

Harmonization of the Police Law of the Republic of Serbia with the European Standards of Human Rights Protection

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Purpose:

Universality of human rights as part of natural and inalienable civilization values makes the rights a current issue of scientific treatment from various aspects. Legal regulation of human rights has both international and national component. On the other hand, governmental law-enforcement organizations play a very significant role in the realization, implementation and protection of human rights. A significant segment of the national legislation compliance belongs to the harmonization of laws and other state regulations with the European standards concerning human rights. With this work authors tried to realize the opportunities for further harmonization of police regulations in Serbia related to the field of human rights in accordance with European standards.

Design/Methods/Approach:

The authors use the method of analyzing expert literature, laws, international regulations and legal sources, as well as the descriptive method, the method of analysis and synthesis, the inductive-deductive method, and the compilation method.

Findings:

Serbia is obliged to comply with the laws of the European Union as part of the *Stabilization and Association Agreement*. *The overall harmonization of law will certainly require harmonizing law-enforcement laws and provisions. The current Law on Police* will very quickly be replaced by a new legislature in that, inter alia, pay special attention to compliance with its provisions with European human rights standards.

Originality/Value:

The article is a comprehensive, critical and presents a detailed analysis of the situation and proposals for harmonization of police regulations with European human rights standards. With regard to the process of Serbia joining the European Union conclusions expressed office may be relevant to the preparation of accession negotiations in the chapters dealing with such problems. The paper also aims at preparing a new impetus to the Police Act of the Republic of Serbia on issues related to normative regulation of human rights performance.

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Keywords: harmonization, human rights, police, organization, standards, Serbia

Usklajevanje Zakona o policiji Republike Srbije z evropskimi standardi varovanja človekovih pravic

Namen prispevka:

Zaradi univerzalnosti človekovih pravic kot dela naravnih in neodtujljivih civilizacijskih vrednot so pravice stalno podvržene znanstveni obravnavi z različnih vidikov. Pravna ureditev človekovih pravic vsebuje tako mednarodno kot nacionalno komponento. Vladne institucije kazenskega pravosodja pa imajo zelo pomembno vlogo pri realizaciji, implementaciji in varstvu človekovih pravic. Pomemben segment skladnosti nacionalne zakonodaje vključuje usklajevanje zakonov in drugih državnih predpisov z evropskimi standardi varstva človekovih pravic. V prispevku avtorji poskušajo ugotoviti, kakšne so z vidika človekovih pravic možnosti za nadaljnjo uskladitev srbske policijske zakonodaje z evropskimi standardi.

Metode:

Avtorji uporabljajo metodo analize strokovne literature, mednarodnih predpisov in pravnih virov, opisno metodo, metodo analize in sinteze, induktivno-deduktivno metodo ter metodo kompilacije.

Ugotovitve:

Srbija je v okviru sporazuma o stabilizaciji in pridruževanju dolžna ravnati v skladu z zakonodajo Evropske unije. Splošna uskladitev zakonodaje bo gotovo terjala usklajevanje zakonov in predpisov s področja kazenskega pravosodja. Sedanji Zakon o policiji bo zelo hitro nadomeščen z novim, pri čemer bo morala biti posebna pozornost, med drugim, namenjena usklajenosti določb zakona z evropskimi standardi človekovih pravic.

Omejitve/uporabnost raziskave:

Prispevek je izčrpen in kritičen ter predstavlja podrobno analizo stanja in predloge za uskladitev policijske zakonodaje z evropskimi standardi varovanja človekovih pravic. Glede na to, da je Srbija v procesu pridruževanja Evropski uniji, so ugotovitve prispevka lahko uporabne za pripravo na pristopna pogajanja v poglavjih, ki se ukvarjajo s tem področjem. Prispevek utegne znotraj Zakona o policiji Republike Srbije vzpodbuditi iskanje odgovorov na vprašanja, povezana z normativno ureditvijo zagotavljanja človekovih pravic.

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Ključne besede: usklajevanje, človekove pravice, policija, organizacija, standardi, Srbija

1 INTRODUCTION

Most often we can hear or read about human rights that they are universal, natural rights inherent to all human beings by birth, whatever their gender, race, religion,

social or any other status. These rights are not subject to any kind of restrictions and no one can be deprived of them, except in cases explicitly stipulated by law. However, human rights, apart from their universality and other characteristics, can be and are subject to violation. We can agree with the assertion that human rights are, beyond any doubt, one of the biggest legal and social and political ideas in the history of ideas and probably the biggest legal and social and political invention and practical *novum* of modernism (Hasanbegovic, 1997).

The rapid development of human rights is a step forward in comparison to classical international law, primarily due to the recognition of the international legal subjectivity of an individual, as well as to the emergence of a kind of global civil society. Nevertheless, a question can be raised whether the last decade has seen a certain crisis in the development of the human rights project. Namely, the modern human rights concept has been criticized that it tends too much to impose the cultural patterns of the western societies, specifically of the USA and the EU. Unfortunately, the concern for the respect of human rights has been misused for political and propaganda purposes. Human rights promotion should represent an inseparable segment of the fight for the rule of law everywhere and should contribute to double standard avoidance concerning human rights protection. Therefore, in order for the human rights project to develop further in all of its aspects, we should think about what has been done, and what to do in the future in the field of human rights both on the national and global level. Especially, we find it necessary that at the normative level, at least when it comes to the most important segments of human rights protection, the domain of police regulations should promptly be harmonized with the unified international standards. This paper tends to give a little contribution to the tendency of the human rights project to continue its development especially in the area of harmonizing national police regulations with the EU standards.

2 INTERNATIONAL REGULATIONS ON HUMAN RIGHTS PROTECTION

Contemporary law recognizes the area of human rights protection as an integral part of every legal system. There is a general consent that the first written source containing the norms on human rights is Magna Charta Libertatum from 1215. In the document, human rights protection was designed as a barrier against the ruler's arbitrariness, that is, the arrogance of the state authority. Of course, one should bear in mind that the Magna Charta Libertatum guarantees individual rights and freedoms only to a small circle of people, the aristocracy, but anyway, it was the beginning of human rights protection which will, in the last decade of XX century, culminate in the destruction of the socialist part of the world concerning the issue of human rights respect along with other causes. The contents of the Great Charter of the Liberties (*ibid.*) initiated the adoption of subsequent legal regulations which introduced the general principles of individual freedoms and rights protection (Habeas Corpus act), with further development of the school of natural law, and, as a final social consequence at that time, came the bourgeois revolution in France and the Declaration of the Rights of Man and of the Citizen in 1789.

Human rights are regulated and protected by international conventions. Modern history of human rights starts after World War II with the adoption of the Charter of the United Nations (1945). The introduction of human rights into international law represented an answer to serious violations of humanitarian principles before and during World War II (Hartwig, 2009). The document that paved the way for human rights development and provided foundation for a new international legal order after the end of World War II is The Universal Declaration of Human Rights adopted by the UN General Assembly (United Nations [UN], 1948). However, it should be noted that the Universal Declaration was adopted as a non-binding document of the General Assembly. One of the reasons for this was determining the relationship issues between human rights as international law norms and principles of non-interference in the internal affairs of States from Article 2, par. 7 of the UN Declaration (*ibid.*). Mandatory application of the Universal Declaration came through the International Covenant on Civil and Political Rights (UN, 1966a) and the International Covenant on Economic, Social, and Cultural Rights (UN, 1966b). With the adoption of these treaties, human rights have definitely become a part of the binding international legal order. It can be said that the Universal Declaration formed part of a wider reorganization of the normative legal order of the post war international relations designed with the purpose to create a bulwark in the defence of barbarism (Ignatieff, 2001).

The UN (1948) Universal Declaration of Human Rights represented a foundation for passing the Convention for the Protection of Human Rights and Fundamental Freedoms adopted by the Council of Europe (1950a) (hereinafter Convention, 1950a). When the Convention (1950a) was put into effect in 1953, the Council of Europe (1950b) adopted 13 Protocols with the aim of expanding protection, and Protocol 11 envisaged the formation of the European Court of Human Rights in Strasbourg (Council of Europe, 1950b), which is nowadays the synonym for international judicial protection of human rights and freedoms. In addition to the mentioned documents, we would also like to mention the UN (1982) Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Council of Europe, 1987), the Convention on the Political Rights of Women (UN, 1952), the Convention on the Rights of the Child (United Nations Human Rights, 1989), Charter of Fundamental Rights of the EU (European Parliament, Council of the European Union, & European Commission, 2000).

The listed conventions and other international acts represent part of political and legal standards adopted and implemented by the majority of states, including the Republic of Serbia, into their national legislation, thus taking responsibility for the provision and implementation of human rights and freedoms. In this very context, among others, the greatest responsibility for the proper application of the law lies with the police and its agencies.

International unification of human rights and freedoms called for the unification of police conduct standards. Council of Europe (1979), that is the Parliamentary Assembly of the organization, in that sense, adopts the Declaration on the Police, which stipulates ethical standards of conduct in the police, status,

rights and obligations of the police officer and police competences in emergency situations and in the cases of occupation by a foreign power. The General Assembly of UN with its resolution no. 34/169 adopts the Code of Conduct for Law Enforcement Officials (UN, 1979) based on ethical and professional conduct according to international acts on human rights protection and criminal justice standards. The Code belongs in the category of instruments which give governments authoritative guidelines that relate to criminal justice and human rights issues, and stipulate responsibility for police work with full respect for human dignity and restraining the use of force to the cases where it is absolutely necessary for achieving legitimate goals of law enforcement.

In the process of unification of human rights and freedoms, EU regulations play an important role and they represent a particular and authentic right, if we exclude for the moment the discussion on the legal nature of the right. The police and judicial cooperation between the EU member countries, as well as between the EU and other countries, has the ultimate purpose of creating an area of freedom and safety. Of course, the objective of the cooperation is ensuring the internal market openness, the quality and conditions for economic growth of the EU. The means for the realization of these objectives are defined as follows (Miler, Kainer, & Graf, 2005):

- Enhancing the cooperation between the police, customs and other competent bodies of the member countries and involvement of Europol.
- Stronger cooperation and data exchange between judicial authorities.
- Harmonization of criminal and other laws in the member countries in the areas of law-enforcement and justice.

The Republic of Serbia is a member of almost all of the treaties on human rights adopted by the UN. So, generally accepted rules of international law and ratified international treaties (International Treaties, 2008), are an integral part of the legal system in the Republic of Serbia and applied directly according to constitutional norms (Constitution of the Republic of Serbia, 2006: article 16, par. 2) (hereinafter Constitution). The Constitution (2006) also guarantees the direct implementation of human rights guaranteed by the generally accepted rules of international law. UN membership obligates Serbia concerning the bodies, which are in charge of control and monitoring of meeting the commitments from the membership and ratified conventions on human rights. Concerning the fulfilment of the international commitments, there are allegations that Serbia is late, especially in reporting to the UN treaty bodies, or the criticism is about report incompleteness (Human rights in Serbia 2013, 2014). In that sense, there is a need for regular reporting of the UN committee on the application of the ratified international conventions, as well as the need for regular keeping of all the records necessary for fulfilling the obligations of reporting to the UN treaty bodies.

Serbia has also signed numerous instruments for human rights protection. With accepting the membership in the Council of Europe (2003), it also took the obligation to ratify the UN (1948) European Convention of Human rights and to adjust the national legislation with this document and practice of the European Court for Human Rights. The European Convention of Human Rights and Fundamental Freedoms (Council of Europe, 1950a) was ratified by the former

State Union of Serbia and Montenegro in 2003 along with all the protocols. The same year the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Council of Europe, 1987) was ratified. The following conventions have also been ratified: the Council of Europe (2005a) Convention on Action against Trafficking in Human Beings, the Council of Europe (2005b) Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Council of Europe, 2007) and the Council of Europe (2005c) Framework Convention on the Value of Cultural Heritage for Society, as well as the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (UN, 1968).

3 REFORM PROCESSES IN THE POLICE OF THE REPUBLIC OF SERBIA

Law-enforcement is an important element of every state. At the same time, it is also an ultimate protection of the state and its citizens against the phenomena that violate the order of relations defined by law. Therefore, the law-enforcement is a mirror of the society from which it originates and develops.

Social changes in Serbia in the year of 2000 caused the police to adapt to new challenges in building a modern state structure. The police reform process has started and, at the same time, the creation of a modern and rational service that will guarantee the citizens the safety of life and property, the state of stable peace and order and efficient crime prevention and detection.

The most important goals of the reform processes in the police of Serbia were depolitization, decriminalization, professionalization, modern organization of pro-European provenience, etc. (Ministry of the Interior of the Republic of Serbia, 2003). The existing domain of internal affairs has been divided into security and information and police functions.

One of the proclaimed police reform goals was the harmonization of national regulations in the area of the police law with the EU legislative. Also, the reform included the transformation of the police according to the universal 'community policing' concept along with building trust and cooperation between the police and citizens, which inevitable demanded a higher degree of openness to the public and the control of police work.

With the accession to the Council of Europe and ratification of relevant conventions, Serbia has assumed international obligations that required changing normative regulations related to police and security affairs. The need for redefining police affairs, powers and implementation of the European Code of Police Ethics (Council of Europe, 2001b) emerged, along with assuming parliamentary and other control of police work. That is how the following laws were adopted in the reform process: the Code of the Criminal Procedure (2011, 2012, 2013, 2014), Law on Security Information Agency (2002, 2009, 2014) (BIA), Law on Police (2005, 2009), Guidelines on police ethics of the Ministry of the Interior of the Republic of Serbia (2003) and the Code of Police Ethics (2006). By adopting these regulations and documents, the international standards of police work have been implemented in

positive legislation. Along with the reform processes, the Ministry of the Interior has made valuable contacts in international cooperation, at the ministerial and other levels. At the operational level, the police has enhanced the cooperation with foreign and international police force complying with international standards and regulations.

In line with the cooperation and according to law, the police exchanges data and information, undertakes cooperative action in countering terrorism, organized crime, illegal migrations and other forms of international crime and breaches of security boundaries. Also, the strengthening of the cooperation allows certain police activities abroad through coordinated efforts with law-enforcement in other countries.

The Law on Police (2005, 2009: Article 4) has prescribed the opportunity to perform law-enforcement and other missions abroad at the request of international organizations or through international agreements to which Serbia is a signatory.

4 THE PRINCIPLES OF POLICE POWER APPLICATION IN PERFORMING LAW-ENFORCEMENT FUNCTIONS

One of the most important moments in the reform of the Serbian police is certainly passing the Law on Police (2005, 2009) through which provisions most of the European standards dealing with law-enforcement performance were adopted.

When it comes to the performance of law-enforcement duties, the Law on Police (2005, 2009) regulates that the police shall observe international standards of law-enforcement procedures, especially the requirements pursuant to international regulations and official documents referring to the following: the responsibility to serve the public, to follow the law and combat unlawful activities, to respect human rights, to proceed without discrimination in the performance of police functions, to practice restraint in the means of enforcement, to prohibit torture and inhuman or degrading treatment, to aid and assist victims, to safeguard confidential information, to disobey unlawful orders, and to resist bribery and corruption. The Law also prescribes that the conduct of law-enforcement officers does not violate or fall short of European standards of police procedure (Law on Police, 2005, 2009: Article 12).

This compliance with European and other international police standards is also clearly stated in the part dealing with the principles of law-enforcement functions (Law on Police, 2005, 2009: Article 11):

- Following the law in everyday work as the main principle of every modern state.
- Proportionality in the use of police powers and force.
- The principle of subsidiarity i.e. working to achieve the least harm.
- Professionalism and cooperation.

In exercising their power, police officers have to respect the principles of impartiality and non-discrimination offering legal protection and humane treatment to every person in need showing respect for their human rights. Authorized officers shall proceed in a humane way and respect the dignity, good

reputation and honour of every individual as well as other fundamental human rights and freedoms, favouring the rights of the endangered person over those of the person violating such rights, and mindful of the rights of third parties. In exercising police powers, police officers shall enable access to licensed medical attention when a person subject to such powers requests it.

All the above mentioned is in accordance with the following: the European Convention for the Protection of Human Rights and Fundamental Freedoms – prohibition of torture and discrimination (Council of Europe, 1950a), Protocol No. 12 to the Convention – general prohibition of discrimination (Council of Europe, 2000); and the Charter of Fundamental Rights of the European Union – protection of human dignity, prohibition of torture and inhuman or degrading treatment or punishment and prohibition of discrimination (European Parliament, Council of the European Union, & European Commission, 2000).

Defining the principle of proportionality, the law clearly states that police powers shall be applied in proportion to the need and not cause greater harm than would have occurred had such powers not been applied. Authorized officers using enforcement measures must safeguard human life, cause the least possible injury or material damage, and ensure that any injured parties receive aid and that their relatives are notified without delay.

The application of the principle of proportionality is a serious task, which requires clearly set and realistic criteria. This is especially true when it comes to the use of firearms. In the case of firearms, there has to exist a rational relationship between ends and means. This is so because it is expected that the use of firearms will lead to the achievement of a certain goal, and that the damage caused by the weapon's use is not disproportionate to the benefits society gains.

In the performance of their duties, the law-enforcement officers' duty is to take all necessary measures in order to protect the life, rights and integrity of citizens and their property. A police officer serves his or her community protecting everyone against unlawful actions and has to act humanely respecting the dignity, good reputation and honour of every individual and other fundamental human rights and freedoms. A police officer is also obliged to report to his immediate superior informing him of the information he has gathered in his police work either by using the official powers or in some other way.

Such standards in law-enforcement power functioning are in accordance with the Charter of Fundamental Rights of the European Union – protection of human dignity, prohibition of torture and inhuman or degrading treatment or punishment (European Parliament, Council of the European Union, & European Commission, 2000).

The Law on Police (2005, 2009) contains many other provisions relating to other international police standards such as the protection and respect of human rights whereby police officers have to proceed in accordance with law and other regulations respecting the standards set out in the European Convention for the Protection of Human Rights and Fundamental Freedoms (Council of Europe, 1950a), the Basic UN Principles on the Use of Force and Firearms by Law-Enforcement officials, the European Code of Police Ethics and other official (UN, 1990) international documents relating to the police. Before exercising police

powers, the authorized officers have to determine that all conditions have been fulfilled as provided by law.

A person subject to police powers has the right, whenever possible and if that does not jeopardize the law-enforcement action, to be duly informed of the grounds for the exercise of such powers; to be allowed to explain circumstances the person considers relevant; and to be informed of the identity of the police officer, while the police officer has the duty to show his identification. A person subject to police powers has the right to request the presence of a trusted third party.

Serbia's efforts to harmonize its police regulations with European standards will be considered in the three following areas: protection of the right to life, prohibition of torture and protection of personal data.

4.1 Enforcement Measures and their Use and Protection of the Right to Life

Protecting the life, rights, freedoms and integrity of citizens and using enforcement measures upholding the rule of law is all in the domain of work of police officers who have a wide range of standardized powers at their disposal. In Serbia such powers are prescribed first of all by the Law on Police (2005, 2009) and by other laws and regulations relating to deprivation of freedom, detention, prevention, detection of and solving criminal offenses, and use of enforcement measures, especially of firearms.

The current Constitution of the Republic of Serbia (2006) states that human rights (Right to life) are inalienable and abolishes the death penalty. This is in accordance with Article 3 of the Universal Declaration on Human Rights (UN, 1948) and Articles 6.1 and 9.1 of the International Covenant on Civil and Political Rights (UN, 1966a). Also, according to Article 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (Council of Europe, 1950a) everyone's right to life shall be protected by law and no one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary: in defence of any person from unlawful violence; in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or in action lawfully taken for the purpose of quelling a riot or insurrection. Protocol No. 6 (Council of Europe, 1983) to the Convention relating to abolition of the death penalty states that the death penalty shall be abolished and that no one shall be condemned to such penalty or executed. The Charter of Fundamental Rights of the European Union (European Parliament, Council of the European Union, & European Commission, 2000) also emphasizes that human rights are inalienable and that no one shall be condemned to death penalty or executed. It is regulated by the current law that in the performance of their duties, the law-enforcement officers who have police powers to use enforcement measures that could lead to death are authorized officers working in the Ministry of the Interior or in the Security and Information

Agency (the Agency), prison officers in correctional facilities and individuals working in private security. In other words, unless otherwise provided by law, law-enforcement officers are authorized to use firearms that could lead to death.

The Law on Police (2005, 2009) lists the circumstances which allow the use of force as well as the manner and scope in which it may be used depending on a situation. It is up to the state and the police to clearly and precisely define the rules, selection, education and training of their officers ensuring that they act properly in each of the given situation.

In 2013, irregularities or unjustified use of firearms by police officers employed in the Ministry of the Interior were rare. Still, there were several incidents when police officers off duty used firearms, which led to wounding and death of third parties. Three members of the Gendarmerie faced charges of killing three people and attempting murder of another one while being off duty. It seriously undermines the authority and people's trust both in the state and in the police if law-enforcement officers break the law either on or off duty.

4.2 Prohibition of Torture and the Right to Liberty and Security of Person

International standards and Constitutional Provisions expressly prohibit torture providing that every detained individual has the right to receive a humane treatment while any kind of violence or forced confession is prohibited.

The provisions of the Criminal Law provide that maltreatment or abuse is any kind of coerced false confessions, torture and harassment, although it may be sanctioned by applying other criminal offenses (for example physical injury and great bodily harm). Not wishing to start a debate on this legislative solution, we still have to point out that there are certain disputable or problematic issues when it comes to torture. This is so because in some cases it is difficult to classify certain acts into certain categories as they are not sufficiently or adequately defined. On the other hand, there is also the problem of punishment policy which seems to be uneven.

It is of special interest to consider how the law regulates the situation when a law-enforcement officer is *suspected* of having committed torture. According to the report on Human Rights in Serbia 2013 (2014), issued by Belgrade Centre for Human Rights which we gained by the Bureau for information of public importance, the Service of Internal Control (an organizational unit of the Ministry of the Interior), received 507 accusations relating to excessive or unlawful use of coercion, torture, inhumane or degrading treatment and the communication full of disrespect for the citizen's dignity. This covers the period from October 1st 2012 to November 1st 2013 and 23 of these 507 allegations proved grounded. In this period the Service of Internal Control filed 9 lawsuits against 11 police officers. Although both constitutional and legislative provisions prohibit that a court renders a decision based on the evidence contrary to constitutional principles or international agreements, it is not clear how much this prohibition is really applied in practice. This is even more alarming when we consider that there have been two cases when the European Court of Human Rights ruled that the right to a fair trial

was violated due to forced confessions. Our point of view is that the existing laws relating to the protection of human rights and law-enforcement powers meet the international and European standards, but the state lacks efficient and effective out-of-court mechanisms that would solve the cases when police officers, state and public officials and correctional facility employees are accused of torture.

Article 5 of the European Convention on Human Rights (Council of Europe, 1950a) provides that everyone has the right to liberty and security of person. It further defines the lawful detention and arrest of a person and all other rights everyone arrested or detained have. If compared to the provisions of the Convention (1950a), the laws and regulations of the Republic of Serbia adopted all relevant European standards relating to the status and treatment of people arrested or detained. In practice, however, there are many problems especially with the police detention. In most cases there are two critical issues: the existing accommodation is inadequate to house the detained people, and the length of detention is violated due to a delay in official investigation activities, which violates the detained person's right to a defence.

4.3 Protection of Personal Data and Protection of Privacy

The Constitution (2006) provides that any gathering, storing, processing and using of personal data shall be done strictly according to the law. The Law on Personal Data Protection (2008) plays the key role in human rights protection. However, a large number of provisions of the existing law do not meet the standards of current European documents, especially the provisions set by Directive 95/46 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and the free movement of such data (European Parliament, Council of Europe, 1995). Besides, the current law does not even consider some of the very significant areas relating to personal data protection such as: video surveillance, direct marketing, security checks and biometric data. All this is very important for personal data protection but is not regulated by law and can lead to the abuse or violation of the right to privacy. This was the reason why the Commissioner for Information of Public Importance and Personal Data Protection submitted the Model Law on Personal Data Protection to the Government. The public discussion ended last month and is yet to be seen whether new legal solutions will improve the quality and regulate this delicate field of human rights.

In September 2005 Serbia signed and ratified Convention 108 adopted by the Council of Europe – Convention for the Protection of Individuals with regard to automatic processing of personal data (Council of Europe, 1981). In October 2008 Serbia signed and ratified Additional Protocol to the Convention for the protection of Individuals with regard to Automatic Processing of Personal Data regarding supervisory authorities and transborder data flows (Council of Europe, 2001a).

The Ministry of the Interior deals with and uses the largest amount of data in Serbia. According to the existing regulations, it is prohibited to use any personal data if contrary to that provided by the Law on Police (2005, 2009) and other laws regulating personal data protection. The police shall respond within 60 days to a

request from a party whose personal information is on file with law-enforcement and make disclosure, excepting information which the subject has personally supplied by law. The police may adopt an official decision declining to provide the information if disclosure would compromise the fulfillment of a task, the conduct of statutory proceedings, or the safety of persons and property, or could damage the interests of third parties. The decision shall state the reason and be verbally communicated to the requesting party. These provisions are in compliance with Article 8 of EU Charter of Fundamental Rights (European Parliament, Council of the European Union, & European Commission, 2000).

From October 2012 to March 2013 a research on the implementation of the Law on Personal Data Protection (2008) in practice was carried out. The research was supported by the USAID Program for Judicial Reform and Government Accountability and the Delegation of the European Union to the Republic of Serbia, and its aim was to examine whether selected personal data collectors comply with the provisions of the Law on Personal Data Protection (2008) and whether they improve their internal procedures for personal data processing in order to protect the privacy of their customers, clients and employees. The results showed that the implementation was incomplete in practice (Protection of Privacy in Serbia, 2013). The local precincts and regional police departments were contacted with a request to explain how they processed personal data the Ministry had been given for the purposes of issuing identity cards and passports. The replies were satisfying with regard to the contents, but the problem was that a number of departments had filled in the forms on their own while the others had sent the forms to the Bureau for information of public importance. Therefore, these different practices require unification, which can only be regulated by additional laws and regulations.

5 CONCLUSION

The Universal Declaration of Human Rights (UN, 1948) represents the first global expression of rights to which all human beings are inherently entitled and embodies people's constant desire and aspiration to protect human dignity of every individual. From its adoption onwards, efforts have been made to protect, improve and promote human rights on both the global and all other levels. This has created a new system of human rights protected by internationally accepted standards and norms.

The Republic of Serbia is obliged to comply with the laws of the European Union as part of the Stabilization and Association Agreement (Government of Republic of Serbia, 2008). The overall harmonization of law will certainly require harmonizing law-enforcement laws and provisions.

Any kind of law reform pertaining to the protection of human rights as defined by international regulations has to be analysed carefully. We also think that any changes to these laws especially when it comes to changing or shifting the law-enforcement powers, deserves thorough public discussion.

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