

Brussels, 17 September 2021

Dear Prime Minister Brnabić,
cc: Internal Affairs Minister Vulin,
cc: Justice Minister Popović,

Re: Consultation on the proposal for the *Zakon o unutrašnjim poslovima*

I am writing to you on behalf of [European Digital Rights \(EDRI\)](#), a network of 45 digital human rights groups from across Europe.

We write to you to express our deep concern to learn of Serbia's [proposed law on internal affairs](#) (*Zakon o unutrašnjim poslovima*), especially the attempts to legalise the biometric mass surveillance of public spaces. This includes provisions allowing the **capture, processing and automated analysis of people's biometric and other sensitive data in public spaces, including for the function of remote identification**, and to access the video surveillance feeds of other actors, including private ones (articles 44, 68, 71, 72, 156, 157 and 158).

Such practices are highly likely to **unduly restrict the rights and freedoms of large parts of the Serbian population and to constitute unjustified biometric mass surveillance practices**. They treat each person as a potential suspect, and they obscure the possibility of targeted use, as passers-by are an inherent feature of public spaces.

There are numerous reasons why this proposal is likely to be **incompatible with Serbia's treaty obligations under the European Convention on Human Rights (ECHR)**, which Serbia ratified in 2004, as well as under international human rights law. For example, **the right to privacy (ECHR article 8)** requires that authorities have particular lawful interest in, and reasonable suspicion of, an individual to justify surveilling them. By contrast, the proposed surveillance of public spaces relates to actions which impact on the public in general and which rely on watching them indiscriminately, without reasonable suspicion, sufficient possibilities for them to have genuine knowledge of what is happening, nor the genuine and free choice to opt in or out given the importance of public spaces for participation in public life.

Furthermore, the Garante Per La Protezione Dei Dati Personali (the Italian Data Protection Authority) has confirmed that [uses of facial recognition and other biometric identification in public spaces constitutes mass surveillance](#). **This remains true even when authorities are searching**

for specific individuals on a watchlist, as described in the proposal for the *Zakon o unutrašnjim poslovima*. This is because, as the European Data Protection Supervisor (EDPS) and European Data Protection Board (EDPB) have also emphasised, [the personal data and privacy of anyone passing through that space is unduly infringed upon by such surveillance](#). The proposed measures are likely to fail the tests of necessity and proportionality as required by the ECHR.

Another particular risk posed by the proposal arises from the fact that these plans require the processing of **especially sensitive forms of data**. **People's biometric data, such as their faces, are central to their personal identity and sometimes also their protected characteristics**. Their processing can therefore infringe on people's rights to dignity, their right to equality and non-discrimination, autonomy and self-determination. This is not just bad for individuals, but also for communities. The landmark [Census judgement](#) of the German Constitutional Court, for example, articulated the **threats not only to people's political rights and civil rights, but also how mass surveillance can harm democracy and "the common good**, because self-determination [which is harmed by mass surveillance] is an essential prerequisite for a free and democratic society that is based on the capacity and solidarity of its citizens."

Many European and international human rights groups have raised [the numerous other severe harms that biometric mass surveillance entails](#), including on rights to free association, assembly, speech and thought; rights to due process, proper procedure and good administration; and more. This can happen as a result of the constant and highly invasive surveillance **disincentivising people from protesting; suppressing anti-corruption efforts by making it harder for sources to blow the whistle anonymously; having a general chilling effect on people's rights and freedoms**. Biometric mass surveillance systems have been used across Europe and the world to spy on groups including human rights defenders, [LGBT+ communities and people going to church](#).

The need to prohibit – rather than legalise – such practices has also been confirmed by many European and global human rights authorities. Just this week, [the United Nations High Commissioner for Human Rights spoke out against biometric mass surveillance](#):

"Remote biometric recognition is linked to deep interference with the right to privacy. A person's biometric information constitutes one of the key attributes of her or his personality as it reveals unique characteristics distinguishing her or him from other persons. Moreover, remote biometric recognition dramatically increases the ability of State authorities to systematically identify and track individuals in public spaces, undermining the ability of people to go about their lives unobserved and resulting in a direct negative effect on the exercise of the rights to freedom of expression, of peaceful assembly and of association, as well

as freedom of movement. Against this background, the High Commissioner therefore welcomes recent efforts to limit or ban the use of real-time biometric recognition technologies.”

This statement joins a growing momentum from the European Union to take the necessary steps to prevent biometric mass surveillance practices. This includes the proposed ban on real-time remote biometric identification (RBI) by law enforcement in the [EU’s Artificial Intelligence Act](#) and a call from the EU’s top privacy and data protection watchdogs – the EDPS and EDPB – to implement a “[general ban any use of AI for an automated recognition of human features in publicly accessible space.](#)” EDRi calls for [a ban on all remote biometric identification and categorisation](#) on the basis of human rights concerns.

Lastly, the **opaque and secretive manner in which these proposals have been brought forward** are also cause for concern. This has prevented proper democratic scrutiny of the proposal and risks undermining people’s trust in the legislative process.

We urge you to consider the rights and freedoms of Serbian citizens as well as your obligations under European and international law and to remove the proposed articles 44, 68, 71, 72, 156, 157 and 158 from the *Zakon o unutrašnjim poslovima*. We remain at your disposal should you wish to discuss any of the above.

Yours sincerely,

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