



**Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 12 (1) OF THE OPTIONAL PROTOCOL TO THE
CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF
CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY**

Initial reports of States parties due in 2005

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA*

[24 July 2008]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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I. INTRODUCTION

1. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was adopted in New York, on 25 May 2000, and was ratified by the Republic of Macedonia on 17 October 2003. According to article 118 of the Constitution of the Republic of Macedonia “International treaties ratified in accordance with the Constitution are part of the internal legal order and may not be changed by law.”
2. The Republic of Macedonia has not placed any reservation on the text of the Optional Protocol upon its ratification.
3. The initial report on the Optional Protocol has been prepared in accordance with the general recommendations by the Committee on the Rights of the Child dated 29 September 2006, related to the form and content of reports that countries are obliged to present in pursuance of article 12, paragraph 1 of the Optional Protocol to the Convention.
4. The Ministry of Labor and Social Policy, the Ministry of the Interior and the Ministry of Justice have been involved in the preparation of the report, while the National Committee on the Rights of the Child has also been consulted.
5. The ratification of the Optional Protocol by the Republic of Macedonia as an additional element of the Convention on the Rights of the Child that obliged States parties to adopt legislative framework for the protection of children from any form of psychical or mental abuse, including sexual abuse, as well as from all other forms of exploitation, is a significant step in the process of the effective application of the Convention.

II. DATA

6. According to the data of the State Statistical Office of the Republic of Macedonia, there are registered cases of mediation in proposition (art. 191), presenting pornographic materials to a child (art. 193) and cases of trafficking in human beings (art. 418, para. 2).
7. According to statistical data, in 2004 there were five cases in total reported with the Ministry of the Interior against the crime of mediation in prostitution (art. 191, paras. 4, 5, and 6) in respect of which six persons were convicted. In 2005 there were five such cases reported and three persons convicted, while in 2006 the two reported cases resulted in conviction of seven persons.
8. In line with the statistical data, in 2004, there was one case reported with the Ministry of the Interior against showing pornographic material to a child (under article 193, paragraphs 1, 2 and 3) and two persons were convicted in the case. In 2005, there was no case of this crime registered, while in 2006 there was one reported case against the crime of showing pornographic material to a child, and no person was convicted in this case.
9. In 2004, four cases were reported with the Ministry of the Interior against the crime of trafficking in human beings (under article 418, paragraph 2), and there are no data of convicted persons in these four cases. In 2005, in the eight reported cases, ten persons were convicted, while in 2006, in the total number of 12 reported cases against trafficking in human beings, two persons were convicted.

Reported, charged and convicted persons of full age for certain types of crime

Crime	2004			2005			2006		
	Reported at the MoI	Indicted	Convicted	Reported at the MoI	Indicted	Convicted	Reported at the MoI	Indicted	Convicted
Total	22 591	9 916	8 097	23 814	10 639	8 845	23 514	11 317	9 280
Mediation in prostitution - article 191, paragraph 4	4	2	2	2	2	2	1	5	5
Mediation in prostitution - article 191, paragraph 5	-	-	-	1	-	-	1	-	-
Mediation in prostitution - article 191, paragraph 6 referring to paragraphs 1-5	1	4	4	1	1	1	-	2	2
Showing pornographic material to a child - article 193, paragraph 1	-	1	1	-	-	-	1	-	-
Showing pornographic material to a child - article 193, paragraph 2	-	-	-	-	-	-	-	-	-
Showing pornographic material to a child - article 193, paragraph 3	1	1	1	-	-	-	-	-	-
Trafficking in human beings - article 418 a, paragraph 2	4	-	-	8	10	10	12	2	2

10. In certain cases of trafficking in human beings, there is also trafficking in children. In 2004, there were three foreign female nationals - victims of trafficking in human beings at the age from 16 to 18 years. In 2005 there were three Macedonian nationals - victims of trafficking in human beings at the age of 13 to 17 (two minors victims of labor exploitation), while in 2006 there were criminal charges brought against trafficking in children for purposes of adoption in which one child-victim of trafficking in human beings was identified (seven-month old baby).

11. In cases of mediation in prostitution and procuring and enabling sexual acts documented in 2004, it was established that three minors - Macedonian female nationals at the age from 14 to 16 were forced to prostitution. In 2005, there were 11 minors - Macedonian female nationals, three of whom at the age of 14 and eight of whom at the age of 16 to 18, that were forced to prostitution. In 2006, there were 13 minors detected all of them Macedonian female nationals, six of whom at the age of 13 to 15 and seven at the age of 16 to 18 that were forced to prostitution. In percentages, 55 per cent of the detected persons that had been forced to prostitution in 2005-2006 were minors.

12. In 2004, the crime of showing pornographic materials to a child was perpetrated against five children, in 2005 against one child and in 2006 against three children.
13. In 2007 criminal charges were brought in two cases of trafficking in human beings. The persons were charged with re-selling and sexually exploiting six Macedonian female nationals, three of whom were minors.
14. In 2007, 12 crimes of mediation in prostitution were perpetrated by 15 offenders, and four crimes of procuring and enabling sexual acts in which eight offenders were charged. In the detected cases, ten Macedonian and one Bulgarian female national were forced to prostitution, four of which involved minors.
15. After the organized actions-control in catering facilities, which are regularly organized and implemented by the Ministry of the Interior, aiming at successful detection and prevention of trafficking in human beings and forced prostitution, i.e. in the 29 actions-controls conducted in 71 catering facilities, a total number of 249 women were detected, who were illegally staying and working in the facilities. 152 of them were foreign nationals: 66 Albanian nationals, 46 Serbian nationals, 37 Bulgarian nationals, two Croatian and one national of Bosnia and Herzegovina. After the interviews, the women-foreign nationals were accommodated at the Reception Center for foreigners or were deported to their countries of origin. There were also 97 Macedonian female nationals found, two of whom were minors.
16. In 2007, at the Foreigners Transit Center¹, 15 persons were provided assistance, 13 of whom foreign nationals and two were Macedonian nationals; then five were minors, of whom three under 14 years of age, and two persons at the age 14 to 18.
17. According to the data from the Social Work Center at the National Referral Mechanism, in the period from December 2006 to December 2007, Social Work Centers worked on 37 cases, in which there were 30 identified victims of domestic violence, two presumed victims of violence, while for five minors-foreign nationals accommodated at the Transit Center there is a procedure under way for appointment of a guardian. In cooperation with the relevant Ministries, there were coordination activities undertaken in order to establish the possibilities for repatriation of the children to their countries of origin. Until September 2007, all children were safely returned to their countries of origin. The Office of the National Referral Mechanism coordinated the procedure for appointment of a guardian in specific cases, as well as the guardian appointment procedure for six minor girls- nationals of the Republic of Macedonia.
18. In the last period, the legal representative of the National Referral Mechanism has been appointed guardian of four minor victims of trafficking in human beings. The legal

¹ At the Foreigners' Transit Center, directly or in cooperation with partners, the IOM provides legal, medical, psychosocial assistance, assistance for return to the country which consists of securing travel documents, escort if necessary, purchases of tickets, etc. At the Transit Center, victims are also provided psycho-social assistance by the NGO Happy Childhood (Srekno detstvo), and there is individual and group work, enhancing vocational skills of women.

representative represented these minors before the Skopje First Instance Court and before the Tetovo First Instance Court. Three of the minors were represented before the Tetovo First Instance Court; the main hearing was held and judgments were passed in these three cases. The indicted persons were pronounced guilty- the primary indicted person was sentenced in absentia to six years' imprisonment and the second indicted person was sentenced to four years' imprisonment.

III. GENERAL IMPLEMENTATION PRINCIPLES

19. In the context of the goal of guaranteeing children's rights and protection from trafficking in children, child prostitution and child pornography, the Criminal Code of the Republic of Macedonia foresees normative-legal framework for sanctioning perpetrated crimes of this type. Following the evolutive trend of criminal legislation, conditioned by the evident increase of the number of cases in which the trafficking victims are children, the amendments and supplements to the criminal legislation of 2002 and 2004 introduced the incrimination for trafficking in human beings - Article 418-a.

20. The amendments and supplements to the Criminal Code, adopted by the Assembly of the Republic of Macedonia on 4 January 2008, are aimed at ensuring the harmonization of the Criminal Code with international standards in the area of trafficking in people, and define the terms: "victim of a crime" and "child pornography".

21. According to paragraph 20 of article 122 of the Criminal Code a victim of a crime is any person that has suffered damage, either physical or mental injury, emotional suffering, material loss or other injury or threats to his/her fundamental rights and freedoms as a consequence of the perpetrated crime, while a child-victim of a crime is a minor person under 18 years of age.

22. According to paragraph 21 of article 122 of the Criminal Code, child pornography is pornographic material that contains visual images of overt sexual activities with a minor or overt sexual activity with a person that seems a minor or real image showing overt sexual activities with a minor.

Trafficking in children

23. Trafficking in children is an activity incriminated in this criminal offence. The basic form of this crime referred to in paragraph 1 of the article on this criminal offence, incriminates activities of "the person who by use of force or serious threats deceives or by other forms of coercion, abduction, kidnapping, fraud, abuse of a position, or abuse of the pregnancy, feeble state, physical or mental incapacity of another person, or a person who by giving and receiving money or other gains for the purpose of getting the consent of a person who has the control over another person, recruits, transfers, transports, buys, sells, harbors or receives other persons for the purposes of exploitation by way of prostitution or other forms of sexual exploitation, pornography, forced labor or servitude, slavery, forced marriages, forced fertilization, illegal adoption or similar relations or for purposes of illegal transplantation of human organs." A prison sentence of at least four years is envisaged for this crime.

24. Paragraph 2 of this crime sanctions activities of the persons “who recruits, transfers, transports, buys, sells, harbors or receives children or minors for purposes of exploitation.” The envisaged prison sentence is eight years at least.
25. According to paragraph 3, a prison sentence of at least four years is envisaged for activities of a person “who will take away or destroy a personal identification card, passport or another personal identification document for purposes of perpetrating activities referred to in paragraphs 1 and 2.”
26. Paragraph 4 incriminates activities of a person “that uses or facilitates the use of sexual services provided by a persons for whom the perpetrator knows is a victim of trafficking in human beings”. A prison sentence of at least six months up to five years is envisaged for this crime. Paragraph 5 envisages that “if the crime of this paragraph is perpetrated against a child or a minor, the perpetrator shall be punished with at least eight years’ imprisonment.” Paragraph 6 of this incrimination envisages criminal liability for legal entities if the crime referred to in paragraph 1 is perpetrated by a legal entity.
27. The activities of smuggling migrants are incriminated in article 418-b. Namely, paragraph 1 of this article sanctions activities of a person “who using force or serious threat will attack the life or body, with kidnapping, fraud, out of greed, with misuse of his/her official position or using of the powerlessness of other illegally transfers migrants through the State border, as well as one that produces, purchases or owns fake passport with such intention.” A prison sentence of at least four years is envisaged for this form of the crime.
28. Paragraph 2 of this article incriminates activities of the person who “engages, transports, transfers, buys, sells, hides or accepts migrants”, and a prison sentence of one to five years is envisaged for this crime.
29. Furthermore, paragraph 3 envisages that if during the commitment of the crimes stipulated in the paragraphs 1 and 2 the life or the health of a migrant is endangered, or the migrant is treated especially humiliating or cruelly, or he/she is prevented to use the rights he/she has according to the international law, the perpetrator shall be sentenced with imprisonment of at least eight years. If the crime stipulated in the paragraphs 1 and 2 is committed against a minor, the perpetrator shall be sentenced with imprisonment of at least eight years”.
30. The latest amendments to the Criminal Code introduce a new article 418-d entitled “Trafficking in minors”. Paragraph 1 of this article envisages that the person who recruits, transfers, transports, buys, sells, harbors or receives a minor for purposes of exploitation by way of prostitution or other forms of sexual exploitation, pornography, force labor or servitude, slavery, forced marriages, forced fertilization, illegal adoption or a similar relation, or illegal transplantation of human organs shall be punished with at least eight years’ imprisonment.
31. Paragraph 2 envisages that the person that shall commit the crime referred to in paragraph 1 with the use of force, serious threat, deception or with other form of coercion, abduction, fraud, or by abuse of position or through abuse of a pregnancy, feeble state or

physical or mental disability of another person, or by giving and receiving money or other gains in order to get the consent of a person that has control over another person, shall be punished with at least ten years' imprisonment.

32. Paragraph 3 of the same article envisages that at least an eight-year prison sentence shall be pronounced against a person who uses or enables another person to use the sexual services or another type of exploitation of a minor for whom the person knew or was obliged to know that he/she is a victim of trafficking in human beings.

33. Paragraph 4 of this article prescribes at least a four-year prison sentence for a person who takes away or destroys a personal identification card, passport or other identification document for purposes of committing the crimes referred to in paragraphs 1 and 2 of this article, while paragraph 5 envisages that the consent of the minor to the activities referred to in paragraph 1 of this article does not have a relevance in terms of existence or non-existence of the crime referred to in paragraph 1 of this article.

34. Paragraph 6 envisages that if the crime referred to in paragraph 1 of this article has been perpetrated by a legal entity, the legal entity shall be punished with a fine, while paragraph 7 regulates the seizure of immovable property, items and vehicles used in the perpetration of the crime.

Child prostitution

35. Child prostitution is incriminated in the criminal offense of "mediation in conducting prostitution" under article 191 of the Criminal Code. The following is envisaged "A person who recruits, instigates, stimulates or entices another to prostitution, or a person who in any kind of way participates in handing over another to someone for performing prostitution, shall be punished with imprisonment of six months to five years."

36. Paragraph 2 of this article incriminates the following activities "A person who because of profit enables another to use sexual services shall be punished with a fine or with imprisonment of up to one year."

37. Paragraph 3 envisages six months up to five years' imprisonment for the person who because of profit, by using force or by serious threat to use force, forces or by deceit induces another to give sexual services."

38. Paragraph 4 envisages six months to five years' imprisonment "If the crime from items 1, 2 and 3 is committed with a juvenile, the offender shall be punished with imprisonment of six months to five years", while according to paragraph 5 if the crime from items 1, 2 and 3 is committed with a child, the offender shall be punished with imprisonment of one to five years."

Child pornography

39. Child pornography is incriminated in the crime: "showing pornographic material to a child" under article 193 of the Criminal Code. The following activities are incriminated: "a

person who shall sell, show or make available through public presentation or who shall make in another way available to a child photographs, audiovisual and other items containing pornography or shall present a pornographic scene”. A fine or a prison sentence of at least a year is envisaged for this type of crime.

40. Paragraph 2 of this article envisages that “if the crime has been perpetrated through the mass media” the “perpetrator shall be punished with a fine or at least three years’ imprisonment.”

41. Paragraph 3 envisages a fine or a three-year prison sentence for the person “who shall abuse a minor for the production of audiovisual materials and other items of pornographic contents or for pornographic scenes.”

42. The latest amendments to the Criminal Code, dated 4 January 2008, introduce a new article 193-a entitled “Production and distribution of child pornography using a computer system”. Paragraph 1 of this article envisages that the person, who produces child pornography for purposes of its distribution, distributes, transfers, offers or makes child pornography available in another way through a computer system, shall be punished with three up to five years’ imprisonment.

43. According to paragraph 2 of this article, the person who procures child pornography using a computer system for personal use or for another person or who possesses child pornography on a computer system or a medium used to store computer data with the intent of showing the material to another person or for distribution shall be punished with a fine or one year imprisonment.

44. Following the ratification of the Convention on the Rights of the Child and its Optional Protocol, in addition to the already adopted legislative changes, there have been new laws adopted and provisions regulating this area.²

² Regulations at the national level:

- Law on Witness Protection (Official Gazette of the Republic of Macedonia No. 67/2005 and 58/05 of 19 July 2005)
- Law on Criminal Procedure (Revised text) (Official Gazette of the Republic of Macedonia No. 15/05 dated 07 March 2005)
- Law on Free Access to Information of Public Character (Official Gazette of the Republic of Macedonia No. 13/2006 dated 1 February 2006)
- Criminal Code (Official Gazette of the Republic of Macedonia No. 37/96, 80/99, 4/02, 43/03, 19/04 and 81/05, 60/2006, 73/2006 and ?/2008 and a Decision of the Constitutional Court No. U 228/2005-0-1)

45. The amendments and supplements to the Criminal Code, adopted by the Assembly of the Republic of Macedonia on 4 January 2008, are aimed at incorporating the standards in line with ratified international conventions. In this context, the definition of the term “victim of a crime” and the definition of the term “child pornography” are in accordance with the Framework Decision of the Council of Europe of 15 March 2001 on the status of victims in criminal law procedures, as well as with the Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

46. According to the Council of Europe Cyber Crime Convention, the Criminal Code has been supplemented with another article 193-a, entitled as “production and distribution of child pornography using a computer system” (explained above).

47. Article 418-a “Trafficking in human beings” has been harmonized with the Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Hence, the article prescribes that the consent of the victim of the trafficking in human beings for purposes of exploitation is of no relevance for the establishment of the crime and that the attempt for perpetration of this crime is punishable.

48. Taking into consideration the object of protection and the increase of the number of crimes of trafficking in human beings, i.e. minor victims, the Criminal Code has been supplemented with a new incrimination - article 418-d “Trafficking in minors”. (Explained above.)

IV. PREVENTION (art. 9, paras. 1 and 2)

49. In compliance with the provision of article 9 of the Optional Protocol, and in support of the endeavors of the international community for joint actions to suppress trafficking in human beings and for purposes of implementing the National Program for Combating Trafficking in Human Beings and Illegal Migration, the Republic of Macedonia undertakes active measures for developing and implementing programmes that would enable preventive actions against any type of exploitation of children.

50. In respect of amending and supplementing the legal regulations in terms of undertaking preventive activities, the Ministry of Labor and Social Policy has introduced 11 new provisions in the Law on the Family that concern domestic violence. For the first time, a definition is provided for domestic violence, and assistance and protection of domestic family violence victims is envisaged. This is worth mentioning, considering the fact that the greatest number of trafficking victims, especially of trafficking in women and children, are victims of domestic violence.

51. The Ministry of Labor and Social Policy is preparing the amendments and supplements to the Law on the Family and the Law on Protection of Children, whereas a new Law on Social Protection and Social Security is pending adoption.

52. The proposed Law Amending and Supplementing the Law on the Family envisages introduction of a separate chapter in the part concerning custody entitled “Custody of minor children victims of trafficking in human beings”, which stipulates in more precise detail the measures relevant institutions should undertake for the purpose of protecting the rights and interests of this category of children.

53. The proposed Law Amending and Supplementing the Law on Protection envisages prohibition of all forms of sexual exploitation and sexual abuse of children, violent abduction, sale of or trafficking in children, emotional or physical violence and ill-treatment, punishment or other inhuman treatment, exploitation, commercial exploitation and abuse of children by which the basic human rights and the rights of the child are violated. The Ministry of Labor and Social Policy is preparing a new Law on Social Protection and Social Security. By this stage of preparing the Law (draft version), the right to accommodation in a social protection institution of a victim of trafficking in human beings has been regulated.

54. In this context, in September 2005 the Office of the National Referral Mechanism, formed under the project realized by the Ministry of Labor and Social Policy and the National Commission for Combating Trafficking in Human Beings and Illegal Migration in cooperation with the OSCE Mission to the Republic of Macedonia, was put into operation at the Ministry of Labor and Social Policy. This project includes social work centres, local institutions, non-governmental organizations, the Union of Organizations of Social Workers and the gender equality commissions from local government units.

55. The Office of the National Mechanism for Referral of Victims of Trafficking in Human Beings promotes a good practice of democratic building of institutions, by enhancing and coordinating efficient links between state institutions and the civil society, simultaneously informing the public and the state bodies about the need to change the perception of trafficking in human beings, in order for them to realize that it is a flagrant violation of the human rights of the victim.

56. The institutions directly responsible for the implementation of social protection activities for the prevention and reduction of trafficking in human beings at the local level are the social work centres, which is understandable considering the fact that every day they are in contact with various categories of citizens, especially women and children, who may be potential victims of trafficking in human beings. Through inter-disciplinary team work, with the aim of attracting attention to the activities for prevention and for protection of victims of trafficking in human beings, especially children, social work centres act by: detecting or identifying victims of trafficking in human beings, providing assistance and protection, building a local level cooperation network, raising public awareness in terms of preventive activities and direct assistance to the victims in cooperation with the National Referral Mechanism.

57. In regard of the need for proper housing and technical conditions for accommodation of and work with victims of trafficking in human beings, especially with children, the Ministry of Labor and Social Policy, in cooperation with the OSCE Mission to the Republic of Macedonia and the Unicef office, provided office furniture and technical equipment for 15 social work centres. In addition, in order to establish a unified approach in the work of all social work centres, a number of professional documents are planned to be endorsed.

58. With the aim of continuous advancement of the professional profiles at the social work centres, with support from the International Organization for Migration (IOM), six seminars have been organized, 120 social workers and gender equality commission members have been additionally educated, and a further four seminars in which non-governmental organizations were also included have been held for training of pedagogues, psychologists and lawyers.

59. In cooperation with the UNICEF, the Ministry of Labor and Social Policy has organized special training for designated social workers from 27 social work centres and the appointed inspectors for fight against trafficking in children at the Ministry of the Interior, which represents a confirmation of the Ministry's consistency in terms of undertaking activities for reduction of this type of crime in the country. Within the cooperation with the UNICEF, the Ministry has prepared a Program for Resettlement and Reintegration of Child Victims of Trafficking in Human Beings, in support of which training courses are being organized with expert teams of social work centres.

60. The Ministry of the Interior, as well as other institutions of the system, undertake a series of preventive measures for prevention of trafficking in human beings, such as: informing and raising the awareness about trafficking in human beings and children among risk groups, familiarizing children with their rights and education in identifying risk factors and in self-protection from trafficking, as well as prompt identification of children-victims of trafficking, implementing at the same time the Action Plan for Combating Trafficking in Children.

61. In regard of cooperation, it should be noted that Memorandums of Understanding have been signed, regulating the rights and obligations of the signatories in respect of mutual cooperation, exchange of information, referral, care, protection, resettlement and reintegration of victims of trafficking in human beings, bearing in mind at the same time the best interest of the victims in accordance with domestic and internationally recognized standards.

62. Memorandums of Understanding have been signed between the Ministry of the Interior and the Ministry of Labor and Social Policy, within the NRM project on 8.02.2007, between the NGO "Open Gate - La Strada" and the Ministry of the Interior in March 2007, and between the Ministry of the Interior and the NGO "For a Happy Childhood" in October 2007.

63. Aiming at strengthening the capacities for fight against trafficking in human beings, one of the activities of the National Commission for Combating Trafficking in Human Beings and Illegal Migration was to prepare the Standard Operative Procedures (SOP), which were endorsed by the Government of the Republic of Macedonia on 29 January 2007. The Standard Operative Procedures for Processing Victims of Trafficking in Human Beings have been established with the aim of providing assistance to and protection of all victims of trafficking in human beings with a comprehensive approach based on human rights and focused on the victim through institutionalized cooperation frameworks. They contain special procedures intended for child victims.

64. In addition to the endeavors to advance and strengthen the cooperation among national and local institutions, of special significance are the activities of the domestic nongovernmental organizations in the fight against trafficking in human beings related to prevention and to protection of victims of trafficking in human beings. The Ministry of Labor and Social Policy and the coordination office of the National Referral Mechanism support the formation of a network for cooperation among all relevant state institutions, by which the Republic of Macedonia will be able to fulfil its obligations for protection and advancement of the human rights of victims of trafficking in human beings, further strengthened with a strategic partnership with the civil society and the other factors operating in this field.

**V. PROHIBITION AND OTHER RELATED ISSUES
(arts. 3; 4 (paras. 2 and 3); 5, 6 and 7)**

Article 3

65. Chapter 12 of the Criminal Code of the Republic of Macedonia regulates the application of the criminal legislation according to the place of perpetration. In particular, article 116 reads: “(1) The criminal legislation is applicable to everyone who commits a crime on the territory of the Republic of Macedonia. (2) The criminal legislation is also applicable to everyone who commits a crime on a domestic ship, regardless of where the ship is at the time the crime is committed. (3) The criminal legislation is also applicable to everyone who commits a crime in a domestic civil aircraft during flight, or on a domestic military aircraft, regardless of where the aircraft is at the time the crime is committed.”

66. Furthermore, article 118 provides that the criminal legislation is also applicable to a citizen of the Republic of Macedonia when he/she commits a crime abroad, [...] if he/she finds himself/herself on the territory of the Republic of Macedonia or is extradited.

67. The general provisions of the Criminal Code in articles 22-25 envisage liability for accessory to crime. In particular, it is stipulated that if two or several persons, by participation in an act of perpetration or with any other significant contribution to the perpetration of the crime, jointly commit a crime, each one of them is punished with the punishment that is prescribed for that crime (art. 22); furthermore, a person who incites, with premeditation, another person to committing a crime, is punished as if he/she has committed the crime himself/herself; in addition, a person who assists, with premeditation, in the perpetration of crime is punished as if he/she has committed the crime himself/herself, and he/she may be punished more leniently.

68. Article 418c provides for the criminal act of “organizing a group and inciting commission of crimes of trafficking in human beings and smuggling migrants”, which covers the act of organizing a group, a gang or other association with the intention of trafficking in human beings or smuggling migrants. This form of the crime is punishable with imprisonment of at least eight years.

69. Paragraph 2 envisages a sentence of at least one year imprisonment for the person who is a member of a group, gang or other association as referred to in paragraph 1 of the article or who aids the group, the gang or the association in any other manner.

70. The descriptions of the crimes of trafficking in human beings (art. 418-a of the Criminal Code), mediation in conducting prostitution (art. 191 of the Criminal Code) and displaying child pornography material (art. 193 of the Criminal Code) cover the following acts contained in article 3, paragraph 1 (a), (b) and (c) of the Optional Protocol:

- (a) Offering, delivering or accepting, by whatever means, a child for the purpose of:
 - (i) Sexual exploitation of the child;
 - (ii) Transfer of organs of the child for profit;
 - (iii) Engagement of the child in forced labour.

(b) The act of trafficking in human beings (art. 418-a) includes the act of improperly inducing consent, as an intermediary, for the adoption of a child in violation of the applicable international legal instruments on adoption;

(c) The production of child pornography is covered in the description of the act of “displaying child pornography material”, as defined in article 3 mentioned above.

71. The acts of distributing, disseminating, importing, exporting, offering, selling or possessing child pornography are included in the criminal acts defined in Chapter 25 of the Criminal Code - Crimes against Public Finances, Payment Operations and the Economy - in particular in the crimes of: illicit production (art. 276), illicit trade (art. 277), smuggling (art. 278), and concealing goods that are subject to smuggling and customs fraud (art. 278-b).

72. The general provisions for crimes and criminal liability of the Criminal Code of the Republic of Macedonia also provide for the attempt to commit a crime, stipulating that a person who initiates, with premeditation, the perpetration of a crime which, according to the law, is punishable with at least five years' imprisonment but does not carry it out, is punished for an attempt to commit a crime. The attempt to commit other crimes is punishable only when the law explicitly prescribes the punishment of such attempt. Paragraph 2 stipulates that the offender is punished for an attempted crime within the limits of the punishment prescribed for the crime, and he/she may be punished more leniently.

73. Accessory to the said crimes is punishable in accordance with the general provisions of the Criminal Code, as described in paragraphs 67 - 69 above.

74. The provisions of the Criminal Code of the Republic of Macedonia that cover the acts referred to in the Optional Protocol envisage appropriate punishments for the said acts, considering their serious nature. In particular, the criminal acts of: trafficking in human beings (art. 418-a), smuggling migrants (art. 418-b), organizing and inciting commission of crimes of trafficking in human beings and smuggling migrants (art. 418-c), mediation in conducting prostitution (art. 191), displaying child pornography material (art. 193) are punishable with a fine or prison sentences, as mentioned in Section III above. At the same time, the Criminal Code envisages confiscation of the items and the transport means utilized in the commission of the crime.

75. The amendments and supplements to the Criminal Code of the Republic of Macedonia of 2004 introduced “criminal liability of legal entities”. That is, article 28-a provides that in the cases stipulated in the Special Part of the Criminal Code or in another law which cover criminal activities, the legal entity is held criminally liable if the commission of the crime can be attributed to an activity or a failure to perform the obligatory supervision by the management authority or the responsible official at the legal entity or another person authorized to act on behalf of the legal entity within its authorizations, or when it has overstepped its authority in order to provide gain for the legal entity.

76. Paragraph 2 reads that the criminal liability of the legal entity does not exclude the liability of the perpetrator of the crime. Furthermore, paragraph 3 stipulates that, regarding the crimes stipulated in the Law, all legal entities may be held criminally liable, with the exception of the

State. Paragraph 4 envisages criminal liability of foreign legal entities if they have committed the crime on the territory of the Republic of Macedonia, regardless of whether they have their representative office or a branch office that performs activities on the territory of the Republic of Macedonia.

77. Paragraph 6 of article 418-a, which concerns trafficking in human beings, envisages a fine if the crime referred to in paragraph 1 is committed by a legal entity.

78. The Special Part of the Criminal Code envisages criminal liability of legal entities for the following criminal acts: illicit production (art. 276), illicit trade (art. 277), smuggling (art. 278), concealing goods that are subject to smuggling and customs fraud (art. 278-b), envisaging a fine for the committed crime.

Article 4 (paras. 2 and 3)

79. The provisions of the Criminal Code envisage liability of a Macedonian national for committing a crime abroad, as explained in paragraph 66 above.

80. Furthermore, article 119 of the Criminal Code stipulates that the criminal legislation is also applicable to a foreigner who commits a crime outside the territory of the Republic of Macedonia but directed against it or its citizen [...] if he/she finds himself/herself on the territory of the Republic of Macedonia or is extradited.

81. Article 118 of the Criminal Code, cited in paragraph 66 above, envisages liability of a Macedonian national for committing a crime abroad if he/she finds himself/herself on the territory of the Republic of Macedonia or is extradited. Article 4, paragraph 2 of the Constitution of the Republic of Macedonia reads that a national of the Republic of Macedonia may not be deprived of citizenship or expelled or extradited to another State.

Article 5

82. A constituent part of the legislation of the Republic of Macedonia are the international instruments ratified in compliance with the Constitution. In this sense, the Law on Criminal Procedure provides that extradition of indicted and convicted persons is requested and conducted according to the provisions of this Law, unless otherwise determined by the European Convention on Extradition and its Protocols and other international agreements ratified in accordance with the Constitution of the Republic of Macedonia (art. 559).

83. Article 560, paragraph 1, subparagraph 3 of the Criminal Procedure Law defines the requisites for extradition, requiring the existence of dual incrimination, i.e. that the act for which extradition is requested be a criminal act both according to the domestic law and the law of the State in which it has been committed.

84. Article 560 of the Criminal Procedure Law specifies the requisites for extradition, which include:

1. That the person whose extradition is requested not be a national of the Republic of Macedonia;

2. That the act for which extradition is requested not have been committed on the territory of the Republic of Macedonia, directed against it or its national;
3. That the act for which extradition is requested be a criminal act both according to the domestic law and the law of the state in which it has been committed;
4. That, according to the domestic law, there be no statutory limitation on the criminal prosecution or on the execution of the punishment before the foreigner was detained or interrogated as an indicted person;
5. That the foreigner whose extradition is requested not have been previously convicted of the same offence by a domestic court, or that the foreigner not have been acquitted of the same offence by a domestic court, or that the criminal procedure against the foreigner not have been stopped or the indictment dismissed, or that a procedure for the same offence not have been instigated in the Republic of Macedonia or against it or its citizen, unless a guarantee has been provided for realization of the property-legal request of the damaged;
6. That the identity of the person whose extradition is requested be determined; and
7. That there be sufficient evidence for grounded suspicion that the foreigner whose extradition is requested has committed a certain criminal act or that there is an effective judgment.

85. According to the provisions of Chapter XXXIII, which regulates the procedure for extradition of indicted and convicted persons, the request for extradition is submitted via diplomatic channels (art. 561, para. 2) and, if the conditions for extradition are met, the foreigner may be detained, i.e. steps are undertaken to search and locate the person (art. 562, chapter 3). At that, the period for submitting the request and the documents for extradition may not exceed 40 days from the day of detaining the foreigner, whereas the period for surrendering the foreigner may not exceed 180 days from the day of detention (art. 563, para. 3). Extradition may not be granted if the foreigner has been accorded right to asylum, if the extradition has been requested in respect of an offence which is regarded as a political or military offence, or if there are substantial grounds for believing that the person may be subjected to torture or any other kind of cruel, inhuman or degrading treatment or sentenced to death (art. 568).

86. If a person is extradited to the Republic of Macedonia upon request by its authorities, the extradited person may be criminally prosecuted, i.e. may be punished only for the offence in respect of which the extradition has been granted (art. 574, para. 1). Furthermore, if the extradition has been approved under certain terms in regard of the type and the amount of the punishment which may be pronounced, i.e. executed, and if the extradition has been accepted under those terms, the court is bound by those terms when deciding on the punishment, whereas if the extradition has been granted in respect of an already pronounced sentence, the court which has passed the verdict alters the sentence in compliance with the extradition terms (art. 574, para. 3). In addition, it is envisaged that if the extradited person has been detained in a foreign country for the offence in respect of which he/she has been extradited, the time the person spent in detention be calculated in the punishment (art. 574, para. 4).

87. Concerning crime scenes, the general section of the Macedonian Criminal Code stipulates that a crime is perpetrated both at the place where an offender acted or was obliged to act, as well as at the place where consequence appeared. Crime preparation and attempt are considered committed both at the place where an offender acted, as well as at the place where according to his intent the consequence should have or could have appeared. The activity of the accomplice has been committed at the location where the activity was transferred to the perpetrator, as well as at the place where the accomplice has worked or was obliged to work (art. 31 of the Criminal Code).

88. In case extradition is requested and the requested State fails to extradite the person sought on grounds of his nationality, then application is made of the provisions in Chapter XXXII of the Macedonian Law on Criminal Procedure relating to the Procedure on providing international legal assistance and enforcement of international treaties with regard to criminal law cases.

89. Thus when a foreign country makes request to initiate criminal prosecution of a national of the Republic of Macedonia or of a person residing in the Republic of Macedonia for a crime committed abroad, the request is sent together with the accompanying documents to the office of the competent public prosecutor covering the area where the suspect resides (art. 558, para. 1). The requesting foreign State is informed on denial of the request to initiate criminal prosecution, as well as on the final sentence made in criminal procedure (art. 558, para. 3). Therefore, if the public prosecutor makes decision to initiate criminal prosecution, then proceedings are filed in accordance with Macedonian legislation so that perpetrators are held liable for crimes committed.

90. Similarly, in cases when extradition is not possible because the perpetrator is Macedonian national, then domestic courts may accept the request by a foreign institution seeking enforcement of a criminal sentence made by foreign court or by international tribunal if this is provided for by international treaty or by reciprocity, or if a domestic court also pronounces such sanction in accordance with the Criminal Code.

91. On the other hand, if a foreigner residing in a foreign country is a perpetrator of a crime in the territory of the Republic of Macedonia, then criminal prosecution and trial may be referred to that foreign country; the competent public prosecutor makes decision on this. It is allowed to refer the case only for crimes punishable up to ten years' imprisonment (art 557, paras. 1, 2 and 3).

Article 6

92. Article 551 of the Law on Criminal Procedure envisages that international criminal law assistance is conducted in accordance with the provisions of this Law, if not otherwise provided for by the provisions of the European Convention on Mutual Legal Assistance in Criminal Matters with its Protocols, the United Nations Convention on Transnational Organized Crime, and other international treaties ratified in accordance with the Macedonian Constitution (art. 551 of the Law on Criminal Procedure).

93. Then, article 555, paragraphs 1 and 2 of the Law on Criminal Procedure define that domestic courts proceed upon request by foreign institutions in exercising interlocutory security

measures (involving property or funds relating to the crime), or, in exercising the measure of confiscation of property or property interests and of impounding of objects; in this context, the courts proceed in accordance with the provisions of international treaties. The confiscated property and confiscated property interests or impounded objects may be transferred to a foreign country by a court decision in accordance with conditions defined by an international treaty.

Article 7

94. In cases involving crimes such as trafficking in human beings, smuggling of migrants, showing pornographic material to a child, the Macedonian Criminal Code, explicitly stipulates that objects and transportation means used in perpetration of given crimes, shall be seized (arts 418-a, 418-b and 193 of the Criminal Code).

95. The general section of the Criminal Code stipulates that nobody may keep the direct or indirect criminal proceeds (art. 97 of the Criminal Code); the following is confiscated: criminal proceeds consisting of money, immovable or movable objects, prized objects, as well as any other property, possessions or assets, material or non-material interests (art. 98 of the Criminal Code). Similarly, article 100, paragraph 1 of the Criminal Code envisages that nobody may keep items deriving from a crime. Then, article 100-a, paragraph 2 of the Criminal Code envisages that objects shall be also seized from a perpetrator that have been intended or used in crime perpetration, regardless if these objects are property of the perpetrator or property of a third person, if interests of general security, public health, or public moral interests prevail.

96. Chapter XXX of the Law on Criminal Procedure provides for a special procedure in confiscation and impounding of objects used in committing or facilitating the perpetration of crimes referred to in the Optional Protocol, as well as criminal proceeds. Thus, article 532, paragraph 1 of the Law on Criminal Procedure introduces the Procedure on application of measures for security, confiscation of property and property interests, impounding of objects, and revocation of suspended sentence which provides that objects which must be seized according to the Criminal Code shall be seized even when the criminal procedure fails to ultimately produce a convicting sentence for the suspect, while article 533, paragraph 1 of the Law on Criminal Procedure envisages that property and property gains acquired by crime perpetration are established in an ex-officio criminal procedure.

97. According to article 536 referring to article 219 of the Criminal Code, objects the sale of which is prohibited or restricted may be destroyed even before the moment a sentence becomes enforceable.

98. Requests for impounding or confiscation of goods or proceeds stemming from crimes referred to in the Optional Protocol are executed pursuant to the provisions of the Procedure on providing international legal assistance, as mentioned in paragraph 92 above, and pursuant to the provision of the Criminal Code which envisages that under conditions determined by a ratified international treaty, such objects may be returned to another country (art. 100-a, para. 6 of the Criminal Code).

99. According to provisions relating to interlocutory securing and impounding of objects or property, a decision may be rendered to close down premises used in perpetration of crimes

referred to in the Optional Protocol, either on temporary basis, i.e., until the procedure is finished (art. 220, paras. 1 and 3 of the Law on Criminal Procedure), or on permanent basis when a court sentence is pronounced banning the practice of profession, activity or duty as mentioned in article 38-b of the Criminal Code. Article 38-b of the Criminal Code envisages that a court may ban a perpetrator [...] from performing certain profession or activity, duties or works related to disposing, usage, management and handling of property or related to keeping of that property, if such perpetrator has abused his profession, activity or duty in order to perpetrate a crime and if, based on the nature of the committed crime and the circumstances surrounding the crime, one may expect the perpetrator will further abuse the activity to commit a future crime. The duration of this court ban may not be shorter than one or longer than ten years (art. 38-b, para. 2 of the Criminal Code).

VI. PROTECTION OF VICTIMS' RIGHTS **(arts. 8; and 9, paras. 3 and 4)**

Article 8

100. The legislation of the Republic of Macedonia governs protective measures for children-victims of crimes defined by the Optional Protocol in article 8, paragraph 1 (e) and (f). The amendments to the Law on Criminal Procedure introduce a completely new Chapter XX: Protection of Victims, Witnesses, and Collaborators of Justice.

101. Thus, article 293, paragraph 1, of the said Law provides that during court proceedings a public prosecutor, investigative judge or president of a court chamber undertake actions for provision of efficient protection of witnesses, collaborators of justice provided they appear as witnesses in court proceedings and provided there is risk to be exposed to intimidation, threat, or risk to their lives, health, or physical integrity or provided they do require protection.

102. Paragraph 2 defines also the manner of exercise of such protection; this is done by means of special inquiry and involvement in the procedure. The most sensitive provision on witness protection is paragraph 3 of article 293, which regulates matters relative to the anonymous witness. Namely, in cases mentioned in paragraph 1 of this article, witness hearing is conducted only in presence of the public prosecutor and investigative judge or court chamber president in a place that secures confidentiality of the witness identity, except in those cases in which after having obtained consent of the witness the court chamber decides to conduct the witness hearing via the court itself or by use of other technical means of communication. A transcript of the minutes containing the witness testimonial, without the witness signature, is then communicated to the accused and his counsel that are allowed to ask the witness questions via the court in written manner.

103. Witness protection as mentioned in article 293 can be also conducted by involving the witness in the Witness Protection Program. A request to involve a person in the Witness Protection Program is communicated to the Public Prosecutor of the Republic of Macedonia. The competent public prosecutor, investigative judge, or court chamber president, Ministry of the Interior, or the person at risk may file such request. In order to be involved in the Program, a person should also give his own written consent.

104. The jurisprudence of the European Court of Human Rights (ECHR) has also established the restrictiveness in using anonymous witnesses. Namely, in many cases, the ECHR has imposed several conditions concerning the use of anonymous witness. In this context, a universal standard represents the obligation of the national legislation to maintain fair balance between the needs of the criminal justice to deal successfully with the organized crime, on one hand, and the rights to defense counsel of the accused, on the other hand. Taking in account the jurisprudence by ECHR in the field of using anonymous witnesses, the courts in the Republic of Macedonia will abide by the benchmarks set by ECHR in the application of the corresponding provisions of the Law on Criminal Procedure.

105. In this context, the Law on Witness Protection governs the out-of-court proceedings as applied since 1 January 2006. This Law regulates the procedure and conditions in providing protection and help to the witnesses; it also defines the protective measures and establishes the Witness Council Protection and Witness Protection Department. The articles of this Law are also applicable for justice collaborators and victims who appear as witnesses, as well as for persons close to the witnesses, justice collaborators and victims who themselves appear as witnesses.

106. Thus, article 2 gives definition of certain terms. In this context, ‘Witness’ is any person that, in accordance with the Law on Criminal Procedure is granted the status of a witness and possesses information relating to the crime perpetration, the perpetrator, and other important circumstances, i.e., data and information of relevance to the criminal procedure which are necessary and decisive in proving the crime, the presentation of which would expose the life, health, freedom, physical integrity or major property of the witness to risk’; ‘Justice Collaborator’ is any indicted or sentenced person or member of a criminal gang or other criminal syndicate, or who has taken part in perpetration of criminal offense relating to the organized crime, and yet that person has agreed to collaborate with the competent authorities in detection, prosecution, and sentencing criminal offenders, especially in giving testimony in the capacity as a witness in the criminal procedure concerning a criminal gang, or other criminal syndicate or any criminal offence linked with the organized crime; ‘Victim appearing in the capacity as witness’ is any person whose rights or property right has been violated or put at risk by a concrete crime, who possesses information of relevance to the criminal procedure and whose disclosure would expose the life, health, freedom, physical integrity or major property of such witness to risk, and who has agreed to give testimony in capacity as witness in the criminal procedure and thereby collaborate with the justice authorities.

107. Pursuant to article 3, this Law is applicable provided proving the crime is accompanied with disproportional difficulties or cannot be conducted without a testimony given by a person who, on grounds of possible risk of being exposed to intimidation, threats of retaliation, risks to life, health, freedom, physical integrity or major property, refuses to testify, as witness, concerning the following criminal offences:

- Crimes against the State
- Crimes against humanity and international Law

- Crimes related to organized crime
- Crimes that are punishable under the Criminal Code with four years of imprisonment and more

108. The Law on Witness Protection defines four types of protective measures:

- Keeping the witness identity secret
- Providing personal protection
- Change of domicile or residence
- Change of identity

109. All out-of-court procedures defined by the Law on Witness Protection may be undertaken before, during, and after the criminal procedure.

110. In accordance with the relevant Macedonian legislation, children-victims are represented by their legal representatives who inform the children on their own rights, role and aim, deadlines and procedure progress, and on their case decision (art. 50 of the Law on Criminal Procedure). In other words, it is provided that, should a damaged party be a minor or a person deprived entirely of his own legal capacity, then the legal representative is authorized to give all statements and undertake all actions to which the damaged party is entitled under this Law (art. 60 of the Law on Criminal Procedure).

111. Support to children-victims during the legal procedure is ensured through the opportunity given to the damaged party as a plaintiff, when the procedure is initiated on his/her request concerning a crime for which there is a lawfully proscribed sentence of more than five-year imprisonment; in such a case, the court may, upon the victim's request, assign an authorized representative if it is in favor of the procedure and if the damaged party as a plaintiff, according to his/her property conditions, cannot bear the expenses for legal representation (art. 61, para. 2 of the Law on Criminal Procedure).

112. In case the child-victim files civil law action for damages, then process regulations again allow exemption from payment of legal expenses and appointment of a legal representative from the ranks of attorneys-at-law (arts. 163 and 165 of the Law on Civil Procedure).

113. Accordingly, children who are victims of criminal offences are provided with professional, and free-of-charge legal assistance in criminal and civil law procedure.

114. Aiming at avoidance of unnecessary delay of court cases and at enforcement of court decisions or orders that award compensation to child victims, article 102, paragraph 2 of the Law on Criminal procedure envisages that under the verdict pronouncing the defendant guilty, the court decides fully or partially concerning the property claim. In this context, enforcement of the court decisions is conducted in accordance with the 2005 Law on Enforcement by enforcement

agents; they are individuals who exercise public authority and so make enforcement of court decisions outside the court itself in order to implement the rights of the citizens already established by the courts and administration bodies. After expiry of the deadline for voluntary fulfillment of liabilities by the obligor as established by the enforceable court verdict or final administrative decision, the enforceable court verdict or final administrative decision becomes enforcement document, which the creditor gives to the enforcement agent of his own choice; the enforcement agent executes the document in a manner he/she finds most appropriate. In this context, the Law has deprived the debtor of any opportunity to postpone the enforcement on grounds of complaints and appeals filed by the debtor.

115. The uncertainty surrounding the exact age of the victim may not prevent the commencement of the criminal investigation, including also the investigation aimed at establishing the age of the victim since the Law on Criminal Procedure provides for a pre-trial procedure in which the Ministry of the Interior may undertake necessary measures in order to establish the identity of the persons and objects in question (art. 144, para. 2, subpara. 4). In this context, establishment of identity and age of the victim does not imply per se a condition to conduct investigation; rather it is just one of the many pre-trial and trial procedures provided for by law.

116. As part of activities undertaken to amend the Law on Criminal Procedure, it is foreseen that, in order to protect a minor who is victim of trafficking in human beings, violence, or sexual abuse, hearing of victims should be conducted via investigative judge, pedagogue, psychologist, or other expert; in this context, a court must decide whether to have the witness hearing taped as video or sound recording so that it may be used later as evidence in the court trial or the witness hearing would be shown directly by communications means (video-conferencing or other video link).

117. On 4 July 2007, the Assembly of the Republic of Macedonia passed the Law on Juvenile Justice that will enter in force on 1 September 2008.

118. The Law on Juvenile Justice operationalizes the standards established in the following international conventions and documents on the rights of the child: the Convention on the Rights of the Child, and Optional Protocols on the involvement of children in armed conflict, and on the sale of children, child prostitution and child pornography; the 1990 United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and Resolution (87) 20 of the Council of Europe on social reactions to juvenile delinquency. In addition, a legal and institutional framework is established for a new consistent and codified system of juvenile justice in the Republic of Macedonia in order to extract the juveniles from the material-legal and procedural-legal treatment of adult perpetrators of crimes.

119. The adoption of this Law was conditioned also by the realization of the Skopje Declaration "A Country Fit for Children" and the Action Plan adopted at the Conference on Children, held on 20 June 2005, and the National Plan on Children, adopted by the Government in 2005.

120. This Law is based on the following principles: the principle of protection of the juvenile and his/her rights, resettlement and assistance in the treatment of the juvenile, restorative justice and prevention of juvenile delinquency.

121. This Law regulates the treatment of children at risk and juvenile perpetrators of actions that are defined by law as criminal offences and misdemeanors, then it defines the conditions for implementation of measures for assistance, care and protection, educational and alternative measures, and for punishment of juveniles, the position, role and competencies of the authorities that are involved in the treatment of children at risk and juvenile perpetrators of actions that are defined by law as criminal offences and misdemeanors, and the implementation of the educational and alternative measures and punishments.

122. This Law regulates the measures for protection of a juvenile-victim of crimes and measures for prevention of juvenile delinquency.

123. The goal of the Law and of its implementation is to achieve priority interest and protection of the juveniles from crime, violence and of any other forms of endangering their freedoms and rights, and their proper development; protection of juvenile perpetrators of crimes and repeated that are defined as criminal offences and misdemeanors; their resettlement, education and re-education, assistance and care for the juveniles and protection in a procedure before courts and other authorities, and their freedoms and rights guaranteed by the Constitution of the Republic of Macedonia, the Convention on the Rights of the Child, and other international arrangements related to the position of the juveniles in the system of the justice, ratified in compliance with the Constitution of the Republic of Macedonia.

124. The basic principles of this Law are as follows:

- A juvenile may not be pronounced a sanction envisaged by this Law for an action which, before it was committed, was not defined by law as a criminal offence or misdemeanor and for which there was not a sanction prescribed by a law
- A juvenile, during an informal procedure of the competent authorities and services, as well as during a court procedure, is guaranteed the rights exercised by fully aged persons accused in a criminal proceeding and misdemeanor proceeding, respectively, as well as the special rights recognized by the Convention on the Rights of the Child and other international agreements, in all stages of the proceedings and in the pronouncement and implementation of any sanction or measure defined by a law
- The implementation of the measures and sanctions defined by this Law, and the treatment of a juvenile are guided by his interest for protection, education, re-education and proper development
- During the implementation of the measures and sanctions in the proceedings defined by this Law, a juvenile may be deprived or limited of certain rights only to the extent that corresponds to the achieved level of development, to his/her personality, and to the need for removing the situations that influence the juvenile to commit criminal offences or misdemeanors
- In the context of all measures and sanctions prescribed by this Law, an advantage is given to the preventive, protection and educational measures

- The sanctions related to apprehension of a juvenile will be implemented in exceptional cases as the last resort, if the goal of the implementation of the measures and sanctions for a committed criminal offence cannot be reached in any other way
- The measure or sanction that is pronounced to a juvenile should correspond to the personality, gravity of the action defined as a criminal offence or misdemeanor by a law and its consequences, to the educational needs, re-education, upbringing and growth, with the purpose of providing for and protecting the best interest of the juvenile
- In respect of an action of a juvenile that is defined as a criminal offence or misdemeanor by a law, the competent authorities and services do not instigate a court procedure, as a rule, in order to avoid the harmful influence on the juvenile, only if the circumstances under which the action was committed do not indicate that there is a need of instigating a court procedure
- As a rule a court procedure is carried out only in cases prescribed by this Law when a juvenile has committed an action which is defined as a criminal offence by a law and for which a three-year imprisonment or a more severe punishment is foreseen, or in cases when the goal of the implementation of the measures or sanctions defined by this Law cannot be reached without such a procedure
- A juvenile has the right to protection before a competent court against decisions adopted in an administrative procedure
- The basic right of a juvenile is that only a court competent for juvenile delinquency is to implement the procedure against him/her and to pronounce sanctions defined by this Law

125. The novelties in the Law are the provisions that regulate the following principles for protection of a juvenile as an injured person or as a witness in criminal proceedings:

- A priority interest for protection of a juvenile are the provisions that envisage treatment of a juvenile in proceedings related to criminal offences when he/she appears as a victim, by public prosecutors, judges and officials of the Ministry of the Interior that have special knowledge about the rights of the child, about the criminal-legal protection of juveniles and about the duties of the court and other authorities that participate in the procedure to take measures to help and protect, and to behave in a way to avoid possible harmful consequences for the juvenile's personality and development.
- Protection of a juvenile - an injured person or a witness. The Draft Law envisages that a juvenile may be questioned twice at the most in the capacity as a witness, and exceptionally three times if it is necessary due to special circumstances of the case. When questioning a juvenile as a witness or injured person, the court is obliged to take care of the personal characteristics and individuality of that juvenile, of the protection of his/her interest and for his/her proper development. The questioning must be carried out

in the presence of a psychologist, pedagogue or other expert. The questioning of a juvenile is carried out in a presence of a psychologist, pedagogue or other expert depending on the age and development of a juvenile. Taking into consideration the features of the criminal offence and the characteristics of the personality of the juvenile, the judge, according to his/her assessment, may order that the questioning be carried out by technical devices that transmit image and sound. In such a case, the interrogation is carried out in the absence of parties and other participants in the proceedings, in a special room and the questions are raised by a pedagogue, psychologist or other expert. If the juvenile-victim, who is questioned as a witness, is especially sensitive due to the nature of the criminal offence and is in a difficult mental condition, it is the judge who decides whether there is a need for a confrontation of the juvenile with the accused.

- The compensation to a juvenile-victim of a criminal offence of violence and other acts of individual or group violence is granted from the compensation fund. This fund is established in the amount of 2 per cent of the funds collected under the national budget from the fines pronounced by courts for criminal offences or for offences paid off in the course of a previous year.

126. The establishment of State Council for prevention and Municipality Councils for Prevention is an essential novelty in the Law, and their establishment is regulated in Chapter XVII (arts. 144-148).

127. The Law defines that the State Council is independent and autonomous in carrying out the duties set forth in the Law, and it is composed of fifteen members appointed by the Assembly of the Republic of Macedonia who have a five-year mandate and the right to be reappointed.

128. The Municipal Councils and the Council of the City of Skopje propose and appoint Municipality Councils for prevention of juvenile delinquency. The members of the Municipality Councils are representatives of the local units of the Ministry of the Interior, Ministry of Labor and Social Policy, centres for social work, representatives of the parental associations in primary and secondary schools, Union of Secondary School Students, Lawyers Association and associations of citizens and foundations.

129. Taking into consideration the multidisciplinary and multi-sectoral approach that stems from the Law on Juvenile Justice, the Ministry of Justice has prepared a Draft Action Plan for the implementation of this Law that contains activities, terms, competent institutions and financial resources for its implementation.

130. The activities anticipated by this Action Plan are directed at building and strengthening the capacities of competent institutions to implement this Law, then at establishing a legal and bylaw framework for its implementation, as well as establishing new institutional forms for the prevention of juvenile delinquency, and the compensation fund.

131. The time framework for the implementation of the Action Plan is from January 2008 to December 2009.

Article 9 (paras. 3 and 4)

132. In the course of 2006, a Working Group consisting of representatives from the Ministry of Labor and Social Policy, Ministry of the Interior, Institute for Social Work and Social Policy, supported by UNICEF, prepared a programme for resettlement of children-victims, which is in the stage of adoption. The process of resettlements covers work with the family of the children-victims for their proper resettlement and returning to a normal environment, giving proper psycho-social support to them through their returning to the educational process and families or placing them in other families, as well as a repatriation of children-victims of trafficking in human beings to their countries of origin or accommodation in third countries. Based on this programme, the Centers for Social Work prepare individual programmes for resettlement and reintegration for each case separately. Such programmes envisage:

- (a) Therapeutic activities such as short-term symptomatic therapy and long-term (developmental) therapy;
- (b) Activities for exercising the rights in the field of health care, housing, legal and social assistance, education and employment;
- (c) Social-educational activities in which two groups are foreseen: with the child and with his/her primary setting (parents/guardians of the child-victim of trafficking in human beings, as well as “important others” for the child).

133. Thus far, the programme has been implemented for four persons with the support from the IOM in Macedonia.

134. The programme also anticipates strengthening and promotion of the role of the NGO sector in the process of resettlement. The fact that, since March 2007, the Open Gate organization has commenced a three-year programme for reintegration with the aim of reintegrating the victims of trafficking in human beings through economic support to the victims, their employment in private small business or in their own business bear witness to the role of the NGO sector.

135. Children-victims of criminal offences referred to in the Optional Protocol have the right, without any discrimination, to place a claim for compensation of the damage, both in criminal and civil proceedings, as is explained under article 8 above.

VII. INTERNATIONAL ASSISTANCE AND COOPERATION (art. 10)

136. The Republic of Macedonia signed the United Nations Convention against Transnational Organized Crime with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, in Palermo-Italy on 12 December 2000.

137. At the same time, within the Stability Pact’s operative group on trafficking in human beings, the Republic of Macedonia signed: the Declaration of the States of Southeastern Europe against trafficking in human beings, Palermo, 13 December 2000; the Statement of commitment

for a mechanism for exchange of information related to trafficking in human beings in Southeastern Europe, in Zagreb on 27 November 2001; the Statement of commitment on the legislation on the status of trafficked persons, in Tirana on 11 December 2002; and the Statement of commitment on victims/witnesses protection and trafficking in children, in Sofia on 10 December 2003.

138. Following the signing in 2001 and the ratification of the Stabilization and Association Agreement with the European Union in 2004, the Republic of Macedonia has taken significant obligations in the part of the Agreement which refers to justice and home affairs, i.e. harmonization of the legislation of the Republic of Macedonia for purposes of efficient cooperation in the fight against trafficking human beings.

139. Within the framework of the criminal legislation, a major part of the standards of the Palermo Convention and Protocol were incorporated in the amendments to the Criminal Code and the Law on Criminal Proceeding of 2002 and 2004.

140. The following is a short review of international agreements and instruments that the Republic of Macedonia has ratified thus far or is a signatory to.

List of international agreements on human rights that the Republic of Macedonia ratified in the 2000-2005 period

United Nations Convention against Transnational Organized Crime; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air

Convention on Cyber-Crime

Additional Protocol to the Convention on cyber-crime, concerning the criminalization of acts of a racist and xenophobic nature committed through computer

European Convention on Nationality

Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms

Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances

Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

The Hague Convention on the Civil Aspects of International Child Abduction

European Convention on the Exercise of Children's Rights

European Convention on the Legal Status of Children Born out of Wedlock

European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children

European Convention on the Adoption of Children

Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women

European Social Charter and the Protocol amending the European Social Charter

Convention on cross-border television

List of international instruments signed by the Republic of Macedonia

European Convention on Action against Trafficking in Human Beings

Additional Protocol to the European Social Charter

Additional Protocol to the Convention on Human Rights and Biomedicine, concerning Biomedical Research

Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin
