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OPINION ON THE LAW ON YOUTH

SERBIA

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Based on an unofficial English translation of the Law provided by the Ministry of Youth and Sport of Serbia.



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EXECUTIVE SUMMARY AND KEY RECOMMENDATIONS

The Law on Youth of Serbia adopted in 2011 is a positive step by the Government of Serbia in creating a legal framework that supports young people to develop socially, economically, and culturally, and provide them a space, institutional channels, and public funding to mainstream the needs and interests of young people across different areas. Being able to articulate and institutionalize this in the country's law, identifying young people as key agents and stakeholders legally, is a welcome step.

While there are no international legal norms and instrument focusing specifically on youth or young persons, general human rights instruments as well as the UN Convention on the Rights of the Child together with the multiplicity of youth policy instruments at international and regional levels have guided the analysis of the Law on Youth.

In this regard, the reviewed Law on Youth would benefit from expanding its scope by reflecting youth as not only carrying responsibilities vis-à-vis society but also as right-holders and by promoting youth participation in public and political life. The Law could further be strengthened by clarifying the role of youth associations in policy-making and decision-making processes.

More specifically, and in addition to what is stated above, ODIHR makes the following recommendations to further enhance the Law:

- A. to draw a distinction, in line with the UNCRC, between those under 18 years, who are entitled to special protection and should receive benefits of their special status, and those over 18 years; [par 61]
- B. to reinforce throughout the Law a rights-based approach with a direct reference to young people enjoying human rights and fundamental freedoms, and their role in democratic processes while in parallel supporting young people's independence and active participation in political and public life.; [par 68]
- C. to include an intersectional lens to youth across the Law to ensure that youth from different backgrounds, with different access needs and issues are taken into account in the development of strategies and programmes, and in provision of funding to youth actors to address specific challenges they face; [par 71]
- D. to integrate in Articles 13 and 14, qualitative requirements such as independence, democratic nature, diversity and inclusion that associations, federations and umbrella federations should adhere to; [par 81]
- E. to ensure that the requirements in Article 15 for associations and federations respect the right to freedom of association and do not create an undue burden on these actors; [par 88]
- F. to reflect that the operation of the the Government Youth Advisory Body is guided by the principles of subsidiarity, sovereignty of parties, partnership,

efficiency, fair competition, transparency, equal treatment and non-discrimination and respect for the independence of associations. [par 90]

- G. to amend and/or supplement the provisions concerning the the Government Youth Advisory Body, its composition, and working modalities to ensure that youth civil society organizations can take part in a meaningful manner in its work and decision-making processes.; [par 96]
- H. to clarify which government bodies other than the Ministry of Youth and Sport are involved in the youth the Government Youth Advisory Body to ensure a cross-sectoral approach to youth policy development.; [par 103]
- I. with respect to youth participation to:
 - 1. complement Article 8 by providing procedural details for youth participation with a view to uphold transparency and effectiveness; [par 108]
 - 2. complement the scope of Article 8 by including references to young people's basic human rights and fundamental freedoms, such as their access to information, freedom of speech and expression, association and assembly as preconditions for meaningful participation; [par 110]
- J. to consider expanding the thematic scopes of Articles 10, 20 and 25 of the Law to include topics relevant to youth and digitalization; [pars 111-112]
- K. to clearly include in the Law the overall principles and criteria for the rules of public funding, particularly the principle of non-discrimination and respect for the independence of associations, either directly or by referring to other relevant legislation; [par 120]
- L. to ensure that public funding be allocated through a transparent procedure and be accompanied by a broad informational campaign delivered to all potentially interested associations; [par 121]
- M. to ensure that future amendments to the Law are subjected to inclusive, extensive and effective consultations, including with national youth councils, non-organized young people, youth-led / youth-serving organizations and activists, offering equal opportunities for young women and men to participate. [par 129]

These and additional Recommendations, are included throughout the text of this Opinion, highlighted in bold.

As part of its mandate to assist OSCE participating States in implementing OSCE commitments, the OSCE/ODIHR reviews, upon request, draft and existing legislation to assess their compliance with international human rights standards and OSCE commitments and provides concrete recommendations for improvement.

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ANNEX: Law on Youth

I. INTRODUCTION

1. On 6 August 2021 the Head of the OSCE Mission to Serbia sent to the OSCE Office for Democratic Institutions and Human Rights (hereinafter “ODIHR”) a request for a legal review of the Law on Youth (hereinafter “the Law”) at request of the Ministry of Youth and Sports of the Republic of Serbia.
2. On 20 September 2021 ODIHR received from the OSCE Mission a forwarded letter from the Ministry of Youth and Sports indicating a timeline for the public hearings pertaining to the Law on Youth.
3. On 11 August and 23 September 2021 respectively ODIHR responded to these requests, confirming the Office’s readiness to prepare a legal opinion on the compliance of this Law with international human rights standards and OSCE human dimension commitments.
4. ODIHR conducted this assessment within its mandate to assist the OSCE participating States in the implementation of their OSCE commitments.¹

II. SCOPE OF THE OPINION

5. The scope of this Opinion covers only the Law on Youth of 2011 submitted for review. Thus limited, the Opinion does not constitute a full and comprehensive review of the entire legal and institutional framework regulating youth or young persons and children in Serbia.
6. The Opinion raises key issues and provides indications of areas of concern. In the interest of conciseness, it focuses more on those provisions that require amendments or improvements than on the positive aspects of the Law. The ensuing legal analysis is based on international and regional human rights and rule of law standards, norms and recommendations as well as relevant OSCE human dimension commitments and refers to international and regional policy documents. The Opinion also highlights, as appropriate, good practices from other OSCE participating States in this field. When referring to national legislation, ODIHR does not advocate for any specific country model; it rather focuses on providing clear information about applicable international standards while illustrating how they are implemented in practice in certain national laws. Any country example should always be approached with caution since it cannot necessarily be replicated in another country and has always to be considered in light of the broader national institutional and legal framework, as well as country context and political culture.

¹ See the OSCE Ministerial Council’s Declaration on Youth, MC.DOC/3/14, 2014, Basel, which reaffirms the contribution of youth in the implementation of OSCE commitments in all three dimensions, the Ministerial Council’s Declaration on Youth and Security, MC.DOC/5/15, 2015, Belgrade, stresses the importance of promoting the implementation of OSCE commitments on youth, particularly in the field of education, and the role young people can play in supporting participating States in implementing commitments in all three dimensions. It affirms the recognition that youth and children require particular attention and that their needs, concerns, and interests should be addressed in a comprehensive manner, and the Ministerial Council Declaration on the Role of Youth in Contributing to Peace and Security, MC.DOC/3/18, 2018, Milan, that notes United Nations Security Council Resolutions 2250 (2015) and 2419 (2018) on youth in the maintenance of international peace and security, recognizes the role youth can play in contributing to a culture of peace, dialogue, justice and peaceful coexistence, trust, and reconciliation.

7. Moreover, in accordance with the *Convention on the Elimination of All Forms of Discrimination against Women*² (hereinafter “CEDAW”) and the *2004 OSCE Action Plan for the Promotion of Gender Equality*³ and commitments to mainstream gender into OSCE activities, programmes and projects, the Opinion integrates, as appropriate, a gender and diversity perspective.
8. This Opinion is based on an unofficial English translation of the Law, which is attached to this document as an Annex. Errors from translation may result. Should the Opinion be translated in another language, the English version shall prevail.
9. In view of the above, ODIHR would like to stress that this Opinion does not prevent ODIHR from formulating additional written or oral recommendations or comments on respective subject matters in Serbia in the future.

III. LEGAL ANALYSIS AND RECOMMENDATIONS

1. RELEVANT INTERNATIONAL HUMAN RIGHTS STANDARDS AND OSCE HUMAN DIMENSION COMMITMENTS

1.1. Human rights of children

10. Currently, there is no binding international legal framework specifically for youth.⁴ A relevant international instrument with respect to children is the United Nations Convention on the Rights of the Child (UNCRC), which outlines the civic, political, economic, social and cultural rights of children, including adolescents. The following provides therefore an overview of the relevant aspects of the UNCRC in so far as they apply to only a part of the target group of the Law on Youth.
11. Article 1 of the UN Convention on the Rights of the Child defines a child as every human being below the age of 18 years, in order to ensure that the vulnerability and special status of the child is guaranteed special protection.
12. Article 4 of the Convention require states parties to take all appropriate measures, including legislative, to implement Convention rights. According to the Committee on the Rights of the Child, the provisions of the Convention must be given legal effect in domestic law⁵ and the Committee has emphasised the importance of ensuring that ‘domestic law reflects the identified general principles in the Convention, namely, Article 2 (non-discrimination), Article 3 (best interests of the child), Article 6 (survival and development) and Article 12 (right of the child to be heard).⁶ With respect to decentralisation or federalisation, through devolution or delegation, the Committee has explained that this does not ‘reduce the direct responsibility of the State party’s

2 UN Convention on the Elimination of All Forms of Discrimination against Women (hereinafter “CEDAW”), adopted by General Assembly resolution 34/180 on 18 December 1979. Ukraine deposited its instrument of ratification of this Convention on 12 March 1981.

3 See OSCE Action Plan for the Promotion of Gender Equality, adopted by Decision No. 14/04, MC.DEC/14/04 (2004), par 32.

4 Regional instruments exist, such as the African Youth Charter (AYC) and the Iberoamerican Convention on Rights of Youth (ICRY), the latter to which Spain and Portugal are also signatories.

5 Committee on the Rights of the Child, General Comment No 5. General Measures of Implementation. CRC/C/5/2003, para 19.

6 Ibid, para 22.

Government to fulfil its obligations to all children within its jurisdiction'.⁷ More specifically, States parties must ensure that any devolved authorities have 'the necessary financial, human and other resources effectively to discharge responsibilities for the implementation of the Convention'.⁸ The duty on state parties to ensure children enjoy their rights without discrimination of any kind has particular resonance in this context, given the Committee's view that 'there must be safeguards in place 'to ensure that decentralization or devolution does not lead to discrimination in the enjoyment of rights by children in different regions'.⁹

13. As noted, the UNCRC also prohibits discrimination of children in the enjoyment of Convention rights on any ground including "race", "ethnic or social origin" and "disability" (Article 2). Additionally, Article 2(2) of the Convention requires state parties to take all appropriate measures to ensure that "the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members".
14. The Committee on the Rights of the Child has highlighted the importance of training and capacity building for those responsible for implementing the Convention, including those who work with and for children. These include for instance community leaders and social workers, and the training must be systematic and ongoing. The Committee also expects to see the Convention in professional curricula and training materials.¹⁰ Relevant too is the requirement under Article 3(3) that 'institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision'. This highlights the need for specialist training, supervision and support in this area, as well as adequate and appropriate staffing in areas responsible for the care of children.
15. Under Article 12 of the Convention, children have a right to a say in all matters that affect them, with their views given due weight in accordance with their age and maturity. It is important to note that the Committee on the Rights of the Child has highlighted the provision's broad context and application, both to individual decisions that impact on children in their lives, and to broader, deliberative social processes into which children should collectively have input.¹¹ In this regard, children should be consulted about relevant laws while their right to participate in decision-making in the public sphere should also be promoted in those laws.
16. The Committee on the Rights of the Child emphasises the need for a range of approaches to ensure that children can engage in their communities at the local and national level to the greatest extent possible, through local youth parliaments, municipal children's councils, ad hoc consultations, extending consulting hours of politicians and officials, and school visits.¹² States have a duty to systematically create appropriate conditions to support children to express their views, through the development of institutionalised structures, anchored in law and policy.¹³ 'Meaningful participation' requires that states

⁷ Ibid, para 40.

⁸ Ibid, para 41.

⁹ Ibid, para 41.

¹⁰ Committee on the Rights of the Child, General Comment No 5. General Measures of Implementation. CRC/C/5/2003, para 53.

¹¹ Committee on the Rights of the Child, General Comment No 12. The right of the child to be heard. CRC/C/GC/12, para 27

¹² Committee on the Rights of the Child, General Comment No.12: The right of the child to be heard, CRC/C/GC/12 at para.127.

¹³ Committee on the Rights of the Child, General Comment No.12: The right of the child to be heard, CRC/C/GC/12 at para 49.

budget for ‘appropriate materials, mechanisms and institutions’¹⁴ and that participation is a continuous and ongoing process, rather than a one-off event.¹⁵

17. Also relevant to the Youth Law are the following provisions of the UNCRC:

- Article 15, which recognises the right of children to freedom of association and peaceful assembly; and Article 17, which highlights the important role that mass media play in ensuring that children have access to information and material from a range of sources and places obligations on states parties with regard to promoting the media’s role to ensure children have information that is of benefit to the child, with particular regard to the linguistic needs of the child from a minority group.

Article 19, which requires states parties to take all appropriate measures to protect the child from all forms of harm, injury and neglect;

- Article 28, which requires ensuring every child’s right to education and recognizing the importance of equal access and equal opportunity. In addition to provisions for vocational education and training, Article 28 (1) (d) also requires states parties to make ‘educational and vocational information and guidance available and accessible to all children’. Article 29 of the CRC requires that education be directed to the fulfilment of the child’s talents and abilities as well as respect for the rights of others, respect for their values and identities and those of others, and the natural environment.¹⁶
- Article 31, which recognises the right of the child to ‘rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts’. States must also ‘respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity’.
- Article 30, which recognises that a child from an indigenous or minority group must not be denied the right to enjoy their own culture, to profess and practise their own religion, or to use their own language. Article 42 requires states parties to make the principles and provisions of the Convention ‘widely known, by appropriate and active means, to adults and children alike’.

18. The Council of Europe Recommendation on the Participation of Children and Young People under the age of 18 years also reinforces that states should create spaces for children to participate in decision-making, including through the establishment of consultative bodies for children and young people at local, regional or national levels, such as children and youth councils, parliaments or forums.¹⁷

19. The participation of children in decision-making is a specific objective of the Council of Europe strategy on the rights of the child, with participation in political and public life a specific theme of the EU Strategy on the rights of the child.¹⁸

14 Committee on the Rights of the Child, General Comment No.12: The right of the child to be heard, CRC/C/GC/12 at para 144.

15 Committee on the Rights of the Child, General Comment No.12: The right of the child to be heard, CRC/C/GC/12 at para 133.

16 Committee on the Rights of the Child, General Comment No 1. The Aims of Education. CRC/GC/2001/1. 17 April 2001, paras. 17-28.

17 Recommendation CM/Rec(2012)2 of the Committee of Ministers to member States on the participation of children and young people under the age of 18 (Adopted by the Committee of Ministers on 28 March 2012 at the 1138th meeting of the Ministers’ Deputies)

18 Council of Europe Strategy for the Rights of the Child 2016-2021 and the EU Strategy on the Rights of the Child. 2021.

1.2. Human rights of young persons

20. With respect to youth above the age of 18, the main target group of the Law on Youth, no unified international instrument exists as of present. However, the Universal Declaration of Human Rights (1948) and the Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights of 1966 are relevant for assessing the present Law. In addition, participating States which have ratified the Convention on the Elimination of All Forms of Discrimination against Women (1979) are further committed to promoting equality for women and girls.¹⁹

1.2.1 Non-discrimination

21. Relevant international anti-discrimination obligations are extensive; primarily, the Universal Declaration of Human Rights (hereinafter “UDHR”, Article 7) and the International Covenant on Civil and Political Rights (hereinafter “ICCPR”, Article 26), contain references to the general principles of equality and non-discrimination, including with respect to a person’s “race”²⁰, colour, sex and language, among others.
22. Other more specific anti-discrimination conventions ratified by Serbia include United Nations (UN) Convention on the Elimination of All Forms of Racial Discrimination (hereinafter “CERD”), the UN Convention on the Elimination of All Forms of Discrimination Against Women, and the UN Convention on the Rights of Persons with Disabilities (hereinafter “CRPD”).²¹
23. All three of these contain general prohibitions of and obligations to combat “racial” and gender discrimination, and discrimination of persons with disabilities, respectively, and oblige state parties to ensure that all public authorities and institutions act in conformity with the obligations set out in the conventions. The above conventions also contain provisions stressing the need to have non-discriminatory legislation, and the equality of all persons before the law, with no distinction, notably in the enjoyment of, among others, political rights and in the participation in public affairs.
24. At the Council of Europe level, the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), in its Article 14, provides that “the enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”. Protocol no. 12 contains a general prohibition of discrimination.
25. Of the various OSCE commitments focusing on equal treatment, the Vienna Document is perhaps one of the most specific in stressing that all OSCE participating States commit to ensure human rights and fundamental freedoms to everyone within their territory and

¹⁹ The succession date for the ICCPR, ICESCR and CRC is 12 March 2001, Serbia ratified the CEDAW on 12 March 2001.

²⁰ While recognizing that the term “race” is a purely social construct that has no basis as a scientific concept, for the purpose of the opinion, the term “race” or “racial” may be used in reference to international instruments using such a term to ensure that all discriminatory actions based on a person’s (perceived or actual) alleged “race”, ancestry, ethnicity, colour or nationality are covered - while generally preferring the use of alternative terms such as “ancestry” or “national or ethnic origin” (see e.g., ODIHR, [Hate Crime Laws: A Practical Guide](#) (2009) pages 41-42; see also the footnote under the first paragraph of Council of Europe’s Commission on Intolerance and Racism (ECRI), [General Policy Recommendation No. 7 on National Legislation to Combat Racism and Racial Discrimination](#), adopted on 13 December 2002, where it is stated that “[s]ince all human beings belong to the same species, ECRI rejects theories based on the existence of different ‘races’. However, in this Recommendation ECRI uses this term in order to ensure that those persons who are generally and erroneously perceived as belonging to ‘another race’ are not excluded from the protection provided for by the legislation”). Except when part of a citation from a legal instrument or case law, the word “race” or “racial” is placed in quotation marks in this Opinion to indicate that underlying theories based on the alleged existence of different “races” are not accepted.

²¹ Serbia ratified the CRPD on 31 July 2009; the succession date for the CERD is 12 March 2001.

subject to their jurisdiction, without distinction of any kind based on such characteristics as, *inter alia*, a person's sex.²²

26. OSCE participating States have committed to respect for human rights and fundamental freedoms for all without distinction as to, among others, "race", sex, language and colour.²³ OSCE participating States have further committed to ensure "*equal protection of the law*" and "*equal and effective protection against discrimination on any ground*".²⁴
27. With respect to gender equality in particular, OSCE participating States have stressed the importance of ensuring equal rights of men and women and have agreed to take all actions necessary to promote equally effective participation of men and women in political, economic, social and cultural life,²⁵ including legislative measures.²⁶ OSCE participating States have also committed to respect the rights of people belonging to national minorities to equality before the law.²⁷ Additionally, in the 1991 Moscow Document, OSCE participating States decided to ensure protection of the human rights of persons with disabilities and to take steps to ensure the equal opportunity of such persons to participate fully in the life of their society.²⁸

1.2.2 Freedom of Association

28. With respect to the topic of national youth councils²⁹ or youth (led) organizations it is important to highlight the right to *freedom of association* as enshrined in Article 22 of the ICCPR,³⁰ and Article 11 of the ECHR³¹. The right to freedom of association is "*an essential prerequisite for other fundamental freedoms*".³² It is closely intertwined with the right to freedom of expression, the right to freedom of religion, the right to privacy or

22 CSCE Concluding Document of Vienna – The Third Follow-Up Meeting, Vienna, 15 January 1989, Questions Relating to Security in Europe, Principles, par 13.8.

23 Conference on Security and Co-operation in Europe (CSCE), Final Act, Questions Relating to Security in Europe: 1(a) "Declaration on Principles Guiding Relations between Participating States – Principle VII", Helsinki, 1975; and OSCE Concluding Document of Vienna – Third Follow-up Meeting, Questions Relating to Security in Europe: Principles, Vienna, 1989, par 13.7.

24 CSCE/OSCE, 1990 Copenhagen Document, par 5.9; see also, pars 25.3 and 25.4: "measures derogating from obligations will be limited to the extent strictly required by the exigencies of the situation" and "will not discriminate solely on the grounds of race, colour, sex, language, religion, social origin or of belonging to a minority"; and OSCE Decision no. 10/05 Tolerance and Non-discrimination: Promoting Mutual Respect and Understanding, MC.DEC/10/05, adopted at the Ministerial Council in Ljubljana, 6 December 2005, pars 4, 5 and 5.1.

25 CSCE/OSCE, 1983 Madrid Document, Questions Relating to Security in Europe: Principles.

26 CSCE/OSCE, Concluding Document of Vienna – Third Follow-up Meeting, Questions Relating to Security in Europe: Principles, Vienna, 1989, par 15.

27 CSCE, Final Act, Questions Relating to Security in Europe: 1(a) "Declaration on Principles Guiding Relations between Participating States – Principle VII", Helsinki, 1975. See also the CSCE/OSCE, 1990 Copenhagen Document, where States added a commitment to refrain from discriminating persons based on their belonging to a minority (par 25.4).

28 OSCE, 1991 Moscow Document, pars 41.1–41.3.

29 European Youth Forum, Policy Paper on the Independence of National Youth Councils, 15–17 November 2001 at <https://tools.youthforum.org/policy-library/wp-content/uploads/2021/04/2001-independent-NYCs.pdf>.

30 Article 22(2) of the ICCPR stipulates that "(n)o restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others".

31 Article 11(2) of the ECHR stipulates that "(n)o restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others".

32 See CDL-AD(2011)035, Opinion on the compatibility with human rights standards of the legislation on non-governmental organisations of the Republic of Azerbaijan, para. 45; and CDL-AD(2012)016, Opinion on the Federal law on combating extremist activity of the Russian Federation, para. 64.

the prohibition of discrimination. It is “*an individual human right which entitles people to come together and collectively pursue, promote and defend their common interests*”.³³

29. The right to freedom of association is at the core of a modern democratic and pluralistic society. It serves “*as a barometer of the general standard of the protection of human rights and the level of democracy in the country*”.³⁴ Although freedom of association is not an absolute right, it can be limited, or derogated from, only under the strict conditions stipulated in human rights instruments. Any limitation must be prescribed by law in clear and precise terms, it must be accessible and foreseeable and the law must be sufficiently clear and detailed in its terms to give an adequate indication as to the circumstances in which and the conditions under which public authorities are empowered to resort to an interference with the right concerned.³⁵ The restriction must further be necessary and proportional.
30. Soft law instruments dealing with freedom of association include: the Guidelines *The Legal Status of Non-Governmental Organisations and their Role in a Pluralistic Democracy*, adopted at a Multilateral meeting organised by the Council of Europe on 23 - 25 March 1998; *UN Declaration on Human Rights Defenders* of 8 March 1999;³⁶ the *Fundamental Principles on the Status of Non-governmental Organisations in Europe*, adopted by multilateral meetings organised by the Council of Europe in 2001-2002 and the *Recommendation of the Committee of Ministers of the Council of Europe CM/REC(2017)14 on the Legal Status of Non-Governmental Organizations in Europe* of 10 October 2007.³⁷
31. The OSCE participating States have committed to “ensure that individuals are permitted to exercise the right to association, including the right to form, join and participate effectively in non-governmental organizations” (Copenhagen Document, 1990) and to “enhance the ability of NGOs to make their full contribution to the further development of civil society and respect for human rights and fundamental freedoms” (Istanbul Document, 1999).
32. ODIHR, together with the Venice Commission, produced in 2014 *Joint Guidelines on Freedom of Association*³⁸ which give an overview of international standards applicable in this area. Concerning the right to freedom of association which grants individuals the right to establish associations and to determine their goals, Principle 4 of the Guidelines on Freedom of Association expressly stipulates that “*(f)ounders and members of associations shall be free in the determination of the objectives and activities of their associations, within the limits provided for by laws that comply with international*

33 CDL-AD(2011)035, Opinion on the compatibility with human rights standards of the legislation on non-governmental organisations of the Republic of Azerbaijan, §40.

34 CDL-AD(2011)035, Opinion on the compatibility with human rights standards of the legislation on non-governmental organisations of the Republic of Azerbaijan, §41.

35 Human Rights Committee, 14 July 1995, *De Groot v. The Netherlands*, no. 578/1994 and ECtHR 26 April 1979, *The Sunday Times v. UK*, no. 6538/74, para. 49.

36 UN Doc. A/RES/53/144, *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, 8 March 1999.

37 Recommendation CM/REC(2007)14 on the Legal Status of Non-Governmental Organizations in Europe, 10 October 2007.

38 CDL-AD(2014)046, *Joint Guidelines on Freedom of Association*, Study no. 706/2012 OSCE/ODIHR Legis -Nr: GDL-FOASS/263/2014, 17 December 2014.

standards”. The Venice Commission has also dealt with freedom of association in a number of opinions.³⁹

33. All of the above-mentioned instruments recognise the important role that civil society organisations (CSOs) play in modern democratic societies. CSOs allow young persons to associate in order to promote certain goals and/or pursue a certain agenda. As a form of public engagement parallel to that of the participation in the formal political process, CSOs have to cooperate with public authorities while, at the same time, keep their independence. Both members of CSOs and CSOs themselves are the holders of human rights. Moreover, the state has the obligation to respect, protect and facilitate the exercise of the right to freedom of association, including by youth or youth-led organizations.⁴⁰

1.2.3 Access to Information

34. It is important to reiterate that any transparent and democratic government is obligated to provide its population with access to public documents. This is specified in international human rights instruments including Article 19 ICCPR which focuses on the right to freedom of expression, including the freedom “to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of [one’s] choice.”
35. The 2011 UN Human Rights Committee General Comment No. 34 on Freedoms of Opinion and Expression provides further guidance on the shaping of freedom of information laws. This includes a general right of access to information held by public bodies, as embodied in relevant legislation.⁴¹ The right protected by Article 19 of the ICCPR, is, however, not unlimited. It may be restricted by law, but only in cases where this is necessary for the respect of the rights or reputations of others, for the protection of national security or of public order, or of public health or morals.

1.3. Youth-focused international documents

36. Despite the lack of an international legal framework pertaining to youth over 18 years specifically, multilateral organizations such as the OSCE, the United Nations, the Council of Europe, the European Union, and their respective subsidiary agencies or organizations

39 See CDL-AD(2011)035, Opinion on the compatibility with human rights standards of the legislation on non-governmental organisations of the Republic of Azerbaijan, Opinion No. 636/2011, 19 October 2011; CDL-AD(2013)023, Interim Opinion on the Draft Law on Civic Work Organisations of Egypt, Opinion No. 732/2013, 18 June 2013; CDL-AD(2013)030, Joint Interim Opinion on the Draft Law amending the Law on Non-commercial Organisations and other Legislative Acts of the Kyrgyz Republic, Opinion No. 738/2013, 16 October 2013; CDL-AD(2014)025, Opinion on Federal Law N. 121-FZ on non-commercial organisations (“law on foreign agents”), on Federal Laws N. 18-FZ and N. 147-FZ and on Federal Law N. 190-FZ on making amendments to the criminal code (“law on treason”) of the Russian Federation, Opinions No. 716-717/2013, 27 June 2014; CDL-AD(2014)043, Opinion on the Law on Non-Governmental Organisations (Public Associations and Funds) as Amended of the Republic of Azerbaijan, Opinion No. 787/2014, 15 December 2014; CDL-AD(2016)020, Opinion on Federal Law No. 129-FZ on Amending Certain Legislative Acts (Federal Law on Undesirable Activities of Foreign And International Non-Governmental Organisations), Opinion No. 814/2015, 13 June 2016.

40 See Principle 2 of the Guidelines on Freedom of Association. According to the ECtHR, “genuine and effective respect for freedom of association cannot be reduced to a mere duty on the part of the State not to interfere (ECtHR, *Ouranio Toxo and Others v. Greece* (Application no. 74989/01, judgment of 20 October 2005), para. 37 and “[t]he Convention is intended to guarantee not rights that are theoretical or illusory but rights that are practical and effective” (*Airey v. Ireland* (Application no. 6289/73, judgment of 9 October 1979).

41 See the UN Human Rights Committee General Comment No. 34, Freedom of Opinion and Expression (Article 19), CCPR/C/GC/34, July 21, 2011, paragraphs 18 and 19. See also Principle 11 of the Johannesburg Principles on National Security, Freedom of Expression and Access to Information, adopted on 1 October 1995

have adopted numerous resolutions, declarations, commitments, and strategies to improve the lives of young people.

37. In 1996 the UN General Assembly adopted the World Programme of Action on Youth (WPAY). The WPAY outlines 15 priority areas of action and every two years the General Assembly negotiates a resolution on youth as a follow-up to the WPAY. It provides a policy framework and plan of action for strengthening national capacities in the field of youth and to increase the opportunities available to young people to participate in society.
38. The UN Security Council Resolution 2250 (2015) on Youth, Peace and Security⁴² recognizes the important and positive role of young people and delivers a clear message that active measures should be taken for the participation of youth in promoting a culture of peace, as well as in conflict prevention and resolution. The UNSC Resolution 2535 adopted in 2020⁴³ underscored the role of youth in preventing and resolving conflict, as well as in building and maintaining peace, encouraging Member States to include young people in decision-making processes across these areas.
39. The challenges and discrimination faced by young people when trying to access their rights have been recognized by the United Nations Office of the High Commissioner for Human Rights (OHCHR). Pursuant to Human Rights Council Resolution 35/14, the OHCHR published a report in 2018 on youth and human rights ().⁴⁴
40. The UN 2030 Agenda for Sustainable Development (2015) provides the overarching framework for global development through 2030. Although the 17 Sustainable Development Goals (SDGs) do not specifically mention young people, the needs and role of youth are addressed in some of the SDG targets and indicators. There are 20 youth-specific targets spread over six SDGs such as Goal 2 (hunger), Goal 4 (education), Goal 5 (gender equality), Goal 8 (decent work), Goal 10 (inequality), and Goal 13 (climate change). Finally, the Youth 2030: The United Nations Youth Strategy (2018) aims at guiding the entire UN system as it accelerates its work to empower young people to realize their full potential.
41. The UN Youth Strategy 2030⁴⁵ aims to facilitate increased impact and expanded global, regional and country-level action to address the needs, build the agency and advance the rights of young people in all their diversity around the world, and to ensure their engagement and participation in the implementation, review and follow-up of the 2030 Agenda for Sustainable Development as well as other relevant global agendas and frameworks. The five priority areas are engagement, participation and advocacy, supporting young people's greater access to quality education and health services, economic empowerment through decent work, youth and human rights, and peace and resilience building.
42. Over the years, the Council of Europe has developed a variety of principles, objectives and values that should underpin *youth policies*. These include to invest purposefully in young people in a coherent and mutually reinforcing way, to involve young people both in the strategic formulation of youth policies and in eliciting their views about the

42 UN Security Council, Resolution 2250, S/RES/2250, 9 December 2015 at [https://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2250\(2015\)&referer=/english/&Lang=E](https://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2250(2015)&referer=/english/&Lang=E).

43 UN Security Council, Resolution 2535, S/RES/2535, 14 July 2020 at [https://undocs.org/en/S/RES/2535\(2020\)](https://undocs.org/en/S/RES/2535(2020)). See also, UN Security Council, Resolution 2535, S/RES/2419, 6 June 2018.

44 A/HRC/39/33, Youth and human rights - Report of the United Nations High Commissioner for Human Rights, 28 June 2008.

45 See: https://5d962978-9e17-4b96-91be-93983605fae8.filesusr.com/ugd/b1d674_9f63445fc59a41b6bb50cbd4800922b.pdf

operational effectiveness of policy implementation, to create the conditions for learning, opportunity and experience for youth to play a full part in both the labour market and in civil society, to establish systems for robust data collection both to demonstrate the effectiveness of youth policies and to display a commitment to reducing such ‘policy gaps’.⁴⁶

43. At the Council of Europe, the revised European Charter on the Participation of Young People in Local and Regional Life (non-legally binding) aims to promote youth participation at the local and regional levels.⁴⁷ More guidance can also be derived from the recommendations adopted by the Council of Europe’s Committee of Ministers. They cover topics such as youth participation⁴⁸, with respect to youth and information⁴⁹, inclusion⁵⁰, young people’s access to rights⁵¹, youth work⁵², and mobility⁵³.
44. The Council of Europe has adopted several instruments in order to promote and safeguard good practice in youth work. In the 2017 Recommendation on Youth Work, the Committee of Ministers highlighted the need for ‘strategies, frameworks, legislation, sustainable structures and resources’ to ‘promote equal access to your work for all young people. The importance of actively engaging both youth workers and young people in any such planned measures was also highlighted.
45. In addition, Agenda 2020 (2008)⁵⁴ is a medium-term strategic document on youth policy approved by the youth ministers of member states. It identifies human rights and democracy, living together in diverse societies, and the social inclusion of young people as priorities for the Council of Europe. Based on evaluations of the implementation of

46 See the Council of Europe, self-assessment Tool for Youth Policy, 2018 at <https://rmcoe.int/self-assessment-tool-for-youth-policy-english/16808d76c5>

47 As adopted by the Congress of Local and Regional Authorities of Europe (10th session – 21 May 2003 – Appendix to Recommendation 128) at <https://rmcoe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168071b4d6>

48 Recommendation Rec(2006)14 of the Committee of Ministers to member States on citizenship and participation of young people in public life, https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805b251a, Recommendation Rec(2006)1 of the Committee of Ministers to member States on the role of national youth councils in youth policy development https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805d8ca, Recommendation Rec(2004)13 of the Committee of Ministers to member States on the participation of young people in local and regional life https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805bd33, Recommendation on participation of children and young people under the age of 18, https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805d8caa

49 Recommendation CM/Rec(2010)8 of the Committee of Ministers to member States on youth information at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cecd8, and Recommendation No. R (90)7 of the Committee of Ministers to member States concerning information and counselling for young people in Europe at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805041d0. Other relevant Council of Europe’s initiatives: – Internet Governance Strategy 2016-2019 and Recommendation R(97)20 of the Committee of Ministers to member States on “hate speech” – No Hate Speech Movement Campaign.

50 Recommendation CM/Rec(2015)3 of the Committee of Ministers to member States on the access of young people from disadvantaged neighbourhoods to social rights at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c46f7, and Recommendation CM/Rec(2016)7 of the Committee of Ministers to member States on young people’s access to rights at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016806a93e2.

51 Recommendation CM/Rec(2016)7 of the Committee of Ministers to member States on young people’s access to rights at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016806a93e2, and Recommendation CM/Rec(2010)7 of the Committee of Ministers to member States on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c01f

52 Recommendation CM/Rec(2017)4 of the Committee of Ministers to member States on youth work at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680717e78

53 Mobility Resolution (91) 20 instituting a partial agreement on the Youth Card for the purpose of promoting and facilitating youth mobility in Europe at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016804d5925, and Recommendation R (95) 18 of the Committee of Ministers to member States on youth mobility at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016804d6172.

54 8th Council of Europe Conference of Ministers responsible for Youth, “The future of the Council of Europe youth policy: AGENDA 2020”, Kyiv, Ukraine 10-11 October 2008. See: <https://rmcoe.int/1680702428>.

Agenda 2020, a new youth sector strategy, formally adopted by member states on 22 January 2020, has been developed for the period 2020- 2030. Based on the organization's core values of democracy, human rights and the rule of law, the strategy provides policy guidance and a broad political roadmap for the youth sector.

46. The Declaration on the Second European Youth Work Convention (2015) addresses member states, multilateral organizations, other European institutions, and political structures concerned with young people at national, regional and local level, the youth work field and young people themselves. The declaration underscores the contribution of youth work to the development of young people and society and the need for greater support to youth work in Europe. The Council of Europe Youth Strategy 2030 (2019)⁵⁵ is a policy document to empower young people to participate in pluralist democracy and to promote human rights, in order to build inclusive societies based on being equal in dignity and rights. Its four thematic priorities include revitalising pluralistic democracy, young people's access to rights, living together in peaceful and inclusive societies, and youth work.
47. As a candidate country to join the European Union (hereinafter "EU"), Serbia has undertaken steps to make its legislation compliant with the EU acquis.⁵⁶ In May 2018, the European Commission published its proposal for a renewed EU Youth Strategy⁵⁷ – a new framework for co-operation on youth for the period 2019-2027. Building on the achievements of the previous EU Youth Strategy, the Strategy focuses on three areas of action, namely to encourage young people's participation in civic and democratic life, to connect young people across the EU and beyond to promote volunteering, opportunities to learn abroad, solidarity and intercultural understanding and to support youth empowerment through boosting innovation in, as well as the quality and recognition of youth work. It also includes 11 EU Youth Goals. These goals reflect the views of European youth and represent the vision of those active in the EU Youth Dialogue.⁵⁸
48. The OSCE's commitment to promote the role and inclusion of youth in its peace and security agenda dates back to the Organization's founding document, the Helsinki Final Act, in which participating States committed to furthering the development of contacts and exchanges between young people. Since then, a number of commitments have been adopted across all three dimensions, including those related to the freedom of the media, non-discrimination, countering violent extremism and radicalization leading to terrorism, education, and national minorities, which explicitly recognize the importance of the role of youth in the Organization's work in these fields.⁵⁹
49. More recently, participating States have adopted Ministerial Council Declarations focused exclusively on youth and their ability to contribute to the implementation of OSCE commitments, as well as on their constructive role in peacebuilding. The Basel Ministerial Council reaffirms the contribution of youth in the implementation of OSCE commitments in all three dimensions. The Belgrade Ministerial Council stressed the importance of promoting the implementation of OSCE commitments on

⁵⁵ The Youth sector strategy 2030 was adopted by the Council of Europe Committee of Ministers on 22 January 2020 and is to be found in Committee of Ministers' Resolution (2020)2.

⁵⁶ After having been awarded candidate status in 2012, Serbia and in 2014 Serbia's accession negotiations started formally. The enlargement and the stabilisation and association process with the EU is currently ongoing.

⁵⁷ The Strategy was approved in November 2018.

⁵⁸ https://europa.eu/youth/strategy/european-youth-goals_en

⁵⁹ See also, OSCE, Youth and Security Education: Compilation of OSCE Commitments, January 2019 at <https://www.osce.org/secretariat/455512>.

youth, particularly in the field of education, and the role young people can play in supporting participating States in implementing commitments in all three dimensions. It affirms the recognition that youth and children require particular attention and that their needs, concerns, and interests should be addressed in a comprehensive manner. The Milan Ministerial Council Declaration notes UNSC Resolutions 2250 (2015) and 2419 (2018) on youth in the maintenance of international peace and security, and recognizes the role youth can play in contributing to a culture of peace, dialogue, justice and peaceful coexistence, trust, and reconciliation. The Youth Declaration adopted at the OSCE 2017 Youth Conference provides a Decalogue of recommendations.⁶⁰

50. Relevant outcomes of international conferences include the Lisbon Declaration on Youth Policies and Programmes (1998),⁶¹ which, reaffirmed in the Lisboa+21 Declaration on Youth Policies and Programmes (2019),⁶² commits nations and the international community to taking actions in areas such as youth participation, development, peace, education, employment, health, and drug and substance abuse.
51. The 2014 Baku Commitment to Youth Policy, organized by the Global Forum for Youth Policies,⁶³ lays out guiding principles for national youth policy-making and promotes a rights-based approach for youth policies across the globe.

1.4. Youth mainstreaming

52. The OSCE publication “Working with and for youth - Guidelines for youth mainstreaming” notes that “youth mainstreaming does not rely on a specific set of human rights instruments, such as for example the Beijing Platform for Action which is a powerful tool for promoting gender equality. Promoting youth mainstreaming thus requires assessing and abiding by relevant legislative or regulatory frameworks.” The UN Economic and Social Council provides the following definition of youth mainstreaming :
“The process of assessing the implications (for youth) of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making (youth) concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes, in all political, economic and social spheres so that (youth) benefit equally and inequality is not perpetuated.”
53. Within the OSCE, the Secretary General’s Framework defines it as “a strategic approach to systemically and meaningfully integrating youth perspectives into all three dimensions of security. It follows a comprehensive youth responsive approach by engaging young women and men in policy discussions and programmatic processes, responding to the needs of youth and taking them into consideration in any area and stage of a policy or project; and assessing the impact on young people of any planned action.”⁶⁴

60 OSCE, Youth Declaration adopted at the Youth Conference, Malaga, 2017 at <https://www.osce.org/secretariat/319896>.

61 World Conference Of Ministers Responsible For Youth Concludes 8 - 12 August, Lisbon, https://www.youthpolicy.org/library/wp-content/uploads/library/1998_Lisbon_Declaration_Eng.pdf.

62 See: https://www.youthforum.org/sites/default/files/2019-06/Lisboa%2B21_Declaration_on_Youth_Policies_and_Programmes%20%283%29.pdf

63 The Forum is convened by the United Nations Secretary-General’s Envoy on Youth together with UNESCO, the United Nations Development Programme (UNDP), and the Council of Europe.

64 OSCE, Evaluation of the OSCE’s Work with and for Youth, May 2020, p.10 at: https://www.osce.org/files/f/documents/b/1/486457_1.pdf

2. BACKGROUND

54. Youth comprise approximately 16.47 per cent of the total population of Serbia.⁶⁵ The Law on Youth of Serbia adopted in 2011 is a positive step by the Government of Serbia in creating a legal framework that supports young people to develop socially, economically, and culturally, and provide them a space, institutional channels, and public funding to mainstream the needs and interest of young people across different areas. Being able to articulate this and institutionalize this in the country's law, identifying young people as key agents and stakeholders legally, is a welcome step.
55. Article 1 of the Law provides the scope and purpose of the law: "The Law regulates measures and activities undertaken by the Republic of Serbia, autonomous province, and local self-governments aimed at improving the social status and position of youth and at creating conditions for addressing young people's needs and interests in all the areas of interest for young people. The Purpose of the Law is to create conditions for supporting young people in organization, social activism, development and fulfilment of their potential for their own and for the benefit of the society."
56. The adoption of a national strategy is envisaged by the Law. The current National Youth Strategy has nine strategic goals. These include:
- Employability and employment of young women and men;
 - Quality and opportunities for acquiring qualifications and development of competencies and innovation of young people;
 - Active participation of young women and men in society;
 - Health and well-being of young women and men;
 - Conditions for the development of youth safety culture;
 - Support to social inclusion of young people at risk of social exclusion;
 - Mobility and scope of international youth co-operation and support for young migrants;
 - System of informing young people and knowledge about young people;
 - Consumption of culture and participation of youth in the creation of cultural programme.
57. The accompanying Action Plan 2018-2020 defines the activities to be implemented in the two-year period and provides direction to institutions, organizations, individuals, and other stakeholders to implement the goals of the Strategy. The Strategy and Action Plan are implemented by the Ministry of Youth and Sports with the involvement of bodies in charge of specific areas in the youth sector and all other youth policy actors at the national, provincial, and local levels.
58. The main national youth policy actors in Serbia are the Ministry of Youth and Sports including the Ministry's the Government Youth Advisory Body;⁶⁶ KOMS, the highest representative body of youth in Serbia consisting of a network of 108 organizations of youth and for youth; the National Association of Youth Workers (NAPOR), the

⁶⁵ Krovna organizacija mladih Srbije (KOMS), Alternative report on position and needs of youth, 2021, p.12. At: <https://koms.rs/wp-content/uploads/2021/05/Alternative-Report-of-1-1.pdf>

⁶⁶ While throughout the document reference is made to 'youth council' in line with the terminology used in the Law on Youth, it must be clarified that 'youth council' is a reference to the Government's Advisory Council on Youth and is not a reference to the KOMS, or National Youth Council, which is an independent body.

vocational and representative union of over 50 organizations which aims to create and develop conditions for quality assurance and recognition of youth work; and the Association of Youth Offices (KZM), the association of the 110 towns and municipalities which have established youth offices that actively engage in the development of local youth policy.

3. DEFINITION OF YOUTH AND AGE LIMIT

59. There is no universally recognized definition of youth. Falling between childhood and adulthood, youth is a period of semi-dependency during which a person is aiming to achieve personal autonomy while still remaining dependent on parents or the state.⁶⁷ There is no consensual definition of youth in the OSCE. A recent publication from the Office of the Secretary General suggests operating according to the definition proposed by UNSC Resolution 2250 (2015), namely 18 to 29 years old. However, legal definitions of participating States should also be taken into account.⁶⁸
60. The Law defines ‘youth’ or ‘young person’ as persons from 15 to 30 years of age and therefore international children’s rights law is relevant, in part. In its 2017 Concluding Observations, the Committee on the Rights of the Child raised a concern that Serbia had not adopted a statutory definition of ‘child’ in line with the Convention.⁶⁹ It recommended that a national legislative instrument be enacted that would provide a statutory definition of the term “child” in line with Article 1 of the Convention.
61. Acknowledging the particular status and vulnerability of children under 18 years, the Law should set out how these rights are to be protected or make reference to relevant existing domestic legislation. In particular, and at a minimum, consideration should be given to the importance of ensuring that children under 18 years are protected from harm so that in any youth activity, children are safeguarded from ill-treatment and abuse. **In line with the CRC, it is recommended that a distinction be drawn between those under 18 years, who are entitled to special protection as outlined above and should receive benefits of their special status, and those over 18 years.** Regardless, the Law should ensure that children under 18 years receive all the benefits of their special status, as recognised by the CRC.
62. From the OECD Youth Stocktaking report⁷⁰ it is observed that countries in the OECD region have different approaches to age ranges that are covered in their respective youth laws and that most of these laws do not make a clear distinction between young persons above and below majority age. It notes that age is increasingly viewed as an insufficient indicator of a young person’s transition into adulthood’s independence. It observes youth is a fluid category rather than a fixed age-group and that “none of the reviewed laws recognises youth as a heterogeneous group”⁷¹. **Consideration may be given to taking a flexible approach alongside age delineations when reforming the Law, whilst taking into account that those under 18 are entitled to the special protection of UNCRC.**

67 Sen, A. and Kakar, R. Global Youth Development Index and Report 2016, London, Commonwealth Secretariat, 2016, p. 6-7.

68 OSCE, Working with Youth and for Youth: Framework for Strengthening OSCE Efforts on Youth and Security, 2019.

69 Committee on the Rights of the Child, Concluding observations on the combined second and third periodic reports of Serbia. CRC/C/SRB/CO/2-37 March 2017, para 20.

70 Organisation for Economic Co-operation and Development (OECD), Youth Stocktaking Report, at <https://www.oecd.org/gov/youth-stocktaking-reportpdf> par. 160-162.

71 Organisation for Economic Co-operation and Development (OECD), Youth Stocktaking Report, at <https://www.oecd.org/gov/youth-stocktaking-reportpdf> par. 160-162.

63. **In view of the above, it is also of importance that the same definition is used in other children and young people's related legislation.**

RECOMMENDATION A.

To draw a distinction, in line with the UNCRC, between those under 18 years, who are entitled to special protection and should receive benefits of their special status, and those over 18 years.

4. SCOPE OF THE LAW

64. There are several areas where the terminology or phrasing used in the Law is ambiguous and may be open to broad interpretation or misinterpretation. It is acknowledged however that this is not uncommon within the youth regulatory field; several key terms and concepts have neither universally accepted legal nor theoretical definitions. Taken in isolation none of these areas or ambiguities are especially problematic. However, linked to this, some of the tone and approach of the Law may risk overemphasising young people in the service of others, including broader society, rather than as **rights-holders**.⁷²
65. It might therefore be beneficial to replace some of the ambiguous terms and phrases with rights-based terminology. This would give the Law a more coherent rights-based approach and allow stronger connection to international standards. Doing this would:
- Help promote the rights of young people more effectively;
 - Increase the possibility for effective implementation and evaluation of programmes by reducing conceptual ambiguity;
 - Set stronger, rights-based standards by which the state can be held to account; and
 - Enable the international human rights framework and its monitoring processes to be used as a benchmark in the implementation of the Law.
66. Article 1 of the Law provides that it regulates measures and activities that are '*aimed at improving the social status and position of youth*'. Whilst not inherently problematic, this phrase could benefit from a clearer definition as 'social status and position' has no clear conceptual, theoretical or legal basis. As such, defining what improvements in 'status and position' are, or evaluating when they have been achieved by the Law will be left to a high degree of interpretation. Similar observations apply to the term '*social empowerment*' in Article 3. Although this is commonly used within the youth sector and

⁷² For example the youth law of Romania (no. 350 of July 21, 2006) provides in Article 2 that:

'1. The State shall ensure, in compliance with the principle of transparency, a special regime for the protection and assistance of young people in the exercise of their rights...'

The youth law of Bulgaria (2012) provides direction for the state youth policy in Article 3:

'The main principles of the state youth policy are: 1. Legitimacy, visibility, equality in rights, purposefulness, system method and succession of state, municipality and society policies for the growth of youth. 2. Coordination of youth policies in the field of education, social policy, health services, culture, sport, justice, internal affairs and defence. 3. Coordination of state youth policy with youth policies implemented within/by the European Union, Council of Europe, United Nations Organization. 4. Integration of policies for children and youth. 5. Guaranteed participation of young people in the formation of youth policy. 6. Freedom of associating of young people, freedom for youth initiatives, self-government of youth organizations. 7. Decentralization of youth policies.'

youth policy, this term has no single accepted theoretical or legal definition, and is open to interpretation.

67. Another instance of vague and broad terminology is the reference to the “*social role of young people*” in Article 7. It potentially implies that one of the main purposes of the Law is the instrumentalisation of young people in support of, or in service of society. This is further reinforced by Article 9 in which the phrase “*young people should actively contribute to*” seems to place an obligation on young people to volunteer in support of society and uphold social values.
68. There is scope for policy or legal measures to encourage young citizens to recognise their duties and responsibilities toward society.⁷³ However, without other active references to young people as rights-holders elsewhere within the Law, the current Law overemphasises the responsibilities of young citizens towards society at the expense of their rights. This would inadvertently also impact in the ways in which policies are formulated. **It is recommended to consider alternative phrases to remove this ambiguity and reinforce a rights-based approach with a direct reference to young people enjoying human rights and fundamental freedoms, and their role in democratic processes, while in parallel supporting young people's independence and active participation in political and public life.** With respect to Article 7 and the reference to “social role” specifically, if clearer references to young persons as rights holders are incorporated into other articles, retaining a concept of “social role” within Article 7 may be acceptable. The issue to be addressed in the Law is the balance of emphasis between rights and responsibilities rather than the removal of responsibilities.⁷⁴
69. Article 2 defines youth policy and youth sector and identifies those who are responsible for implementing these policies. **However, the provisions would benefit from clarity by including how the youth policy fits within the Government programmes and relate to regional and international youth-focused instruments.** Including such links would reinforce the idea that ‘youth’ is a cross-sectoral focus area and should penetrate all relevant institutions and strategies, policies and regulatory measures.
70. Although the Law contains the **principle of equality and non-discrimination** in Article 5, there are no specific provisions for the active support of young people from marginalised and vulnerable groups. Such groups include, but are not limited to, girls and young women, Roma and Sinti youth, young persons with disabilities, young refugees and asylum seekers, young persons from ethnic or religious minorities, and young persons in alternative care. One of the principles of the National Youth Strategy⁷⁵ is promoting equal opportunities for all. Given the wide variety of international human rights instruments directed to the protection of marginalised groups, the Law would benefit

73 See 11.5 Council of Europe (2015) Revised European Charter on the Participation of Young People in Local and Regional Life

74 See OECD Youth Stocktaking Report, at <https://www.oecd.org/gov/youth-stocktaking-report.pdf>, par. 172-173, provides: “...OECD youth laws focus heavily on youth autonomy and political participation objectives to support young people's independence and active citizenship. This approach is particularly pronounced in the youth laws of Finland, Sweden, Iceland, Switzerland and Luxembourg...”

Other countries rely more on a rights-based approach to youth policy integrating the norms, standards and principles of the international human rights system into the development, implementation and evaluation of youth policy. For instance, the youth laws in Slovenia and Latvia most explicitly employ rights-based references by emphasising principles like equal opportunity, democracy, plurality, integrity, intergenerational solidarity, equality, non-discrimination and justice in delineating lawful claims of youth. However, most of the countries to some extent incorporate rights-based references. By example, Sweden takes a rights-based approach specifically vis-à-vis the management of youth living conditions, stressing that young people must have real welfare benefits.”

75 See Serbia National Youth Strategy, <https://mos.gov.rs/public/documents/upload/sport/inspekcija/Nacionalna%20strategija%20za%20mlade%20-%20ENG.pdf>, 3.2 principles.

from inclusion of references to young people from traditionally marginalised groups or by including a reference to relevant domestic legislation in Article 5.

71. In this light, when pursuing youth mainstreaming it is important to always keep in mind an intersectional approach to youth. It is **recommended to include an intersectional lens to youth across the Law to ensure that youth from different backgrounds, with different access needs and issues are taken into account in the development of strategies and programmes, and provision of funding to youth actors to address specific challenges they face. In this light, in addition to gender equality, it is recommended to include specific references across the Law to young persons with disabilities, young refugees and asylum seekers, young persons from ethnic or religious minorities, and young persons in alternative care.**
72. In 2017, the Human Rights Committee⁷⁶ raised concerns about the discrimination experienced by the Roma community, their lack of representation in state bodies at national and local levels in Serbia and the absence of robust structures for preventing and responding to discrimination there. Also in 2017, the Committee on the Rights of the Child made several recommendations regarding the need to address discrimination against children contrary to the Convention, identifying a range of legal and non-legal measures. A number of recommendations were made also with regard to combatting disparities in access to education, addressing regional variations and particular issues faced by Roma children.⁷⁷
73. Express provision should be made for measures to combat stigmatisation and discriminatory treatment including unequal access to youth activities within the scope of the Law. **Article 5 should be explicitly strengthened to prohibit discrimination against children and young persons from Roma and minority communities and based on ethnicity.**
74. Finally, to enhance the legibility of the Law, it is generally recommended to introduce paragraph sequencing by including into each article paragraph numbering as relevant. For example, Article 14 refers to ‘paragraph 3 of this Article’ although the Article does not contain any numbering of the paragraphs.

RECOMMENDATION B.

To reinforce throughout the Law a rights-based approach with a direct reference to young people enjoying human rights and fundamental freedoms, and their role in democratic processes while in parallel supporting young people's independence and active participation in political and public life.

RECOMMENDATION C.

To include an intersectional lens to youth across the Law to ensure that youth from different backgrounds, with different access needs and issues are taken into account in the development of strategies and programmes, and in provision of funding to youth actors to address specific challenges they face.

⁷⁶ Human Rights Committee, Concluding Observations on the third periodic report of Serbia, CCPR/C/SRB/CO/3, 10 April 2017.

⁷⁷ Committee on the Rights of the Child, Concluding observations on the combined second and third periodic reports of Serbia. CRC/C/SRB/CO/2-37 March 2017.

5. YOUTH ACTORS: YOUTH ORGANIZATIONS AND NATIONAL YOUTH COUNCIL

75. Chapter III of the Law on Youth deals with youth associations. Article 13 concerns the establishment of youth associations for the ‘*purposes of carrying out youth activities, improving conditions for personal and social development of young people according to their needs and abilities and for the purpose of including young people in the social life...*’ and Article 14 concerns federations of youth associations.
76. Organizations focused on youth and children’s organizations may be subject to special provisions in law. Such special provisions may recognize the differing needs of these associations and, thus, should be aimed at facilitating their operations and not at hampering them. Provisions that favour certain types of associations have to be in keeping with the principles of equal treatment and non-discrimination.⁷⁸
77. The scope of Article 13 limits youth organizations to those that contribute to the personal and social development of young people, excluding those that support young persons’ roles in public and political spaces. **It is recommended to revise this provision to ensure it promotes youth civil society across various sectors including public and political contexts and therewith reinforcing the role of youth as right-holders.** Ensuring the effective implementation and co-ordination of youth initiatives requires the identification of clear roles and responsibilities across governmental and non-governmental stakeholders.⁷⁹
78. It is important to foster an enabling environment for national and local youth councils, youth associations and others such as activists and human rights defenders as they can provide governments the support to reach a wider youth audience and address their specific expectations. Youth associations, through youth work, can also assume an important role through non-formal education focusing on young persons. A national youth council can be understood as independent⁸⁰ from Government, based on the rights of freedom of expression and freedom of association, with the right to determine their own working organisation and methods⁸¹ that are typically democratic in nature⁸². They are bodies led and formed of young people, who act to represent young people’s interest in governance and to promote young people’s rights. Whilst it is not universal, the large majority of National Youth Councils in Europe are non-governmental in nature and governed by general legislation on associations and NGOs⁸³.
79. From the OECD Youth stocktaking report it can be observed that all OECD countries with youth laws include provisions on the status and attributions of the National Youth Council specifying matters such as membership conditions and the responsibility of the state authorities vis-à-vis the National Youth Council.⁸⁴ The OECD report further notes that the main responsibilities of the National Youth Councils in their region include

78 ODIHR/Venice Commission, Freedom of Association joint guidelines par 64

79 Organisation for Economic Co-operation and Development (OECD), Youth Stocktaking Report, at <https://www.oecd.org/gov/youth-stocktaking-reportpdf> par. 22.

80 Council of Europe Committee of Ministers Recommendation Rec(2006)14 to member States on citizenship and participation of young people in public life

81 Council of Europe CM(2005)191 Recommendation of Committee of Ministers to member states on the role of national youth councils in youth policy development

82 Council of Europe Committee of Ministers Recommendation CM/Rec(2016)7 and explanatory memorandum Young People’s Access to Rights

83 Council of Europe CM(2005)191 -Add Recommendation of Committee of Ministers to member states on the role of national youth councils in youth policy development Explanatory Report

84 Organisation for Economic Co-operation and Development (OECD), Youth Stocktaking Report, at <https://www.oecd.org/gov/youth-stocktaking-reportpdf> par. 171.

“consultations with governmental bodies, as well as nationwide representation, advocacy and lobby work on issues that concern young people.”⁸⁵ Some of these councils also provide capacity-building support and identify new areas for cooperation and development, and a majority of these councils act as a link between local or regional associations and international bodies.⁸⁶

80. Many countries have a sole National Youth Council with a specific and unique mandate to ensure that a consolidated voice of the youth is represented in legislative and policy-making processes. As noted above (see paragraph 58), the KOMS is the highest representative body of youth in Serbia.⁸⁷ It is an ‘umbrella federation’⁸⁸ in line with Article 14 of the Law.
81. **In general, however, to ensure that key youth stakeholders, including umbrella federations and/or national youth council(s), are engaged in youth affairs by the government it is recommended to integrate in Articles 13 and 14, in addition to the quantitative requirements, qualitative requirements such as independence, democratic nature, diversity and inclusion that these associations, federations and umbrella federations should adhere to.**⁸⁹
82. The Law does not clearly define the mechanisms of participation of associations and federations in development and implementation of the youth strategy and other documents related to youth (with the exception of the governmental “Youth Council” provided for in Article 16). **While the details do not necessarily have to be provided in the present Law, it could be considered to formally provide the basis for a national representation structure. This is especially important in view of the the Government**

85 Organisation for Economic Co-operation and Development (OECD), Youth Stocktaking Report, at <https://www.oecd.org/gov/youth-stocktaking-reportpdf> par. 127

86 Organisation for Economic Co-operation and Development (OECD), Youth Stocktaking Report, at <https://www.oecd.org/gov/youth-stocktaking-reportpdf> par. 127 provides:

“ In the majority of OECD countries, NYCs operate as independent bodies from the government and primarily channel youth voices and exercise advocacy. For instance, the Swedish Youth Council is involved in the policy process as an independent consultation provider, rather than a part of a formal structure. The Netherlands is a similar case where the state recognises the Dutch Youth Council as the main national partner on youth in the country, but does not build co-management structures. Periodically, a number of national youth councils are simultaneously involved in thematic working groups that identify youth as a target group, such as education, sports and health. In only two countries, NYCs operate as a part of the formal governmental structure. By example, Israel’s National Student and Youth Council works directly under the Ministry of Education. The council is mandated to participate in decision-making in a range of ministries and bodies dealing with youth matters, including the Knesset (the legislative branch of the Israeli government), the Ministry of Education, and the Israeli Police.”

87 See <https://koms.rs/national-youth-council-of-serbia/>

88 Term derived from the English translation of the Law on Youth.

89 See for example: Romanian Law no. 350 of July 21, 2006

Section 3 of the National Youth Council

Article 15

- (1) The National Youth Council is a legal person of private law and without patrimonial purpose, of public utility, non-governmental and autonomous.
- (2) The National Youth Council carries out its activity based on the provisions of its own statute and of the legislation in force.
- (3) The National Youth Council is the national forum that represents the main non-governmental partner in relation to the authorities and institutions of the central public administration empowered in the field of youth policy, in accordance with the legislation in force.

Estonia: Youth Work Act law

Youth council

- (1) Youth council can be established at a rural municipality or city council. The objective of youth council shall be the discussion of issues concerning young people which are in the competence of the rural municipality or city and the making of proposals to the rural municipality or city council and rural municipality or city government in connection therewith proceeding from the needs and interests of young people.
- (2) Youth council shall be elected democratically by the young people of the rural municipality or city pursuant to the procedure established by the rural municipality or city council...

Youth Advisory Body's (Article 16) mandate being limited to 'initiating and harmonising activities related to the development and implementation of Youth Policy and proposing measures for its improvement...' and it not being a permanent body.

83. Article 15 of the Law provides:

'The Ministry shall maintain joint records of associations and federations referred to in Articles 13 and 14 of this Law based on the data obtained from the body responsible for their registry and based on the data submitted by associations in order to enable an organized and systematic monitoring of the status of the Youth Sector Area and to monitor the implementation of Youth Policy and the financing of programmes and projects of public interest in the area of Youth Sector in accordance herewith.

The records mentioned in paragraph 1 of this Article shall contain the following data:

Name of association, head office and address;

Date of foundation of association;

Area of activity;

Purposes for which the association is founded

Personal name and unique master citizen number, i.e. passport number and the country issuing the passport, of the association's representative;

Membership in associations;

Total number of members of the association;

Number of members aged 15 to 30.

The contents and manner of maintaining such joint records referred to in paragraph 1 of this Article shall be specified by the Minister responsible for youth affairs...'

84. The requirements for the youth associations and federations to submit data for the purpose of the Ministry to monitor the youth sector and implementation of funded programmes would benefit from clarity. For example, it is unclear who the '*body responsible for their registry*' is and who collects the '*the data submitted by associations*'. Further the requirement to provide 'membership of associations' needs to be clarified as it may constitute undue restriction in the exercise of the freedom of association by young persons and youth organizations, interfering with the right to privacy. Serbian legislation already regulates the registration of associations; **it is therefore of particular importance that the rationale for and the requirements for the data to be submitted to the Ministry is justified and clarified even further.**

85. It is noted that the formation of an association with legal personality may be subject to certain formalities, the law should not prohibit or unjustifiably restrict the formation of an informal association. It is reasonable to put in place registration or notification requirements for those associations that wish to have such legal capacities, so long as the process involves requirements that are sufficiently relevant, are not unnecessarily burdensome and do not frustrate the exercise of the right to freedom of association. Yet States may require that associations that are seeking to enjoy various forms of public support first obtain legal personality.

86. While the requirements in Article 15 are not for the purpose of the associations' registration, they do apply to those organisations that fall under Article 13 and 14 of the Law and therefore establish a link with their eligibility for receiving the public funding for programmes and projects as outlined in Chapter V of the Law.
87. Therefore neutral requirements, even for the purpose of data collection and monitoring purposes, may have a disproportionate effect on certain persons or groups, making it more difficult for them to fall within the scope of associations as outlined by the Law. These practices could stifle and unduly restrict the right to freedom of association. It is vital that the role, functioning and independence of associations be effectively facilitated and protected in national legislation.
88. It is recommended to ensure that the requirements in Article 15 from associations and federations is in line with information that these actors are required to submit for the purpose of their registration in accordance with existing legislation regulating associations and, in line with the right to freedom of association, do not create undue burden on these actors.. **It is further recommended to clarify how the data are collected and to ensure that the data are processed in accordance with data protection and privacy laws.**

RECOMMENDATION D.

To integrate in Articles 13 and 14 qualitative requirements such as independence, democratic nature, diversity and inclusion that associations, federations and umbrella federations should adhere to.

RECOMMENDATION E.

To ensure that the requirements in Article 15 for associations and federations respect the right to freedom of association and do not create an undue burden on these actors

6. GOVERNMENT YOUTH ADVISORY BODY (“YOUTH COUNCIL”)

89. In February 2021, the Government of the Republic of Serbia passed a Decision on the appointment of the Deputy President and members of the ‘Youth Council’⁹⁰. The the Government Youth Advisory Body, the basis of which is found in Article 16 of the Law, has 38 members, and has 15 young members representing associations of the youth, associations for the youth and their federations and appears to reflect a co-management structure.
90. The executive branch, through the Minister, appears to have, directly or indirectly, a decisive influence over the governance, organization and operation of the Government Youth Advisory Body. It is further noted that the Law does not contain overall principles that should guide the functioning and decision-making of the the Government Youth Advisory Body. **The Law could reflect that the operation of the the Government Youth Advisory Body is guided by the principles of subsidiarity, sovereignty of**

⁹⁰ It is noted that this body is an governmental advisory council on youth, though the Law refers to it as ‘youth council’, which is not to be confused with a National Youth Council. Therefore the Opinion will refer to this body as ‘Government Youth Advisory Body’.

parties, partnership, efficiency, fair competition, transparency, equal treatment and non-discrimination and respect for the independence of associations. Further, as European and international youth policy instruments generally refer to ‘youth councils’ as those solely composed of young people and youth civil society actors and without government representatives amongst their members, it would benefit if the Law reflects terminology that leaves less room for different interpretations and ambiguity.

91. It is recommended to **ensure safeguards are put in place to restrict the government’s control over which youth delegates are invited to participate in the Government Youth Advisory Body (Article 16) and to consider a more balanced composition of this body, for instance by requiring that at least half of the council are youth civil society representatives⁹¹ and proposed by a umbrella federation in line with Article 14.** Article 16 also does not clarify how the allocated seats for youth actors are shared in the Government Youth Advisory Body between the different youth representatives. It is recommended to complement the provisions to reflect this issue.
92. At the same time, it is worth emphasizing that such changes *per se* may not necessarily confer more influence of youth civil society representatives on the operation of the the Government Youth Advisory Body.
93. Further, it is important that participation of youth civil society representatives in the the Government Youth Advisory Body is inclusive and non-discriminatory, and based on a fair, public, transparent, open, non-discriminatory, inclusive and competitive selection process. **The Law should provide for the objective elements to assess the eligibility of a candidate, in addition to the quantitative requirements provided in Articles 13 and 14, in the interests of legal clarity and foreseeability and to avoid discretionary application.**
94. Additionally, the Law does not specify any conditions and modalities to ensure a gender balanced composition of the the Government Youth Advisory Body. It must be highlighted that the CoE Committee of Ministers in its Recommendation 2003(3) recommends to Member States to provide for gender-balanced representation in all appointments made by a minister or government to public committees and in posts or functions whose holders are nominated by government and other public authorities, meaning a representation not falling below 40%.⁹² **The Law could specify the rules and procedures governing the appointment to ensure compliance with gender balance requirements, and include provisions on the consequences of the violation of such rules.⁹³ It is further recommended to explicitly refer to representation in this the Government Youth Advisory Body of youth members of Roma and other minority communities as well as from other traditionally marginalised and under-represented groups.** Similarly, Article 17 would benefit from such a reference in relation

91 For instance, the Croatian National Foundation for Civil Society Development has a Management Board composed of nine members, out of which five come from civil society organizations or from among civil society experts, one is a representative of local and regional self-government units, and three are representatives of ministries (ministry of education, ministry of finance and ministry of foreign affairs). In Estonia, the National Foundation for Civil Society is managed by a Supervisory Board, which consists of five representatives of civil society, two representatives of the Parliament (one from the majority coalition and one from the opposition), one representative of the Ministry of Finance and one of the Ministry of the Interior, and one representative of the Council of Churches.

92 Council of Europe, Recommendation Rec (2003)3 of the Committee of Ministers to Member States on the Balanced Participation of Women and Men in Political and Public Decision-making, adopted on 30 April 2002, Preamble and pars 9-10 of the Appendix, <<https://wcd.coe.int/ViewDoc.jsp?id=2229>>.

93 See also e.g., ODIHR, Comments on the Draft Law of Albania on Civil Society Development Fund (2008), par 20, <<http://www.legislationline.org/documents/id/15486>>.

to representation in Youth Councils at the Provincial and Local Self-Government levels. Meaningful and effective representation of minority groups should be actively promoted, resourced and supported.

95. The right for individuals, including children, to participate in the conduct of public affairs has been recognized globally and in domestic settings, and regional standards and models have been developed to support public participation, including that of associations, in decision-making processes, as a modality of good administration.⁹⁴ OSCE participating States have also committed to the aim of “strengthening modalities for contact and exchanges of views between NGOs and relevant national authorities and governmental institutions” (Moscow 1991, par 43.1). To that end, OSCE participating States should ensure that appropriate mechanisms and procedures are in place for the participation of associations, as representatives of civil society, in public affairs providing for regular, ongoing, institutionalized and open dialogue to facilitate their effective participation.⁹⁵ Such public engagement of civil society organizations represents a crucial element of a healthy civil society and of a functioning democracy.⁹⁶ It is also in the common interest of NGOs and public authorities, as well as society as a whole, to have mechanisms in place to help better understand public concerns and also capitalize on the capacities, knowledge and skills of civil society organizations.⁹⁷ Articles 13, 14 and 16 of the Law do not define responsibilities of the state towards these associations and federations.
96. In light of the above, and in addition to reviewing the number of civil society representatives in the the Government Youth Advisory Body’s governing structures and enhancing their involvement in the appointment process of its governing bodies, the legal drafters could consider including in the Law modalities to ensure the meaningful participation of youth civil society representatives, and youth themselves, in the the Government Youth Advisory Body’s activities. **Youth civil society organizations along with the umbrella federations should also be actively involved in the exercise of general oversight over the the Government Youth Advisory Body itself. Similarly, the provisions concerning the the Government Youth Advisory Body, its composition, and working modalities should be amended and/or supplemented to ensure that youth civil society organizations can take part in a meaningful manner in its work and decision-making processes. Further the Law could reflect that the government representatives in the the Government Youth Advisory Body should cooperate with non-governmental organizations within the meaning of Articles 13 and 14 of the Law.** Further, the Law should recognize that the right of young persons under 18 to have their voices taken into account during decision-making processes is weighted against their age and maturity, whilst youth over 18 are not subject to such a limitation.
97. Article 16 further lacks clarity as to the weight of the youth actors’ involvement in the government’s the Government Youth Advisory Body. It would benefit from clarifying

94 See op. cit. footnote 36, Principle 8 and pars 183-189 (2015 Guidelines on Freedom of Association). See also op. cit. footnote 22, par 8 (UNHRC General Comment No. 25); op. cit. footnote 34 (1998 UN Declaration on Human Rights Defenders), which declares that everyone has the right to have effective access, on a non-discriminatory basis, to participating in the government of his or her country and in the conduct of public affairs (Article 8); and op. cit. footnote 86 (2015 Recommendations on Enhancing the Participation of Associations in Public Decision-Making Processes); and 2014 ODIHR Guidelines on the Protection of Human Rights Defenders, Section II, Sub-Section G on the Right to Participate in Public Affairs.

95 *ibid.* in the Introduction and Recommendations 3 and 13 (2015 Recommendations on Enhancing the Participation of Associations in Public Decision-Making Processes).

96 Op. cit. footnote 34, par 218 (2014 ODIHR Guidelines on the Protection of Human Rights Defenders).

97 2014 ODIHR Guidelines on the Protection of Human Rights Defenders, par 220. See also OSCE/ODIHR, Annotated Agenda of the Supplementary Human Dimension Meeting on Freedom of Peaceful Assembly and Association, 16-17 April 2015, <<http://www.osce.org/odihr/144421>>.

what power and role the non-governmental youth bodies in the the Government Youth Advisory Body will have in the council's rules of procedure⁹⁸ **Ideally, civil society organizations should participate in the management of the the Government Youth Advisory Body through partnership or joint decision-making and monitoring (Article 27) rather than via mere consultation, which only allows them to provide their views on an already existing proposal.**⁹⁹

98. In principle, associations should be able to appoint representatives to take part in public decision-making processes, including in consultative bodies and appointed government bodies.¹⁰⁰ **A mechanism should be in place to ensure that such representatives are chosen via a fair, public, transparent, open, non-discriminatory, inclusive and competitive selection process.**¹⁰¹ Such selection should be based on clear and predefined criteria – while ensuring the diversity of selected youth civil society organizations, with vacancies advertised broadly and in a manner that maximizes the potential number of candidates from a wider array of youth-focused and youth-led civil society organizations. Moreover, to ensure the transparency of the selection processes, it would be advisable to specify that the list of admissible candidates (those who comply with the criteria) is published prior to the appointment and to see to it that basic information on civil society organizations participating in such processes should be made available to the public.¹⁰² **It is recommended to supplement the Law accordingly.**
99. In determining the criteria and modalities for such participation and co-operation, **it is further recommended that the legal drafters also consult with various stakeholders, including youth civil society organizations.**
100. As for the internal processes of the the Government Youth Advisory Body, the Law does not clarify the management structure of the the Government Youth Advisory Body, though the President/Deputy President and youth civil society actors are appointment by Government decision as mentioned above. **In this respect, it could be considered to effectively involve youth civil society organizations for the appointment of either a co-president or the deputy president. This could be done by providing that youth**

98 See OECD, Youth Stocktaking Report, at <https://www.oecd.org/gov/youth-stocktaking-report.pdf>, par. 169-170 which provides the following examples of government youth advisory bodies: “The Slovenian government appoints the Council of the Government of the Republic of Slovenia for Youth, a consulting body for youth led by a President which is appointed by the Government among the Ministers, while Finland has an Advisory Council for Youth Affairs, operating within a similar mandate. The Icelandic youth law provides the politically independent Youth Council with the mandate to advise the national authorities and municipalities on youth affairs. In Switzerland, the Federal Council appoints a Federal Commission for Child and Youth Affairs (EKKJ), which aims to have at least one third of its members below the age of 30. Delegated representatives of youth organisations are required to account for at least half of the Youth Advisory Board in Latvia. ... In Iceland, the Minister of Education, Science and Culture assigns nine members to the Youth Council. Five representatives are appointed according to recommendations made by youth organisations and two representatives are appointed by the Association of Municipal Authorities in Iceland. The council is responsible for identifying important procedures for the advancement of youth work and advise the central authorities on youth policy making.

The Estonian youth law instructs that upon the request of the youth council, the rural municipality or city council must forward the drafts of their hearing agendas and draft legislations regarding young people before municipality and city council hearings. Luxembourg's youth law is particularly detailed, establishing a body in charge of monitoring youth issues (Observatoire de la jeunesse) with the mission to prepare, coordinate and initiate surveys, recommendations, analyses, studies, and reports on the different aspects of the situation of young people in Luxembourg (Art. 13), while simultaneously instituting a National Assembly of Young People (Assemblée nationale des jeunes) with the mission to give young people and youth organisations the possibility to participate in the examination of all issues related to youth policy at the national and European level (Art. 14)....”

99 See e.g., Council of Europe, Code of Good Practices for Civil Participation in the Decision-Making Process (2009), page 8, <<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016802eed5c>>.

100 Op. cit. footnote 15, Recommendation 13 (2015 Recommendations on Enhancing the Participation of Associations in Public Decision-Making Processes).

101 ibid. Recommendation 13 and Part I (2015 Recommendations on Enhancing the Participation of Associations in Public Decision-Making Processes).

102 ibid. Recommendation 13 (2015 Recommendations on Enhancing the Participation of Associations in Public Decision-Making Processes).

CSOs participate in the designation of candidates for these positions and their selection.

101. **The selection mechanism for the co-president/deputy president of the the Government Youth Advisory Body should also be fair, public, transparent, open and competitive to ensure that the best candidate is selected.** Vacancies should be advertised broadly and in such a manner that would maximize the potential number of candidates from various backgrounds. Lists of admissible candidates should be published prior to the appointment.
102. Article 16 further defines the mandate of the “Youth Council” as ‘*an advisory body initiating and harmonising activities related to the development and implementation of Youth Policy and proposing measures for its improvement...*’. For a meaningful and effective involvement by youth civil society actors, for more comprehensive responsibility and participation of other sectors in protection of youth rights, and to ensure enhanced inter-governmental collaboration and coordination, **the Law could expand the mandate of the the Government Youth Advisory Body.**¹⁰³
103. **Finally, the Law would benefit from clarifying which government bodies other than the Ministry of Youth and Sport is involved in the Government Youth Advisory Body to ensure a cross-sectoral approach to youth policy and regulatory development.**

RECOMMENDATION F.

To reflect that the operation of the the Government Youth Advisory Body is guided by the principles of subsidiarity, sovereignty of parties, partnership, efficiency, fair competition, transparency, equal treatment and non-discrimination and respect for the independence of associations.

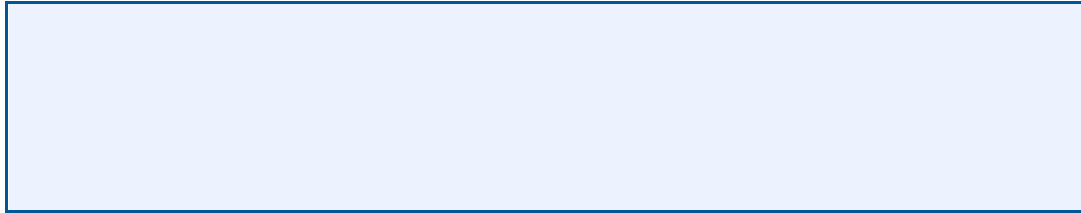
RECOMMENDATION G.

To amend and/or supplement the provisions concerning the the Government Youth Advisory Body, its composition, and working modalities to ensure that youth civil society organizations can take part in a meaningful manner in its work and decision-making processes

RECOMMENDATION H.

To clarify which government bodies other than the Ministry of Youth and Sport are involved in the Government Youth Advisory Body to ensure a cross-sectoral approach to youth policy development.

103 See for example the Council of the Government of the Republic of Slovenia for Youth, which monitors, determines and assesses the position of young people in society, monitors and assesses the impact of youth work and youth policy on social change, proposes measures and monitors the consideration of youth interests in other policies at the state level, other regulations and measures of the Government of the Republic of Slovenia relating to youth work, youth policies and youth life in general, discusses and gives an opinion to the competent institutions on current youth issues, gives initiatives and proposals for regulating individual issues in the field of youth, makes proposals and recommendations regarding the financing of youth activities, discusses the trends of program and financial plans of youth organizations and others involved in the field of youth, provides the Government of the Republic of Slovenia and the competent ministries with proposals, initiatives and recommendations for the implementation of the commitment to strengthen the youth dimension in individual sectoral public policies, encourages the participation of young people in various consultative and co-decision bodies at national and local level, obligations related to youth. http://ursmarhiv-spletisc.gov.si/si/delovna_podrocja/mladinska_politika/svet_vlade_rs_za_mladin/



7. YOUTH PARTICIPATION IN PUBLIC AND POLITICAL LIFE

104. Participation allows for an inclusive process. For participation to have actual impact, it requires involvement and empowering of all stakeholders right from the beginning in the design, implementation and evaluation of youth policies and laws. Participatory and inclusive processes help with identifying and creating laws and policies that best fit the needs and capacities of youth as a distinct population group, and help to foster support and understanding of the legislative and policy objectives.
105. Participation of children should also be in line with Articles 12 and 17 of the UNCRC. The Committee on the Rights of the Child notes in their General Comment No. 12 w that ‘fulfilment of the child’s right to information, consistent with Article 17 is, to a large degree, a prerequisite for the effective realization of the right to express views.’ Children need access to information in formats appropriate to their age and capacities on all issues of concern to them in order to enable their participation in decision-making including in the public sphere. This applies to information, for example, relating to their rights, any proceedings affecting them, national legislation, regulations and policies, local services, and appeals and complaints procedures.¹⁰⁴
106. Participation can also take place in different forms. The OECD Youth Stocktaking Report for example notes practices for ‘vertical coordination mechanisms’ to involve a wide range of (youth-led) advocacy and interest groups by central and/or local authorities in decision-making or policy-making processes.¹⁰⁵
107. Article 8 of the Law provides for the active participation principle as entailing:
- “Everybody, in particular Youth Policy actors, shall ensure a stimulating environment and offer active support in the implementation of young people’s youth activities, in their taking initiative and in their purposeful involvement in decision-making processes and processes of decision implementation, which decisions contribute to personal and social development, upon young people’s receiving complete information.”*
108. The phrasing of this provision, which may stem from translation, is incoherent. One aspect it addresses is receipt of information, though it lacks guidance on structural mechanisms through which information can be accessed and made available to young people. Should such legislation exist. **Article 8 could be complemented by providing**

104 UN Committee On The Rights OfThe Child, CRC/C/GC/12, General Comment No. 12 The Right OfThe Child To Be Heard, 20 July 2009, par. 82.

105 Organisation for Economic Co-operation and Development (OECD), Youth Stocktaking Report, at <https://www.oecd.org/gov/youth-stocktaking-report.pdf> par. 48 that provides: “For example, in Slovenia, the National Consultations of the Slovenian Youth Sector takes place annually and brings together youth organisations, youth workers and all other relevant stakeholders who partake in co-creation of policies and programmes for young people across central and local levels and provide a forum for dialogue. The outcomes of the National Consultations serve as recommendations to guide public authorities at national and local level in designing programmes and activities. Similar arrangements exist in Finland and Estonia, among others, where national and subnational authorities are mandated and required to co-operate with youth councils upon planning, implementation and assessment of youth work (Estonia) and co-operate with youth clubs and youth organisations to support young people in pursuing spare time activities (Finland).”

procedural details for youth participation with a view to uphold transparency and effectiveness..

109. Such expansion of access to information and related details are particularly important to broaden and ensure meaningful participation by youth in decision and policy-making processes, at all levels. As already observed above (see Section 4) the scope of the present provision is limited to the role of youth in the context of *personal and social development*. The participation of young persons should also be promoted with respect to economic, public, cultural and political life with a view to ensure participatory governance and accountability. Further, as the OECD Youth stocktaking report notes, ‘...creating [a] enabling environment is of crucial importance to ensure that young women and men from diverse backgrounds are able to realise their potential and contribute to society and economy.’¹⁰⁶
110. For participation to be meaningful young people’s basic human rights and fundamental freedoms, such as their access to information, freedom of speech and expression, association and assembly, must be guaranteed. **The scope of Article 8 should be complemented in this respect. In addition, the provision should reflect that participation must be inclusive, transparent, and respect the principles of equality and non-discrimination.** Participatory processes need to be adapted in accordance to maturity and understanding for those under 18 years.

RECOMMENDATION I.1

To complement Article 8 by providing procedural details for youth participation with a view to uphold transparency and effectiveness.

RECOMMENDATION I.2

To complement the scope of Article 8 by including references to young people’s basic human rights and fundamental freedoms, such as their access to information, freedom of speech and expression, association and assembly as preconditions for meaningful participation.

8. DIGITALISATION

111. Currently the Serbian Youth Law makes no reference to digitalisation, the internet or online media and information literacy. Supporting the development of young people’s media and information literacy competencies, as well as awareness and exercise of their rights online are a necessary response to the impact of digitalisation on democracy and rights. There is growing international momentum in this area, evident from the Committee on the Rights of the Child’s new General Comment on children in the digital environment¹⁰⁷ and both the Council of Europe and the European Union’s strategic priorities in this area.

106 Organisation for Economic Co-operation and Development (OECD), Youth Stocktaking Report, at <https://www.oecd.org/gov/youth-stocktaking-report.pdf> par. 94.

107 UN Committee on the Rights of the Child, CRC/C/GC/25, General comment No. 25 (2021) on children’s rights in relation to the digital environment, 2 March 2021.

112. **Articles 10, 20 and 25 of the Law may benefit from expanding the thematic scope to include topics relevant to youth and digitalization.** This could mean adding a reference to ‘media and information literacy’ and/or ‘digital skills of young people’ and/or ‘digital citizenship of young people’ and/or ‘rights of young people in the digital sphere’ or ‘digital youth work’.¹⁰⁸ It may also serve to ‘future-proof’ the law, by bringing into its scope what will be a central area of youth policy and regulation over coming decades.
113. It is also important that means of communication and engagement with youth be considered for their participation to be effective. For this purpose, processes for youth participation should also take advantage of digital technologies and heed to communication in a youth-friendly way.
114. Further, legislation should ensure that an association can exist online or, at the very least, can conduct many of its activities online. Regulations should remain flexible so that any registration or reporting requirements can be conducted online, and public administration should have in place the necessary infrastructure to facilitate this, thus simplifying the establishment and conduct of business and operations of associations. State authorities must also keep in mind that any restrictions on the online exercise of freedom of expression or freedom of association by, for example, constricting the Internet space within which associations establish and function, may amount to a disproportionate interference with the exercise of these rights. All such restrictions relating to the online activities of associations are subject to the same principles of proportionality, legality and necessity in a democratic society as any other limitations.

RECOMMENDATION J.

To expand the thematic scopes of Articles 10, 20 and 25 of the Law to include topics relevant to youth and digitalization.

9. FUNDING

115. Chapter 5 of the Law deals with funding of youth projects and programmes. The associations and federations referred to in Articles 13 and 14 of the Law are eligible to receive public funding.
116. Articles 20 to 24 of the Law concern funding of programmes and projects by the Government. According to Article 24 it is the Minister who shall ‘specify the manner for the approval of programmes and awarding funds...’, except for local self-government units and autonomous province (Articles 25 and 26 of the Law). The National Youth Strategy 2015-2025 provides that the Government determines the Action Plan for the implementation of this strategy.¹⁰⁹
117. To be fully functional, sustainable and able to effectively support civil society development, and to further the implementation of international and regional standards

¹⁰⁸ See also UN Committee on the Rights of the Child General comment No. 25 (2021) on children’s rights in relation to the digital environment

¹⁰⁹ See National Youth Strategy of Serbia, 2015-2025, p. 62 at: <https://www.mos.gov.rs/wp-content/uploads/download-manager-files/Nacionalna%20strategija%20za%20mlade%20-%20ENG.pdf>

and good practices on participation in public life and freedom of association,¹¹⁰ funding mechanisms need to involve:

- a strategic approach when establishing such an institutional framework that is consulted widely and meaningfully with civil society organizations and the interested public¹¹¹;
- clear and well-defined competences of entities within this framework, to avoid overlap in their work or oversight functions;¹¹²
- effective co-ordination with and meaningful inclusion and participation of civil society in these entities' work;¹¹³
- a guaranteed level of programmatic and financial independence of said entities to ensure protection from political interference.¹¹⁴

118. The nature and beneficiaries of the activities undertaken by an association are relevant considerations when deciding whether or not to grant it different forms of public support. The granting of public support can also be contingent on whether an association falls into a particular category or regime defined by law, or whether an association has a particular legal form.¹¹⁵ However, above all, any system of state support must be open, transparent and fair.¹¹⁶ Public or state support for associations should be governed by clear, objective and non-discriminatory criteria¹¹⁷ stated in laws and/or regulations that are publicly available and accessible.¹¹⁸ States should refrain from imposing restrictions or conditions that directly or indirectly discriminate against certain associations or groups.¹¹⁹

110 See op. cit. footnote 36, pars 106 and 183-189 regarding specifically the participation of associations in decision-making processes (2015 Guidelines on Freedom of Association); and op. cit. footnote 15, Recommendation 13 (2015 Recommendations on Enhancing the Participation of Associations in Public Decision-Making Processes). See also e.g., UN Economic Commission for Europe's (UNECE), Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) of 25 June 1998, <<http://www.unece.org/env/pp/treatytext.html>>; op. cit. footnote 13 (2007 CoE Recommendation CM/Rec(2007)14 on the Legal Status of Non-governmental Organisations in Europe); UN Human Rights Committee, General Comment No. 25: The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service (Article 25 of the ICCPR) CCPR/C/21/Rev.1/Add.7, 27 August 1996,

<http://tinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F21%2FRev.1%2FAdd.7&Lang=en>; op. cit. footnote 10 (1998 UN Declaration on Human Rights Defenders); UN Human Rights Council, Resolution on Protecting Human Rights Defenders, 21 March 2013, A/HRC/RES/22/6, <<http://www.refworld.org/docid/53bfa8564.html>>; UN Human Rights Council, Study on best practices, experiences and challenges and ways to overcome them with regard to the promotion, protection and implementation of the right to participate in public affairs in the context of the existing human rights law, A/HRC/30/26.

111 Op. cit. footnote 36, pars 22, 106 and 183-184 (2015 Guidelines on Freedom of Association).

112 *ibid.* par 105 (2015 Guidelines on Freedom of Association).

113 *ibid.* pars 106 and 183-184 (2015 Guidelines on Freedom of Association).

114 *ibid.* par 217 (2015 Guidelines on Freedom of Association).

115 Op. cit. footnote 36, par 205 (2015 Guidelines on Freedom of Association); see also op. cit. footnote 13, pars 59-60 (2007 CoE Recommendation CM/Rec(2007)14 on the Legal Status of NGOs in Europe).

116 Op. cit. footnote 36, pars 206 and 208 (2015 Guidelines on Freedom of Association).

117 *ibid.* par 205 (2015 Guidelines on Freedom of Association). See also CoE Fundamental Principles on the Status of NGOs in Europe, 2002, par 202; and op. cit. footnote 35, par 58 (2007 CoE Recommendation CM/Rec(2007)14 on the Legal Status of NGOs in Europe).

118 Op. cit. footnote 119 par 205 (2015 Guidelines on Freedom of Association); and pars 62-65 on Public Support (2002 CoE Fundamental Principles on the Status of NGOs in Europe).

119 Op. cit. footnote 101, par 215 (2014 ODIHR Guidelines on the Protection of Human Rights Defenders).

Moreover, clear rules should be provided to guarantee the objectivity and transparency of the procedures for selecting NGOs.¹²⁰

119. Any system that establishes public support for associations in any form shall seek to avoid ‘state capture’ and ensure that the independence of associations is maintained.¹²¹ When the executive has an overly decisive influence on civil society support schemes and funding priorities in this area, this may indirectly influence the associations’ decisions and activities, and *de facto* shape the work of the civil society sector which often faces funding constraints – thereby jeopardizing the independence of associations in general. Schemes whereby government authorities interfere directly in associations’ fundraising activities by controlling the distribution or reallocating grants from donors to certain NGOs or projects also interfere with the freedom of civil society organizations to seek and receive funding.¹²²
120. **The Law should clearly include the overall principles and criteria for the rules of public funding, particularly the principle of non-discrimination and respect for the independence of associations, either directly or by referring to other relevant legislation.**
121. It is observed that the Action Plan 2018-2020 earmarks areas for funding by other Ministries in addition to the Ministry of Youth, thus distribution of funds to youth associations and federations seems to not be under the sole purview of this Ministry. As for the latter’s budget, however, from Article 22 it appears that the Minister appoints a commission that proposes to the Minister which programmes and projects of public interest in the youth are to be funded or co-funded (Article 22 of the Law). **It is encouraged to ensure that public funding be allocated through a transparent procedure and be accompanied by a broad informational campaign delivered to all potentially interested associations.**
122. **Based on Articles 13, 14, 15 and 22 of the Law the government will only support participation of young people to the extent that it relates to the involvement in state sanctioned youth associations and is social rather than political in nature. Effective state support for youth participation requires support for a wide range of participation and should also cover activities that fall within the spheres of public and political life (though not necessarily partisan activity which may be subject to different regulations).**
123. Given that the Law delegates responsibility to autonomous province and local self-government units (Article 12, Article 17, Article 18) with respect to providing the budget to implement the action plans under the National Youth Strategy and resource the activities, there is a risk of disparity and unequal access to the relevant youth activities. **Special consideration should thus be given to adopting measures that promote an equivalent level of service in youth support and a unified approach across all regions.** The commitment to develop and adopt a minimum national standard of provision could be considered in this context.
124. The not-for-profit nature of associations and their importance to society means that NGOs should be assisted in the pursuit of their objectives through public funding and other

120 *ibid.* par 211 (2015 Guidelines on Freedom of Association). See also e.g. the Article on Co-operation in the Area of Social Services Delivery and Mechanisms of State Financing of NGOs (Sample Models) by Radost Toftisova, Legal Advisor, ICNL – Budapest (2001), <http://www.icnl.org/research/journal/vol3iss4/special_3.htm>.

121 *ibid.* par 215 (2015 Guidelines on Freedom of Association).

122 *Op. cit.* footnote 101, par 221 (2014 ODIHR Guidelines on the Protection of Human Rights Defenders).

forms of public support.¹²³ Public funding to associations may be provided through a variety of different mechanisms including the procurement of services, grants for the implementation of specific projects or for institutional support to the association, in-kind support or tax incentives, among others.¹²⁴ **In addition to the ad-hoc nature of project-based funding, it could be considered to commit a percentage of the annual public spending budget to provide resources for the basic functioning of youth organisations including (umbrella) federations.**

RECOMMENDATION K.

To clearly include in the Law the overall principles and criteria for the rules of public funding, particularly the principle of non-discrimination and respect for the independence of associations, either directly or by referring to other relevant legislation.

RECOMMENDATION L.

To ensure that public funding be allocated through a transparent procedure and be accompanied by a broad informational campaign delivered to all potentially interested associations.

10. THE PROCESS OF PREPARING AND ADOPTING THE LAW

125. OSCE participating States have committed to ensure that legislation will be “adopted at the end of a public procedure, and [that] regulations will be published, that being the condition for their applicability” (1990 Copenhagen Document, para. 5.8).¹²⁵ Moreover, key commitments specify that “[l]egislation will be formulated and adopted as the result of an open process reflecting the will of the people, either directly or through their elected representatives” (1991 Moscow Document, para. 18.1).¹²⁶ The Venice Commission’s Rule of Law Checklist also emphasizes that the public should have a meaningful opportunity to provide input.¹²⁷ As also specifically recommended in the OSCE/ODIHR Preliminary Assessment of the Legislative Process in the Republic of Uzbekistan, “[p]ublic consultations should become a routine feature of the overall and a meaningful part of every stage of the legislative process, particularly in the Legislative Chamber”.¹²⁸
126. It is understood that the legal drafters will seek to consult civil society organizations about the amendments to the Law. This is a welcome approach that is in line with OSCE commitments.
127. For consultations on draft legislation to be effective, they need to be inclusive and involve consultations and comments by the public, including youth-led / youth-serving

123 Op. cit. footnote 36, par 203 (2015 Guidelines on Freedom of Association). See also op. cit. footnote 13, par 57 (2007 CoE Recommendation CM/Rec(2007)14 on the Legal Status of NGOs in Europe).

124 *ibid.* par 206 (2015 Guidelines on Freedom of Association).

125 Available at <<http://www.osce.org/fr/odihr/elections/14304>><http://www.osce.org/fr/odihr/elections/14304>.

126 Available at <<http://www.osce.org/fr/odihr/elections/14310>><http://www.osce.org/fr/odihr/elections/14310>.

127 See Venice Commission, Rule of Law Checklist, CDL-AD(2016)007, Part II.A.5.

128 See OSCE/ODIHR, Preliminary Assessment of the Legislative Process in the Republic of Uzbekistan (11 December 2019), Recommendation N.

organizations and activists as well as non-organized youth. They should also provide sufficient time to stakeholders to prepare and submit recommendations on draft legislation, while the State should set up an adequate and timely feedback mechanism whereby public authorities should acknowledge and respond to contributions, providing for clear justifications for including or not including certain comments/proposals.¹²⁹ To guarantee effective participation, consultation mechanisms must allow for input at an early stage *and throughout the process*,¹³⁰ meaning not only when the draft is being prepared by relevant ministries but also when it is discussed before Parliament (e.g., through the organization of public hearings). While the willingness to organize public consultations throughout the law-making process is welcome, the modalities of such public consultations and the lack of adequate and timely feedback mechanism may raise doubt as to whether the public consultations were or will be effective and inclusive as mentioned above.

128. Given the potential impact of the amendments to the Law on the exercise of human rights and fundamental freedoms, an in-depth regulatory impact assessment, including on human rights compliance, is essential, which should contain a proper problem analysis, using evidence-based techniques to identify the most efficient and effective regulatory option.¹³¹ In the event that such an impact assessment has not yet been conducted, the legal drafters are encouraged to undertake such an in-depth review, to identify existing problems, and adapt proposed solutions accordingly.
129. In light of the above, **the public authorities are encouraged to ensure that future amendments to the Law is subjected to inclusive, extensive and effective consultations, including with national youth council(s), non-organized young people, youth-led / youth-serving organizations and activists, offering equal opportunities for young women and men to participate. According to the principles stated above, such consultations should take place in a timely manner, at all stages of the law-making process, including before Parliament. As an important element of good law-making, a consistent monitoring and evaluation system of the implementation of the Law and its impact should also be put in place that would efficiently evaluate the operation and effectiveness of the future amendments of the Law, once adopted.**¹³²

RECOMMENDATION M.

To ensure that future amendments to the Law is subjected to inclusive, extensive and effective consultations, including with national youth councils, non-organized young people, youth-led / youth-serving organizations and activists, offering equal opportunities for young women and men to participate.

[END OF TEXT]

129 See e.g., Recommendations on Enhancing the Participation of Associations in Public Decision-Making Processes (from the participants to the Civil Society Forum organized by the OSCE/ODIHR on the margins of the 2015 Supplementary Human Dimension Meeting on Freedoms of Peaceful Assembly and Association), Vienna 15-16 April 2015.

130 See e.g., op. cit. footnote 90, Section II, Sub-Section G on the Right to participate in public affairs (2014 OSCE/ODIHR Guidelines on the Protection of Human Rights Defenders).

131 See e.g., ODIHR, Preliminary Assessment of the Legislative Process in the Republic of Uzbekistan (11 December 2019), Recommendations L and M; and Venice Commission, Rule of Law Checklist, CDL-AD(2016)007, Part II.A.5.

132 See e.g., OECD, International Practices on Ex Post Evaluation (2010).