session](#) and [march 8th special](#) in which, we reminded, how female MPs from different political options discussed about women and their rights in plenary.

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