

I Was **Severely** Criticized

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ZORAN PAŠALIĆ

Protector of citizens of the
Republic of Serbia



The Human Rights Day is marked globally in December, and this was a good reason to talk to the Ombudsman, Zoran Pašalić about this topic.

"The situation with human rights is still characterized by numerous forms of violation, notably of the rights of vulnerable groups, but also media freedoms and the safety of journalists in Serbia. This is the assessment of the human rights situation for the World Human Rights Day," the Ombudsman says at the beginning of the interview. He warns that every sixth child in Serbia is a beneficiary of social protection services. "The amounts of child allowance and financial welfare assistance are insufficient to provide for even the most basic child's needs, while the current ban on civil servant employment also applies to public childcare services. Nonetheless, additional expenditures are planned for the establishment of

duplicate institutions, such as the protector of the rights of the child," Mr Pašalić explains, adding that he opposes the establishment of a new protection mechanism for two reasons – functional, as the existing sector in the Ombudsman's office has been successfully dealing with these issues for 12 years, and economic, as it is unnecessary

2,500 complaints that I received during the Ombudsman Day in Belgrade and throughout Serbia relate to the work of the judicial administration, and 10% of the total complaints on annual basis. Most of them relate to the violation of the right to a fair trial, scheduling a trial within a reasonable time and a failure to act under court

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to allocate special financial resources for the establishment of a new institution.

Year-on-year, citizens have been mostly complaining about the violation of their rights concerning the inefficient judiciary. Has something been done to remedy this in the last two years since you have been appointed the Ombudsman?

— As much as a quarter of over

rulings, precisely in the area of law in which this institution has no jurisdiction. In the Draft Law on Amendments to the Ombudsman Law, I requested that we supervise the work of the judicial administration, in the above segments. There is resistance in certain segments of the expert community, but I am deeply convinced that independent institutions should protect the rights of citizens in this area as well.

The reactions to your proposal to allow the Ombudsman to supervise the work of the judicial administration have not been positive. How did you come up with this idea and are there similar examples in the world?

— I was severely criticized and even accused of meddling into the judiciary's independence. Considering the job I used to have earlier (many years of working as a misdemeanour judge and the president of the Misdemeanor Court of Appeal), I am very sensitive when it comes to any influence on the independent work of judges, but that is why I do not agree with this 'straw man argument'. If I inquire why certain lawsuits take decades to settle, this is not an attack on the independence of the judiciary, but the most common question that citizens ask us and want us to resolve. Under the current Ombudsman Law, our jurisdiction does not cover this domain of human rights protection. Most ombudsmen from the former Yugoslav republics (Slovenia, Bosnia and Herzegovina, Croatia, Montenegro, Macedonia) supervise the work of

the judicial administration in different ways, and this is not a novelty in their work. If we want to keep up with the needs of citizens and meet their requirements, we need to adapt the institutions to the citizens, not the other way around.

You requested an explanation of whether the relevant procedures were honoured during Aleksandar Obradović's arrest, explaining that that was your jurisdiction. What happened afterwards?

— Based on the media reports about Aleksandar Obradović's arrest, I decided to initiate the process of supervising the legality and regularity of the work done by the Interior Ministry, all under the Ombudsman Law. After all the facts have been gathered, we will go public with our findings.

How are prisoners treated in Serbia?

— In Serbia, there is no definition of torture as a systematically organized or encouraged phenomenon, but there are still deficiencies in the treatment of incarcerated persons in terms of providing adequate accommodation and health care and compliance with established procedures. The most vulnerable prisoners are those in psychiatric and closed social welfare institutions. The conclusion remains that the existing Law on Social Protection needs to be improved to better regulate the system of deinstitutionalization.

The fact remains that the existing Law on Social Protection needs to be improved with regard to regulating the system of deinstitutionalization. Furthermore, in 2019, the NPM (National Mechanism for the Prevention of Torture) visited more than 30 criminal enforcement agencies, police departments and their police stations. The NPM also made visits to army barracks as a new activity, aimed at monitoring the manner in which disciplinary sanctions were enforced - prohibiting the abandonment of a military facility and prohibiting the removal from special premises in a military facility. The NPM visited all 16 barracks in which this type of sanction is enforced. Monitoring of forced removals of foreigners from the Republic of Serbia, which we do in cooperation with the Interior Ministry, is also new jurisdiction.

What is the situation with national minorities?

— In an effort to protect the Roma's rights, the Ombudsman's representatives visited 20 Roma settlements in various municipalities in 2019. We have received over 30 complaints relating to the exercise of the right to education, work, adequate housing and the right to health insurance and health care. Subsequently, we requested the competent authorities to respect the rights of the Roma people.

What is happening with the court proceedings regarding the fires in Vinča? What do citizens mostly complain about in terms of environmental protection?

— Media reports have warned that new fires have erupted on the

the right to a healthy environment, in addition to further aligning the normative framework with the EU regulations, also entails improving the inspectors' work.

About 50% of labour-related complaints are about non-payment of salary contributions and social security. How can we resolve that?

— Employers mistreating employees, undocumented work, unpaid salaries and unpaid social security contributions are the most frequent labour-related reasons why citizens turn to the Ombudsman. Citizens are often unable to exercise their full right to a pension because, for certain

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Vinča landfill that could jeopardize the environment there. I launched the process of supervising the work of the city's Secretariat for Environmental Protection. The result is that the public utility company Javna Čistoća has urgently closed all potential hotspots, preventing the spreading and outbreak of fires. The Ombudsman's Office continues to carry out further proceedings and the plan is to obtain additional information to permanently resolve the problem of the Vinča landfill. In terms of ecology, the key problems that the Serbian citizens face are air and water pollution, construction of small hydropower plants and a large number of non-sanitary landfills; that is landfills that directly jeopardize water sources. Improving

periods of insurance, employers have not fulfilled their legal obligation to pay pension and disability insurance contributions. The Ministry of Labour, Employment, Veterans' and Social Affairs has to increase the number of inspectors, expand the responsibilities of labour inspectorates and improve technical conditions to ensure timely and effective implementation of the relevant law. I have repeatedly stated that better cross-sector cooperation between the Tax Administration, the Pension and Disability Insurance Fund, the State Health Insurance Fund and the Labour Inspectorate should contribute the resolution of the aforementioned problems, primarily through an up-to-date exchange of information.

Are women's rights jeopardized too? What about gender equality?

— A survey conducted by the Ombudsman's office shows that women are underrepresented in decision-making places in local governments. Domestic violence remains in the focus of this institution's work. Although I have been involved in this topic since 2004, I have not received the official support for launching the "Make Violence Visible" initiative, which would provide quality medical evidence in a court against abusers. In addition to preventative work to eradicate such phenomena in society, this is one of the most effective ways to ensure a sure penalty for abusers.

In your annual report, you stated that the situation in the media did not change in comparison with the previous period, that is, it is still bad. What is happening with the Ombudsman's initiative for setting up a platform that would record attacks on journalists?

— The draft Agreement between the Ombudsman and the Coalition of Media Associations and Associations for the Protection and Improvement of the Security of Journalists has been finalized. This is an important step towards establishing a common platform on which all cases of threatening security of journalists and media workers will be recorded, which will be supported by media associations. We will have an accurate number with clearly defined categories of attacks, insults, discredits, and verbal, physical and economic pressures on journalists. We will pay special attention to indirect pressures through short and undefined job contracts accompanied by low salaries that lead to censorship and self-censorship in journalism. The platform will be complementary to that of the Working Group on Journalist Safety, formed by media associations in cooperation with the police and the Public Prosecutor's Office. We intend to publish the database in special reports, which would be submitted periodically to the National Parliament. A democratic society is unimaginable without free and responsible media, and the state must provide media employees with the conditions that facilitate uninterrupted work of journalists. 

NEW OMBUDSMAN LAW

What is the main goal of the new Ombudsman Law?

— The draft Law on Amendments to the Ombudsman Law has been finalized and I hope that it will enter the parliamentary procedure soon. All institutions that are obliged to do so have given their opinion about our draft law, except the Ministry of Finance. The public debate about the draft law in the National Parliament is next. In this draft proposal, we have taken into account all EU requirements, which primarily relate to the more effective protection of human and minority rights by increasing the capacity of the Ombudsman's office. The most significant novelty in terms of jurisdiction is the supervision of the court administration. I would like to underline that the draft law was prepared following the recommendations of the Venice Commission from March 2019 and that all their suggestions were taken into account.