

Letter from MEPs on new Draft Laws on Internal Affairs & biometric surveillance in Serbia

Dear Prime Minister Brnabic,
Dear Interior Minister Gašić,

We are writing to you to express our concern about the parts of the new Serbian Draft Laws on Internal Affairs and on Data Processing and Records in Internal Affairs that relate to biometric surveillance.

In the European Parliament, we the undersigned have made it clear that the surveillance of people in public spaces using biometric technologies is unacceptable. For the preservation of democratic rights and freedoms, it is vital that people can live their lives without fear of being tracked and profiled using their most sensitive data.

We fear that these draft laws could legalise such practices in Serbia, despite their deep incompatibility with international human rights norms. This September, the United Nations High Commissioner for Human Rights warned against biometric surveillance and called on governments around the world to limit or ban these practices due to the serious risk of human rights violations.¹

Specifically, the biometric surveillance portions of these draft laws are likely to be incompatible with Serbia's obligations under the European Convention on Human Rights (ECHR). The right to privacy (ECHR article 8) requires that authorities have particular lawful interest in, and reasonable suspicion of, an individual to justify surveilling them.

By contrast, the surveillance of public spaces relates to actions which impact on the public in general and which rely on watching them indiscriminately, without reasonable suspicion, sufficient possibilities for them to have genuine knowledge of what is happening, nor the genuine and free choice to opt in or out given the importance of public spaces for participation in public life.

While relevant negotiations in the AI Act are ongoing, the Parliament already adopted its own-initiative report on AI and the criminal law, which calls to ban biometric mass surveillance practices.² Similar calls have been made by the European Data Protection Supervisor as well as from hundreds of civil society groups around the world.³

Earlier this year, over 150 Members of the European Parliament (MEPs) tabled amendments to the AI Act calling for a comprehensive ban. This builds on the draft law from the European Commission, which explicitly recognises the high risks of these practices to human rights and the need for strict legal limitations, including prohibiting certain practices.

¹<https://www.ohchr.org/en/press-releases/2022/09/spyware-and-surveillance-threats-privacy-and-human-rights-growing-un-report>

²https://www.europarl.europa.eu/doceo/document/TA-9-2021-0405_EN.html

³https://edps.europa.eu/data-protection/our-work/publications/opinions/joint-opinion-edps-edps-proposal-regulation-european_en, <https://reclaimyourface.eu/> and <https://www.accessnow.org/ban-biometric-surveillance/>

We support the call from SHARE Foundation and other civil society organisations to ensure high standards of data protection and full respect for human rights by removing the biometric surveillance provisions from all draft laws. We urge you to consider the rights and freedoms of citizens and residents of Serbia, in addition to your obligations under European and international law.

Sincerely,

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