

ADVANCED UNEDITED VERSION

THE GOVERNMENT OF THE REPUBLIC OF SERBIA

**SECOND PERIODICAL REPORT ON IMPLEMENTATION
OF THE INTERNATIONAL COVENANT ON ECONOMIC,
SOCIAL AND CULTURAL RIGHTS**

Belgrade, January 2011

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GOVERNMENT OF THE REPUBLIC OF SERBIA

**COMMON CORE DOCUMENT
OF THE REPUBLIC OF SERBIA**

Belgrade, August 2010

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I. GENERAL INFORMATION ABOUT SERBIA

A) Demographic, Economic, Social and Cultural Characteristics of the State

Geographic Position

1. The Republic of Serbia is located in the central part of the Balkan Peninsula, on the main traffic routes connecting Europe and Asia, covering an area of 88,361 sq. kilometres. The northern part of the Republic of Serbia has a predominantly lowland landscape, while its central and southern parts are hilly and mountainous. The lowlands are located in the Pannonia Plain and its adjacent parts (Mačva, Posavina, Pomoravlje, Stig and Negotinska krajina). The Republic of Serbia has 55% of arable land, while 27% is covered by forests. The border of the Republic of Serbia is 2,619.2 km long. The Republic of Serbia borders the Republic of Bulgaria in the east, Romania in the north-east, the Republic of Hungary in the north, the Republic of Croatia and Bosnia and Herzegovina in the west, Montenegro in the south-west and Albania and the Former Yugoslav Republic of Macedonia in the south.

History

2. Serbia is an ancient European state. The country became a kingdom in 1217 and an empire in 1346. Following the incursion of the Turks into the Balkan Peninsula, Serbia lost its independence and was placed under the Turkish authority in 1459. The development of modern Serbia started in 1804 with the First Serbian Uprising. The independence from the Ottoman Empire was acquired during the Serbian-Turkish wars in the period 1876 through 1878, which was reaffirmed at the Congress of Berlin in 1878. The Kingdom of Serbs, Croats and Slovenians was formed in 1918 and subsequently was named the Kingdom of Yugoslavia. The Federal National Republic of Yugoslavia was established after the Second World War, later to be called the Socialist Federal Republic of Yugoslavia with the Republic of Serbia as one of its federal units.

3. Following the dissolution of the Socialist Federal Republic of Yugoslavia which was marked by conflicts, internal instability and a large inflow of refugees that led to an economic downfall and impoverishment of the widest classes of the population, the Federal Republic of Yugoslavia was created in 1992 comprising two federal units – the Republic of Serbia and the Republic of Montenegro. The constitutional reorganization of relations between the federal members led to the creation of the State Union of Serbia and Montenegro in 2003, which was dissolved after the referendum held in Montenegro in 2006. At the referendum held in October 2006, the citizens of the Republic of Serbia adopted a new Constitution¹. The Republic of Serbia is the legal successor of all the

¹ Official Gazette of the Republic of Serbia, No. 83/06 and 98/06

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above predecessor states. The strategic commitment of the Republic of Serbia is to join the European Union. The specific interests behind the commitment of the Republic of Serbia to undergo European integrations are of political, economical and social nature.²

Population

4. There are 7,498,001 people living in the Republic of Serbia according to the results of the last population census held in 2002. Women account for 3,852,071 (51.4%) and men account for 3,645,930 (48.6%) citizens. The main characteristics of the population of the Republic of Serbia are determined by the changes which have led the population to the old age threshold as a result of different tendencies in the dynamics of key events.

5. The number of boys born in Serbia is higher than the number of born girls, 51.5% and 48.5% respectively. However, the mortality rate is higher among men and it amounts to 14.5% in relation to 13.1% of women. The average age of the population in our country amounts to 41.5 years for women and 39 years for men, while life expectancy for women is 75 years and 69.5 years for men. Of the total number of women, 57.25% live in urban settlements and 42.75% live in mixed or rural settlements. There are 52.2% of women in urban settlements and/or 50.33% of women in mixed or rural environments in comparison to men. Men are identified as heads of households in 73% of households and women in 27% of households. As regards single member households, women account for 63.3% and men account for 36.7%.

The national composition of the population according to the results of the census held in 2002

	Republic of Serbia		Central Serbia	AP Vojvodina
	Number	%		
Serbs	6212838	82.86	4891031	1321807
Montenegrins	69049	0.9	33536	35513
Albanians	61647	0.8	59952	1695
Ashkali	584	0.01	413	171
Bosniaks	136087	1.8	135670	417
Bulgarians	20497	0.3	18839	1658
Bunjevci	20012	0.3	246	19766
Vlachs	40054	0.5	39953	101
Gorani	4581	0.1	3975	606
Greeks	572	0.01	352	220
Egyptians	814	0.01	685	129
Jews	1158	0.02	706	452
Yugoslavs	80721	1.1	30840	49881
Hungarians	293299	3.9	3092	290207
Macedonians	25847	0.3	14062	11785
Muslims	19503	0.3	15869	3634
Germans	3901	0.05	747	3154
The Roma	108193	1.44	79136	29057
Romanians	34576	0.5	4157	30419

² Note: Information provided in the Joint Core Document about the Republic of Serbia does not refer to the AP of Kosovo and Metohija, except in section entitled Administrative Territorial Divide of the Republic of Serbia, bearing in mind that the territory of the AP of Kosovo and Metohija, pursuant to the UN Security Council Resolution 1244, is under temporary administration of the United Nations and it is necessary to obtain information from the UNMIK administration to complete the joint core document about the Republic of Serbia.

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Russians	2588	0.03	1648	940
Ruthenians	15905	0.21	279	15626
Slovaks	59021	0.8	2384	56637
Slovenians	5104	0.07	3099	2005
Turks	522	0.01	385	137
Ukrainians	5354	0.1	719	4635
Croats	70602	0.9	14056	56546
Aromanians	293	0.004	248	45
Czechs	2211	0.03	563	1648
Šokci	717	0.01	38	679
Total Population		7498001	5466009	2031992

6. Pursuant to the Law on Foreign Nationals³, the foreign national shall represent any person who does not have the citizenship of the Republic of Serbia. The foreign national may be granted a permission of residence of up to 90 days, temporary residence in duration of maximum one year which may be extended to the same amount of time (for the purpose of work, employment or performing an economic or other professional duty; schooling, studying or specialization in a field, scientific or research activities, practical training, participation in international exchange programs for pupils or students or other scientific and educational activities; family reunion; other legitimate reasons in accordance with the law or an international agreement) and permanent residence (to a foreign national who had continuously resided for longer than 5 years on the basis of a permission for temporary residence until the day of submitting the request for permanent residence in the Republic of Serbia; who has been married to a citizen of the Republic Serbia for at least 3 years, or to a foreign national with permanent residence; whose origins are from the territory of the Republic of Serbia; who is a minor on a temporary stay whose one parent is a citizen of the Republic of Serbia or a foreign national with approved permanent residence provided that the other parent gives consent).

7. There were 959,515 applications of residence submitted by foreign nationals in 2008, 5,753 of which were positively processed for temporary residence. In 2008, the total of 16,779 foreign nationals were granted temporary residence in the territory of the Republic of Serbia, mostly based on employment (6,329), marriage (5,099) and family relations (3,285). According to their citizenships, most residents were from the People's Republic of China (5,043), Romania (1,953) and the Republic of Macedonia (1,575).⁴

Cultural Diversities

(a) Languages

8. According to the findings of the latest census held in 2002, the minority languages spoken in the Republic of Serbia are: Albanian, Bosnian, Bulgarian, Vlach, Hungarian, Macedonian, German, Roma, Romanian, Ruthenian, Slovak, Ukrainian, Croatian and Czech. In addition to the Serbian language and the Cyrillic script, the Latin script and the following languages are in official use in certain local government units in the Republic

³ Official Gazette of the Republic of Serbia, No. 97/08

⁴ Information of the Ministry of Internal Affairs

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of Serbia: Albanian, Bosnian, Bulgarian, Czech, Hungarian, Romanian, Ruthenian, Slovak and Croatian.

(b) Religion

9. The right to freedom of thought, conscience, beliefs and religion is guaranteed by the Constitution of the Republic of Serbia. Everyone shall have the right to stand by their belief or religion or to change them by choice. No person shall have the obligation to declare their religious or other beliefs. Everyone shall have the freedom to manifest their faith or religious beliefs in worship, religious practice or instruction, individually or in community with others, and to manifest their beliefs in private or in public. The freedom of manifesting religion or beliefs may be restricted by law only if necessary in a democratic society to protect lives and health of people, morals of democratic society, freedoms and rights guaranteed by the Constitution, public safety and order, or to prevent causing or inciting religious, national, or racial hatred.⁵

10. According to the results of the last population census held in 2002, the religious structure in Serbia is as follows: the Orthodox account for 6,371,584 persons (84.98%), the Roman Catholic account for 410,976 persons (5.48%), the members of the Islam community account for 239,658 persons (3.19%), the Protestant account for 80,837 persons (1.078%), the Jews account for 785 persons (0.01046%), the members of pro-oriental cults account for 530 persons (0.0071%), the members of undeclared religions account for 18,768 persons (0.25%), the believers who are not members of any particular religion account for 473 persons (0.0063%), non-believers account for 40,068 persons (0.53%), the undeclared account for 197,031 persons (2.63%) and the unknown account for 137,291 persons (1.83%).

11. Article 40 of the Law on Churches and Religious Communities⁶ foresees the right to religious instruction in state and private elementary and secondary schools, and grants the right to traditional churches and religious communities to organize religious instruction in state schools: the Serbian Orthodox Church, the Islamic Community, the Roman Catholic Church, the Slovak Evangelical Church of the A.C. (Augsburg Confession), the Jewish Community, the Christian Reformed Church and the Christian Evangelical Church of the A.C.⁷

Socio-Economic Indicators

(a) Economic Indicators

12. The Republic of Serbia is a country undergoing transition. The economic system in the Republic of Serbia is based on market economy, open and free market, freedom of entrepreneurship, independence of business entities and equality of private and other types of assets. The Republic of Serbia represents a uniform economic area with a

⁵ Article 43

⁶ Official Gazette of the Republic of Serbia, No. 36/06

⁷ Article 40

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uniform market of commodities, labour, capital and services. The impact of market economy on the social and economic status of the employed is adapted through social dialogue between trade unions and employers⁸.

13. Macro-economic results of the nine-year-long transition period in the Republic of Serbia are prevalingly positive. Considerable economic growth has been achieved, inflation has been reduced, foreign currency reserves have been enlarged and the exchange rate stability has been maintained. At the macro-economic level, internal and external imbalance and a high level of unemployment and poverty are the key transitional problems.

14. At the structural level, the privatization of socially-owned property has been predominantly finalized in the real and banking sectors, whereas the reform of the public sector is delayed (privatization of public companies, reform of public services and state administration) as well as the reform of the judiciary.

15. The Republic of Serbia has executed significant institutional and structural adjustments: more than 400 system laws have been adopted regulating the market system and largely harmonized with the EU regulations. The real, financial and public sectors have been considerably reformed. The remaining reforms mainly refer to the privatization of public companies, competition policy, the development of the non-banking sector, infrastructure reforms, pension system reforms and completion of institutional reforms, primarily in respect of the implementation of the adopted system laws.

16. The Republic of Serbia established dynamic economic growth, high export rates, a significant inflow of direct foreign investments and enhanced economy efficiency in the period between 2005 through 2008. The average growth rate of gross domestic product (GDP) in this period was 6%. GDP per capita determined according to the current currency exchange rate was USD 3,408 in 2005 and/or USD 6,805 in 2008.⁹ Also, established investments and structural reforms had a positive impact on economic growth. From the point of view of diverse sectors, the GDP growth is essentially a result of growth in the sector of telecommunications, retail and wholesale and financial sector, while somewhat lower growth was noted in the fields of industry, transportation and construction.¹⁰ The use of GDP is characterised by a high share of personal consumption, low share of investments and high foreign trade deficit¹¹.

17. Foreign direct investments from 2005 to 2008 totalled EUR 8 billion and their GDP share was reduced from 6.1% in 2005 to 5.1% in 2008. The highest share of the investments related to the purchase of domestic state or social companies, while a smaller share included Greenfield investments. Higher investments into economic infrastructure

⁸ Constitution of the Republic of Serbia, Article 82

⁹ A significant share of GDP growth per capita from 2005 to 2008 is a result of the impact of changes in the dollar vs. dinar currency exchange rates.

¹⁰ The data refer to the period from 2005 through 2007.

¹¹ Report on the Achievement of the Millennium Development Goals in the Republic of Serbia, 2009

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and new technologies and equipment are a basic precondition for achieving higher GDP growth rates, increased competitiveness and export rates.¹²

18. The external debt to GDP share in 2008 remained at approximately the same level as in 2005 and accounted for 64%. According to the criterion of the World Bank (total external debt and GDP ratio), the economy of the Republic of Serbia is in the group of medium indebted countries (the limit is set to 80% GDP). However, the Republic of Serbia ranks among highly indebted countries (211.5% against the limit of 220%) according to another criterion of the World Bank (the ratio between total external debt and the goods and services exports rates).

19. The Republic of Serbia adopted the absolute poverty line as the national poverty measurement standard. Consumption represents the basic wellbeing aggregate. According to the Household Budget Survey¹³ for the period 2006 to 2008 and the estimates of the Republic Statistical Office, the poverty rate dropped from 8.8% in 2006 to 7.9% in 2008.

20. The most vulnerable categories of the population include rural population, in particular from the region of South-East Serbia, undereducated population and the unemployed, children under 14 years of age, elderly (above 65 years of age), households with two or more young children (under 6 years of age), as well as the Roma and internally displaced persons. The poverty rate of urban and rural regions is reduced, yet the gap between the two regions has deepened.

21. Labour market indicators indicate positive trends in the reduction of the total unemployment rate, the youth unemployment rate and the long-term unemployment rate. However, in spite of evident positive trends, high unemployment still remains one of the most pressing economic and social issues of the Republic of Serbia, in particular among youth and the long-term unemployed population. The total number of the employed in 2008¹⁴ amounted to 2,821,724, which accounts for the employment rate of 62.7%. The unemployment rate oscillated over the years: 20.9% in 2006, 18.1% in 2007 to 13.6% in 2008. The preconditions for active labour market policy were introduced in addition to passive measures. It implies primarily the measures of stimulating new employment, as well as the employment of specific vulnerable social groups of population: refugees and internally displaced persons, long-term unemployed persons, person over 50 years of age, members of ethnic minorities, persons with disabilities, public works employment.¹⁵

(b) Social Safety

¹² Economic Development Strategy, 2006

¹³ The Republic Statistical Office was formally mandated in 2004 to monitor poverty trends and the development of related methodology based on the Household Budget Survey which is regularly implemented on an annual basis.

¹⁴ Source: Labour Force Survey, Republic Statistical Office (RSO)

¹⁵ Ibidem

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22. The system of social safety in the Republic of Serbia covers social insurance (pension, disability and health insurance and unemployment insurance) and social and child protection.

23. Pension and disability insurance is predominantly organised according to the principle of current financing and cross-generational solidarity. The amount of resources collected from contributions is insufficient to execute the law-prescribed rights. Voluntary private pension insurance has been introduced, but it has a small number of beneficiaries.

24. Health insurance is characterised by a wide coverage of the population with health care, a discrepancy between broadly defined rights and financial means for their observance, dominant state ownership over buildings and equipment, centralised management of the system on the republic level, dominance of secondary and tertiary over primary health care and non-integrated private sector within the system. Voluntary health insurance is envisaged in addition to mandatory health insurance.

25. Unemployment insurance is mandatory for all persons employed in the Republic of Serbia. The number of allowance beneficiaries is not high in view of the number of the unemployed. Moreover, there are difficulties in financing the allowances thereof.

26. Social protection in the Republic of Serbia is regulated by the Law on Social Welfare and Provision of Social Security to Citizens¹⁶. Social protection and social security rights include: material support; caregiver benefits; training assistance; at-home assistance, day-care, temporary accommodation in shelters and admission stations, accommodation in an institution or foster family; social work services; equipment for beneficiaries accommodated in social protection institutions or other family; one-off assistance. The Government of the Republic of Serbia adopted the Social Welfare Development Strategy in 2005.

27. The goal of the social welfare system reform is to develop an integrated social protection system in which social stakeholders shall use the existing resources effectively and develop new ones through accessible, quality and diverse services, aiming to preserve and improve the quality of life of vulnerable and marginalised individuals and groups, enable them to lead a productive life in the community and prevent dependence on social services, through active involvement of the beneficiaries of social protection system services.

28. Some of the rights within the child protection system (parent allowance) represent population policy measures, while other rights (child allowance) are designed as social policy instruments. Parent allowance represents one-off allowance provided upon the birth of the first child and is paid in 24-month instalments for the second, third and fourth child, replacing several previous monthly or one-off allowances. The child allowance

¹⁶ Official Gazette of the Republic of Serbia, No. 36/91, 33/93, 67/93, 46/94, 52/96, 29/01, 84/04, 115/05, Article 9, paragraph 1

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amount has been equalled for all children and the uniform right to the allowance has been revoked.

29. The GDP share of state expenditures on account of social protection (including pensions) increased from 15.6% in 2005 to 16.4% in 2008, whereas the share for two most significant forms of state support to the poor (income support for families and child allowance) decreased from 0.58% in 2005 to 0.44% GDP in 2008.¹⁷

(c) Contagious Diseases

30. The mortality rate from contagious diseases in 2008 was 2.87 per 100.000 inhabitants. The incidence rate of tuberculosis in 2008 was 24 per 100.000 inhabitants, and the percentage of successfully treated patients in 2007 accounted for 83%. The project entitled "Control of Tuberculosis in the Republic of Serbia through the Implementation of the Strategy of Directly Observed Therapy and Coverage of At-Risk Population" has been implemented since 2004, funded by the Global Fund to Fight HIV, Tuberculosis and Malaria.

31. The HIV infections/AIDS incidence rate was 05.1 per 100.000 inhabitants according to the last findings for 2008, and the mortality rate from HIV infections/AIDS in 2008 totalled 0,3 per 100.000 inhabitants. There are three times more men among the infected and the deceased from HIV infections/AIDS, and the largest number thereof is in the 30 to 39 age bracket¹⁸. The incidence rate, as well as the HIV infections/AIDS mortality rate is decreasing in the Republic of Serbia. Even though the majority of the HIV/AIDS infected persons are intravenous drug users, there has been an increase in the share of persons infected through unprotected sexual relations over the last years. Therefore, it is vital to control the spread of HIV infections/AIDS by advancing sexual behaviour.¹⁹

(d) Birth Control

32. Maternal mortality and/or mortality of women from diseases and pregnancy conditions, at child delivery and six weeks after the delivery are rare events. In the period from 2000 through 2007, the highest share of maternal mortality was in 2005 and 2006 when it accounted for 13.9 and 12.7 respectively per 100,000 alive newborns, while the lowest share was in 2007 when no cases of death caused by pregnancy, child delivery or puerperium complications were registered. The rate of terminated pregnancies among women of reproductive age was 2,069.5 per 100,000 women in 2000 and/or 1,149.4 per 100,000 women in 2007. The percentage of women of reproductive age who used modern methods of contraception in 2000 was 33% and/or 37.3% in 2007. In the population of adolescents (15 to 19 years of age), there were 504.2 terminations of pregnancy per 100,000 adolescents in 2000 and/or 443.9 terminations per 100,000

¹⁷ World bank, 2009

¹⁸ Republic Institute of Public Health, 2008

¹⁹ Ibidem

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adolescents in 2007. Private health clinics do not report this type of intervention on a regular basis. The mortality rate of women in reproductive age dropped from 129.9 in 2000 to 102 per 100,000 women in 2008.

e) Education

33. The system of education covers preschool, primary and secondary education, as well as higher education, and is integral to life-long learning of all citizens of the Republic of Serbia. Educational work is practised in Serbian. Pursuant to the Law on the Fundamentals of the Education System²⁰, members of ethnic minorities are entitled to instruction in Serbian or their mother tongue or bilingually. If instruction is delivered in Serbian, students are entitled to the subject of "mother tongue with elements of national culture" in addition to other subjects. Instruction in the language of the national minority or bilingually requires that at least 15 students apply for such instruction, or a fewer number of students with the consent of the Minister²¹. Textbooks and teaching tools for such instruction shall be used in conformity with the specific law, as well as the textbooks from mother countries with previous consent obtained from the Minister. Instruction of the mother tongue with elements of national culture is an optional form of educational work in secondary schools.²²

34. According to data of the Republic Statistical Office, there were 4.3% of children of appropriate age that failed to enrol primary school in 2008 in the Republic of Serbia. The total of 0.87% of children leaves the system upon advancing to the fifth grade, while 94.8% of children finish primary school. Indicators of the scope and completion of primary education are far more unfavourable among rural children and these indicate negative trends. The socio-economic status is an important factor of the scope, drop-out rate and the rate of completing primary and secondary school. However, international testing indicate that the impact of the socio-economic status on the achievements of students who remain in regular schooling throughout the age of 15 is far lower than the average²³ and that the education system in the Republic of Serbia can be considered equitable. The net secondary school enrolment rate increased (from 76.40% to 81.58%), whereas the rate of secondary school completion decreased (from 85.68% to 82.76%) from 2005 to 2008.

35. The education system is predominantly financed from the budget of the Republic of Serbia. The Law on Budget 2008 allocated 16.15% of total budget expenditures on account of education. The share of education in GDP from 2005 to 2009 accounted for 3.5-4%.²⁴

²⁰ Official Gazette of the Republic of Serbia, No. 72/09

²¹ The Law on Primary School (Official Gazette of the Republic of Serbia, No. 50/92 and 22/02, article 5)

²² The Law on Secondary School (Official Gazette of the Republic of Serbia, No. 50/92, 24/96, 23/02 and 25/02, Article 27, paragraph 7)

²³ Average rate of OECD countries, PISA, 2006

²⁴ Ibidem

B) Constitutional, Legal and Political Structure of the State

Constitutional Structure

36. The Constitution of the Republic of Serbia was endorsed at the referendum conducted in October 2006. The Constitution of the Republic of Serbia stipulates that the Republic of Serbia is a state of Serbian people and all the citizens who live therein, based on the rule of law and social justice, principles of civic democracy, human and minority rights and freedoms, and commitment to European principles and values.²⁵ The Constitution comprises ten segments, as follows: Constitutional principles; human and minority rights and freedoms; economic system and public finance; jurisdiction of the Republic of Serbia; constitution of Power; the Constitutional Court; territorial organisation; constitutionality and legality; Constitutional changes; final provisions.

37. The fundamental principles of human and minority rights include the direct implementation of guaranteed rights; constitutional regulation of the purpose of constitutional guarantees; regulation of restrictions of human and minority rights; prohibition of discrimination and protection of human and minority rights and freedoms.

38. The motion to amend the Constitution²⁶ may be submitted by at least one third of the total number of deputies, the President of the Republic, the Government and at least 150,000 voters. The National Assembly shall decide on amending the Constitution. The motion to amend the Constitution shall be adopted by a two-third majority of the total number of deputies. If the required majority of votes have not been obtained, the amendments to the Constitution on matters contained in the submitted proposal which has not been adopted may not be reconsidered in the following year. In case that the National Assembly adopts the proposal for amending the Constitution, an act on amending the Constitution shall be drafted and/or reviewed.

39. The National Assembly shall adopt an act on amending the Constitution by a two-third majority of the total number of deputies and may decide to have it endorsed in the republic referendum by the citizens. The National Assembly shall be obliged to put forward the act on amending the Constitution in the republic referendum to have it endorsed, in cases when the amendment of the Constitution pertains to the preamble of the Constitution, principles of the Constitution, human and minority rights and freedoms, the system of authority, proclamation the state of war and emergency, derogation from human and minority rights in the state of emergency or war or the proceedings of amending the Constitution. When the act on amending the Constitution is put forward for endorsement, the citizens shall vote in the referendum within no later than 60 days from the day of adopting the act on amending the Constitution. The amendment to the Constitution shall be adopted if the majority of voters who participated in the referendum voted in favour of the amendment.

²⁵ Constitution of the Republic of Serbia, Article 1

²⁶ Constitution of the Republic of Serbia, Article 203

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40. The act on amending the Constitution endorsed in the republic referendum shall come into force once promulgated by the National Assembly. If the National Assembly does not decide to put forward the act on amending the Constitution for endorsement, the amendment of the Constitution shall be adopted by voting in the National Assembly, and the act on amending the Constitution shall come into force once promulgated by the National Assembly.

41. The Republic of Serbia is a parliamentary democratic republic founded on the rule of law. The Constitution of the Republic of Serbia guarantees the division of power into legislative, executive and judiciary.²⁷

(a) National Assembly

42. The National Assembly shall be the supreme representative body and the holder of the constitutional and legislative powers in the Republic of Serbia.²⁸ The National Assembly shall consist of 250 deputies, who are elected in direct elections by secret ballot, in accordance with the Law.²⁹

(b) Government of the Republic of Serbia

43. The executive power shall be vested in the Government of the Republic of Serbia, which currently comprises 24 ministers. The Prime Minister shall manage and direct the activities of the Government and take care of coordinated political activities of the Government, coordinate the work of the members of the Government and represent the Government. The ministers shall account for their work and for the conditions within the competence of their ministries to the Prime Minister, the Government and the National Assembly³⁰.

(c) President

44. The President of the Republic shall express the state unity of the Republic of Serbia³¹ and represent the Republic of Serbia in the country and abroad, promulgate laws by decrees, propose a candidate for the Prime Minister and holders of positions to the National Assembly, appoint and dismiss the ambassadors of the Republic of Serbia, receive letters of credit and revocable letters of credit of foreign diplomatic representatives, grant amnesties and award honours, command the Army and appoint, promote and relieve officers of the Army of Serbia.³² The President shall be elected directly, by secret ballot, to a mandate of five years.³³

²⁷ Constitution of the Republic of Serbia, Article 4

²⁸ Constitution of the Republic of Serbia, Article 98

²⁹ Constitution of the Republic of Serbia, Article 100 (1)

³⁰ Constitution of the Republic of Serbia, Article 125 paragraphs 2 and 3

³¹ Constitution of the Republic of Serbia, Article 111

³² Constitution of the Republic of Serbia, Article 112

³³ Constitution of the Republic of Serbia, Article 114, paragraph 1, Article 116, paragraph 1

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(d) Public Administration and Administrative and Territorial Division of the Republic of Serbia

45. Public Administration shall be independent, bound by the Constitution and law and it shall account for its work to the Government. The affairs of public administration shall be performed by ministries and other public administration bodies, stipulated by law. The affairs of public administration and the number of ministries shall be prescribed by law. The internal organisation of ministries and other public administration bodies and organisations shall be regulated by the Government³⁴.

46. Individual instruments and actions of state bodies, organisations with delegated public powers, the bodies of the autonomous provinces and local government units shall be based on law. Legality of final individual acts deciding on a right, duty or legally grounded interest shall be subject to re-examination before the court in administrative proceedings, if no other form of judicial protection has been prescribed in a particular case.³⁵

47. The administrative and territorial division of the Republic of Serbia comprises municipalities, towns and the City of Belgrade as territorial units and autonomous provinces as a form of territorial autonomy. The Republic of Serbia comprises the Autonomous Province of Vojvodina (hereinafter: the AP of Vojvodina) and the Autonomous Province of Kosovo and Metohija (hereinafter: the AP of Kosovo and Metohija) as forms of territorial autonomy. The territorial organization of the Republic of Serbia comprises 150 municipalities exercising local self-governance and 23 towns. The City of Belgrade is a separate territorial unit.

48. The autonomous provinces shall, in accordance with the Constitution and their Statutes, define the competences, election, organisation and activities of bodies and services they establish³⁶ and have the source income to finance their competences³⁷. The Statute shall be the supreme legal document of the autonomous province and the autonomous province shall also enact other decisions and general documents pertaining to the matters within its competences³⁸.

49. The Law on the Establishment of Competences of the Autonomous Province of Vojvodina³⁹ determines the competences of the AP of Vojvodina and regulates other matters relevant to the status of the AP of Vojvodina. In accordance with the Law, the AP of Vojvodina defines the competences, election, organisation and activities of bodies and services it establishes⁴⁰. The AP of Vojvodina has the source income to finance its competences. The type and amount of source income of the AP of Vojvodina is

³⁴ Constitution of the Republic of Serbia, Article 136

³⁵ Constitution of the Republic of Serbia, Article 198

³⁶ Constitution of the Republic of Serbia, Article 183, paragraph 1

³⁷ Constitution of the Republic of Serbia, Article 184, paragraph 1

³⁸ Constitution of the Republic of Serbia, Article 185, paragraphs 1 and 3

³⁹ Official Gazette of the Republic of Serbia", No. 99/09

⁴⁰ Article 2, paragraph 1

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determined by special law. Resources for executing confidential affairs are provided for by the Republic of Serbia.⁴¹

50. The United Nations Security Council Resolution no. 1244 as of 1999 has established the UN Interim Administration Mission (UNMIK) in the territory of AP of Kosovo and Metohija.

(e) Judiciary and Application of Justice

Courts

51. The judicial power shall be uniform in the territory of the Republic of Serbia. The courts shall be autonomous and independent in their work and they shall perform their duties in accordance with the Constitution, law and other general documents, as stipulated by laws, generally accepted rules of the international law and the ratified international treaties. Hearings before courts shall be public and may be restricted only in accordance with the Constitution. Both judges and lay-judges shall participate in a trial, in the manner stipulated by law. The law may also regulate that only judges may participate in a trial before certain courts and in certain cases. The court decides on matters within the Council, while the law can stipulate that a single judge decides on particular matters.⁴²

52. The judicial power in the Republic of Serbia shall be vested in the courts of general and special jurisdiction. The establishment, organisation, jurisdiction, system and structure of courts shall be regulated by law. The provisional courts, courts-martial or special courts may not be established. The Supreme Court of Cassation shall be the highest court in the Republic of Serbia. The seat of the Supreme Court of Cassation shall be in Belgrade.⁴³

53. Court decisions shall be passed in the name of people and shall be based on the Constitution, law, ratified international treaties and regulations passed on the grounds of the law. Court decisions shall be binding for all and may not be subject to extrajudicial control. A court decision may only be reconsidered by a competent court in the proceedings prescribed by law. A passed sentence may be fully or partially forgiven without a court decision, by general pardon or amnesty.⁴⁴

54. The Constitution of the Republic of Serbia prescribes that a judge is independent in performing their judicial function and may only be subordinate to the Constitution and the law. Any influence on a judge while performing their judicial function shall be prohibited.⁴⁵

⁴¹ Article 8

⁴² Constitution of the Republic of Serbia, Article 142

⁴³ Constitution of the Republic of Serbia, Article 143

⁴⁴ Constitution of the Republic of Serbia, Article 145

⁴⁵ Article 149

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55. The National Assembly adopted a set of laws on judiciary in December 2008: the Law on the High Judicial Council⁴⁶, the Law on the State Council of Prosecutors⁴⁷, the Law on Judges⁴⁸, the Law on the Public Prosecutor's Office⁴⁹, the Law on the Organization of Courts⁵⁰, the Law on the Seats and Territorial Jurisdiction of Courts and Public Prosecutor's Offices⁵¹, the Law on the Amendments to the Law on Torts⁵².

56. Regular courts, higher courts, appellate courts and the Supreme Court of Cassation are the courts of general jurisdiction. Commercial courts, the Commercial Court of Appeals, tortuous courts, the Higher Tortuous Court and the Administrative Court are the courts of special jurisdiction⁵³.

57. The High Judicial Council⁵⁴ shall be an independent and autonomous body which shall provide for and guarantee independence and autonomy of courts and judges. The High Judicial Council shall comprise eleven members.

58. The High Judicial Council shall be constituted of the President of the Supreme Court of Cassation, the Minister of Justice and the President of the relevant committee of the National Assembly as members ex officio and eight electoral members to be appointed by the National Assembly, in accordance with the law. The electoral members shall include six judges holding permanent judge functions, one of whom shall be from the territory of autonomous provinces, and two distinguished and prominent lawyers who have at least 15 years of professional experience, of whom one shall be a solicitor and the other a professor at the Faculty of Law. The presidents of courts may not be electoral members of the High Judicial Council. The terms of the office of the members of the High Judicial Council shall last for five years, except for the members appointed. A member of the High Judicial Council shall enjoy immunity as a judge⁵⁵.

Constitutional Court

59. The Constitutional Court shall be an autonomous and independent state body, which shall protect constitutionality and legality as well as human and minority rights and freedoms. The Constitutional Court decisions shall be final, enforceable and generally binding⁵⁶.

60. The Constitution of the Republic of Serbia prescribes a mixed system for the appointment of judges of the Constitutional Court and/or a combination of the system of election and appointment with adequate share and impact of all three branches of power –

⁴⁶ Official Gazette of the Republic of Serbia, No. 116/08

⁴⁷ Official Gazette of the Republic of Serbia, No. 116/08

⁴⁸ Official Gazette of the Republic of Serbia, No. 116/08 and 104/09

⁴⁹ Official Gazette of the Republic of Serbia, No. 116/08 and 104/09

⁵⁰ Official Gazette of the Republic of Serbia, No. 116/08 and 104/09

⁵¹ Official Gazette of the Republic of Serbia, No. 116/08

⁵² Official Gazette of the Republic of Serbia, No. 111/09

⁵³ Law on the Organization of Courts (Official Gazette of the Republic of Serbia, No. 116/08, Article 11, paragraphs 3 and 4)

⁵⁴ Constitution of the Republic of Serbia, Article 153, paragraph 1

⁵⁵ Constitution of the Republic of Serbia, Article 153, paragraphs 2, 3, 4 and 5

⁵⁶ Constitution of the Republic of Serbia, Article 166

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legislative, executive and judicial. The Constitutional Court as an autonomous and independent state body shall have fifteen judges who shall be elected and appointed for the period of nine years, including the possibility to be elected or appointed a judge on another occasion. The National Assembly shall appoint five judges of the Constitutional Court from among ten candidates proposed by the President of the Republic. The President of the Republic shall appoint five judges of the Constitutional Court from among ten candidates proposed by the National Assembly, and the general session of the Supreme Court of Cassation shall appoint five judges from among ten candidates proposed at the general session by the High Judicial Council and the State Prosecutors' Council. The judges shall be elected and appointed from among the prominent lawyers who have at least 40 years of age and 15 years of experience in practising the law. On the occasion of their accession to office, the judges of the Constitutional Court shall take oath before the President of the National Assembly.

61. The following proceedings are held before the Constitutional Court of the Republic of Serbia: the proceeding for establishing constitutionality or legality of general instruments; the proceeding for establishing constitutionality of laws before they are promulgated; the proceeding for deciding on postponing the enforcement of decisions of the bodies of the autonomous province; the proceeding for resolving conflicts in jurisdiction; procedure for deciding on electoral proceedings; the procedure for deciding on the prohibition of the work of a political party, labour organization, citizen association or religious community; the proceeding of constitutional complaint; the procedure for deciding on violations of Constitution by the President of the Republic; the procedure of complaint by judges, public prosecutors and deputy public prosecutors on a decision about termination of tenure.⁵⁷

Public Prosecutor's Office

62. The Public Prosecutor's Office shall be an independent state body prosecuting the perpetrators of criminal and other punishable acts and take measures in order to protect constitutionality and legality. The Public Prosecutor's Office shall perform its function on the grounds of the Constitution, law, ratified international treaty and regulation passed on the grounds of the law⁵⁸.

63. The Public Prosecutor's Office of the Republic of Serbia is made up of the Republic Public Prosecutor's Office, Appeal Public Prosecutor's Offices, Higher Public Prosecutor's Offices, Basic Public Prosecutor's Offices and Public Prosecutor's Offices with special jurisdiction. The public prosecutor offices with special jurisdiction are the Prosecutor's Office for Organised Crime and the Prosecutor's Office for War Crimes. The Republic Public Prosecutor's Office accounts for its work and the work of the Public Prosecutor's Office to the National Assembly⁵⁹. The

⁵⁷ Law on the Constitutional Court (Official Gazette of the Republic of Serbia, No. 109/07)

⁵⁸ Constitution of the Republic of Serbia, Article 156

⁵⁹ Law on the Public Prosecutor's Office (Official Gazette of the Republic of Serbia, No. 116/08 and 104/09), Article 13, paragraphs 1 (2), Article 22, paragraph 2)

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Public Prosecutor is elected by the National Assembly at the Government's proposal to a period of six years and may be re-elected. The State Council⁶⁰ is an independent body with 11 members which provides and guarantees the independence of public prosecutors and deputy public prosecutors. The High Judicial Council shall be constituted of the President of the Supreme Court of Cassation, the Minister of Justice and the President of the relevant committee of the National Assembly as members ex officio and eight electoral members to be appointed by the National Assembly, in accordance with the law.

64. The Government propose to the National Assembly one or more candidates to be elected to the public prosecutor position from a list of candidates established by the State Prosecutor's Council. The State Prosecutor's Council make decisions regarding the exemption of the Republic Public Prosecutor, assign an officer to perform the function of the Republic Public Prosecutor, maintain personal records for each public prosecutor, deputy prosecutor and employee at the Public Prosecutor's Office, deal with affairs of judicial administration which relate to providing financial means for the work of public prosecutor's offices, passes the Code of Ethics. The function of the public prosecutor and the deputy public prosecutor shall terminate upon personal request, upon a completed tenure, when they have lost capacity to work or upon dismissal. The Public Prosecutor's tenure shall terminate also when they are not re-elected and when the deputy public prosecutor is not elected for permanent function.

Political Structure

65. Article 1 of the Constitution of the Republic of Serbia⁶¹ stipulates that the Republic of Serbia is a state of Serbian people and all citizens who live in it, based on the rule of law and social justice, principles of civil democracy, human and minority rights and freedoms, and commitment to European principles and values.

66. The role of political parties in democratic shaping of the political will of the citizens is guaranteed and recognized in the Republic of Serbia. Political parties may be established freely. Activities of political parties aiming at forced overthrow of constitutional system, violation of guaranteed human or minority rights, inciting racial, national or religious hatred, shall be prohibited. Political parties may not exercise power directly or submit it to their control⁶².

67. The establishment and legal status of political parties, entry and removal from the registry, cease of existence of political parties and other issues of importance for the activities of political parties are regulated by the Law on Political Parties⁶³ which was adopted on May 12, 2009 and came into force on July 23, 2010. The political party in respect of this law is an organisation of citizens freely and voluntarily associated,

⁶⁰ Law on the State Council of Prosecutors, Article 2, paragraph 1, Article 5, paragraph 1 (2)

⁶¹ Article 1

⁶² Constitution of the Republic of Serbia, Article 5

⁶³ Official Gazette of the Republic of Serbia, No. 36/09

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established for the purpose of achieving political aims by democratic shaping of the political will of citizens and participation in elections. This law defines for the first time the term of political party of a national minority as a political party the actions of which, in addition to the abovementioned properties of a political party, aims specifically to present and represent the interests of a single national minority and to protect and promote the rights of the members of the national minority in accordance with the Constitution, law and international standards, as regulated by its founding instrument, program and statute of the political party.

68. A novelty of this law is that a political party may be established by at least 10,000 citizens of the Republic of Serbia of age and working ability, with the exception of political parties of national minorities which may be established by at least 1,000 citizens of the Republic of Serbia of age and working ability. A political party is established at a founding assembly by adopting the founding instrument, program and statute and by electing authorised persons to represent the political party. Political parties are entered into the Registry of Political Parties maintained by the Ministry of Public Administration and Local Self-Government. Membership in a political party is free and voluntary, and every citizen of the Republic of Serbia of age and working ability may become the member of a political party under equal conditions established by the statute. An exception to the rule is that a judge of the Constitutional Court, judges, public prosecutors, the Ombudsman, members of police force and military personnel, whose function is by law incompatible with membership in a political party, may not be members of political parties.

69. The Law on Political Parties stipulates that the activities of a political party may not be aimed at a forced overthrow of the constitutional order and impair the territorial integrity of the Republic of Serbia, infringe the guaranteed human or minority rights or incite and instigate racial, national or religious hatred. Prohibition of the work of a political party is decided upon by the Constitutional Court, and the parties whose activities are in contradiction to the named legal limitations or who enter wider political alliances in the country or abroad and/or join a political party whose activities are in contradiction to the named legal limitations, shall be banned. The procedure for prohibiting the work of a political party shall be instituted at the motion of the Government, the Republic Public Prosecutor and the ministry in charge of administration issues.

70. The Law on Political Parties stipulates that the political organizations which were entered into the Registry of Political Organisations (488 political organisations) and the Registry of Associations (154 political associations) according to previously effective regulations shall continue with their work if they harmonize their statutes and general instruments with the provisions of the Law thereof and submit an application for entering the harmonization into the Registry of Political Parties within six months from the beginning of the implementation of the Law on Political Parties. Political organisations which do not act in accordance with this legal time limit, they shall be erased from the Registry of Political Organisations and the Registry of Associations, Social and Political Organisations and lose the status of legal entity. A total of 72 political parties, 42 of

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which are political parties of national minorities, were entered into the Registry of Political Parties until May 6, 2010, which is maintained by the Ministry of Public Administration and Local Self-Government.

(a) Electoral Right

71. The Constitution of the Republic of Serbia guarantees electoral right. Any citizen of age and working ability in the Republic of Serbia shall have the right to vote and be elected. Suffrage shall be universal and equal for all, the elections shall be free and direct and voting shall be carried out by secret ballot in person. Electoral right shall be protected by law and in accordance with the law⁶⁴. Equality and representation of different genders and members of national minorities shall be provided in the National Assembly, in accordance with the law.⁶⁵

72. Pursuant to the Law on the Election of Deputies⁶⁶ regulating the election of deputies of the National Assembly of the Republic of Serbia, the electoral right includes the right of citizens to vote and be elected, to propose candidates and run for candidacy, to decide on the proposed candidates and electoral lists, to ask the candidates questions in public, to be informed timely, truthfully, fully and impartially on the programmes and activities of the persons submitting electoral lists and the candidates in the lists, as well as to exercise other rights stipulated by this law.⁶⁷

73. The right to vote and be elected as deputy shall be given to every citizen holding residency in the Republic of Serbia and who is a citizen of the Republic of Serbia, who has come of age and has working ability⁶⁸. The same provision is set forth in the Law on Local Elections⁶⁹, which stipulates that voters and candidates shall have residence in the territory of the local government constituency where the right to vote is exercised⁷⁰. The Law on Gender Equality⁷¹ stipulates specific measures for securing gender equality during the candidacy for the President of the Republic, deputies and councillors, as well as during the execution of the electoral procedure through the composition and work of the body competent for holding the elections.

74. The Law on the Election of Deputies prescribes that the general supervision over political parties, candidates and media during election activities shall be vested in the supervisory committee. The supervisory committee shall comprise ten members, half of whom shall be nominated by the National Assembly of the Republic of Serbia at the motion of the Government and the other half at the motion of the deputy groups of the National Assembly selected among the renowned public officers, under the condition that these are not members of the bodies of political parties taking part in the elections. Should a person taking part in the election campaign incite violence, national, religious or

⁶⁴ Article 52

⁶⁵ Article 100, paragraph 2

⁶⁶ Official Gazette of the Republic of Serbia, No. 35/00 and 18/04

⁶⁷ Article 9

⁶⁸ Article 10

⁶⁹ Official Gazette of the Republic of Serbia, No. 129/07

⁷⁰ Article 6

⁷¹ Official Gazette of the Republic of Serbia, No. 104/09, Article 37

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racial hatred or gender inequality by their behaviour, the supervisory committee in charge of the election campaign shall without delay instigate the proceedings before competent bodies.⁷²

75. The Law on the Election of Deputies stipulates that mandates shall be distributed between electoral lists which collect at least 5% of votes of the total number of voters who take a vote in a constituency. However, this census does not apply to political parties of national minorities and the coalitions of such political parties and/or parties whose primary goal is to represent and advocate for the interests of a national minority and to protect and promote the rights of members of a national minority, pursuant to international legal standards. Political parties of national minorities and the coalitions of such political parties shall participate in the distribution of mandates even if they have collected fewer than 5% of votes of the total number of voters who have taken a vote. The Republic Election Commission decide whether the nominator of the electoral list shall have the status of political party of a national minority and/or coalition of such political parties upon announcing the electoral list, at the motion of the nominator of the electoral list which is to be composed at the time of submitting the electoral list⁷³.

76. Six political parties of national minorities hold deputy mandates in the current composition of the National Assembly of the Republic of Serbia, namely: the Alliance of Vojvodina Hungarians, the Sandžak Democratic Party, the Democratic League of Croats in Vojvodina, the Socialist Liberal Party of Sandžak, the Party for Democratic Action and the Bosniak Democratic Party of Sandžak.

77. The Law on Gender Equality⁷⁴ stipulates that gender equality shall be guaranteed upon candidature for the President of the Republic, deputies and council members in a manner and in conformity with the provisions regulating elections. Gender equality is provided for during candidature for the election for all functions and nominations in public authority bodies, financial and other institutions. Moreover, gender equality is guaranteed during the election process through the composition and work of the body responsible for holding the elections, in compliance with the regulations governing the elections.

78. The organization and monitoring the legality of elections falls under the competence of the Republic Electoral Commission⁷⁵ whose standing composition consists of a Chairperson and 16 members nominated by the National Assembly, with one representative per nominator of the electoral list in its wider composition.

79. The Law on Local Elections prescribes the election of councillors of the assemblies of local government units. Citizens elect councillors on the basis of their free general and equal electoral right exercised directly in secret ballot. No person has the right, on any

⁷² Article 99 and Article 100, paragraph 2

⁷³ Article 81

⁷⁴ Article 37

⁷⁵ Law on the Election of Deputies, Article 33 (1)

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reason whatsoever, to prevent or force a citizen to vote, to hold them accountable for their votes or request them to reveal their vote or state the reasons for failure to vote.

80. The Law on Local Elections envisages the application of a proportional electoral system with appropriate corrective methods in the stage of nomination and distribution of mandates directed at establishing stable local authority and effective operations of local agencies.

81. The Law on Local Elections prescribes that local government units with the population of mixed ethnicity shall provide for a proportional representation of national minorities in their assemblies. Such a proportion is easier to achieve in the proportional electorate system, and the law envisages that the so-called natural threshold is to be applied in case of parties of national minorities and their coalitions in the distribution of mandates – the number of collected votes, without the application of eliminatory census as a condition for the participation in the distribution of mandates.⁷⁶

82. The Law on the Election of the President of the Republic⁷⁷ stipulates that the President of the Republic shall select the foundation of the universal and equal electoral rights in free and direct elections, in secret ballot and in person. Any citizen of the Republic of Serbia who is of age and working ability shall have the right to vote and be elected for the function of the President of the Republic.

83. The provisions of the Chapter Fifteen of the Criminal Code⁷⁸ set forth the criminal offences against electoral rights. Imprisonment of three months to five years are envisaged for violations of the right to run for election, electoral rights, giving or taking bribes with regard to voting, abuse of the right to vote, compiling inaccurate registers of voters, prevention of voting, violations of the secrecy of voting, forgery of voting results and destruction of documentation on voting.

(b) Media

84. The Law on Public Information⁷⁹ regulates the right to public information as a right to freedom of expressing thoughts, as well as the rights and obligations of participants in the public information process. The right to public information includes, in particular, the freedom of expression of thought, freedom to collect, research, publish and impart ideas, information and opinions, freedom to print and distribute newspapers and other printed media, freedom to produce and broadcast radio and television programs, freedom to receive ideas, information and opinions, as well as freedom to establish legal entities dealing with public information.

⁷⁶ Article 9 of the Law on Local Elections regarding Article 180 of the Constitution of the Republic of Serbia

⁷⁷ Official Gazette of the Republic of Serbia, No. 111/07, Article 1 and 2

⁷⁸ Official Gazette of the Republic of Serbia, No. 85/05, 88/05, 107/05, 72/09 and 101/09, Articles 154 to 162

⁷⁹ Official Gazette of the Republic of Serbia, No. 43/03, 61/05 and 71/09

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85. The Law on Broadcasting⁸⁰ sets forth the conditions and manner of conducting broadcasting activities, in line with international conventions and standards, establishing the Republic Broadcasting Agency and institutions of the public broadcasting service, issuing permits for broadcasting radio and television programs, managing other matters of importance for the area of broadcasting. The condition to attain a permit for broadcasting programs is a previously attained radio station permit issued by the regulatory body competent in the field of telecommunications - the Republic Telecommunications Agency, at the request of the Republic Broadcasting Agency, based on the plan of radio frequency distribution adopted by the ministry in charge of the telecommunications sector. Permit holders may not be political parties or organizations and legal entities founded by political parties, or companies, institutions or other legal entities established by the Republic, excluding the public broadcasting service institutions. Permits are issued through public competitions.

(v) Churches and Religious Communities

86. The position of churches and religious communities in the Republic of Serbia is regulated by the Law on Churches and Religious Communities⁸¹ adopted in April 2006. Churches and religious communities are independent from the state and are equal in the eyes of the law. Churches and religious communities are free and autonomous in defining their identity. Churches and religious communities have the right to independently regulate and conduct their internal and public affairs. Churches and religious communities registered pursuant to law have the status of legal entity. Organizational units and institutions of churches and religious communities may obtain the status of legal entity in compliance with autonomous regulations set forth by the church and/or religious community, based on the decision of the competent body of the church or religious community. The ministry in charge of religious affairs manages the Registry of Churches and Religious Communities.

(g) Associations of Citizens

87. The establishment and legal status of association, entry and removal from the registry, membership and bodies, status amendments and termination, as well as other issues relevant to the work of associations are regulated by the Law on Associations⁸² adopted in July 2009 and in force as of October 22, 2010. The law also regulates the status and activities of foreign associations in the Republic of Serbia. The association, in terms of the law, is a voluntary, non-government and non-for-profit organization established based on association of a number of natural persons or legal entities, established to achieve and advance a specific common or general goal and interests, which are prohibited by the Constitution or the law. One of the more relevant novelties introduced by the Law is that associations are established prior to their entry into the registry and that they obtain the legal entity status once they are entered into the registry. The associations which are not

⁸⁰ Official Gazette of the Republic of Serbia, No. 42/02, 97/04, 76/05, 62/06, 85/06, 86/06 и 41/09, Articles 39, 42 and 49(1)

⁸¹ Articles 6, 9 (2) and Article 17

⁸² Official Gazette of the Republic of Serbia, No. 51/09

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entered into the registry, in which case they may not obtain the status of legal entity, are subject to the provisions of citizen partnership.

88. The Law on Citizen Associations considerably simplifies the conditions for establishing associations, meaning that an association may be established by at least three natural persons or working ability and/or legal entities, instead of the previously defined “10 persons and citizens of working ability”. The Law allows that minors over 14 years of age may establish associations with a written and certified consent of their legal representatives. Every person may become a member of association under equal conditions established by the statute. A natural person may be a member of an association independently of their age, with a condition that a minor over 14 years of age needs to provide a certified statement on accession and/or taking up membership in the association that is issued by their legal representative.

89. The Law on Association has established a normative framework which enables for the first time a foreign association and/or its branch office in the Republic of Serbia to conduct activities in the territory of the Republic of Serbia upon prior entering into the Registry of Foreign Associations. Furthermore, the Law regulates for the first time the issue of obtaining assets and conducting association activities. The Law prescribes that an association may obtain assets from membership fees, voluntary donations, grants and gifts (in cash or in kind), financial subsidies, legacy, deposit interests, lease, dividend or in another legal manner. An association may conduct activities which shall achieve the objectives set forth in the statute thereof. An association may directly conduct economic activities of smaller scope and/or to the extent necessary to obtain the objectives of the association. Taking this into account, associations are liable to maintain business records, prepare financial reports and are subject to auditing of financial reports in compliance with the accountancy and audit regulations.

90. The Law on Associations prescribes specifically that the objectives and activities of associations may not be aimed at a violent overthrow of the constitutional order and territorial integrity of the Republic of Serbia, the violation of guaranteed human or minority rights or incitement of inequality, hatred and intolerance based on racial, national, religious or other characteristic or affiliation, including sex, gender, physical, mental or other characteristics or capacities. Furthermore, a branch office of a foreign association may operate freely in the territory of the Republic of Serbia, if its goals and operations are not contrary to the Constitution, the Law on Associations and international treaties signed by the Republic of Serbia and other regulations.

91. The Constitutional Court decides on the prohibition of the work of associations and branch offices of foreign associations. The Law prescribes that the procedure for prohibiting the work of associations and/or representatives of foreign associations may be instituted at the proposal of the Government, the Republic Public Prosecutor, the ministry in charge of administration affairs, the ministry in charge of the field covered by the objectives of the association or by the registrar of the Registry of Associations and/or the registrar of the Registry of Foreign Associations. The procedure for the prohibition of the work of an association may be instituted and maintained against associations which do

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not have the status of legal entity. The Registry of Associations and the Registry of Foreign Associations are maintained by the Business Registers Agency as a body competent for public administration affairs in the mandate of the Ministry of Public Administration and Local Government.

92. However, the civil sector is of the opinion that the law is not specific enough in terms of the methods of financing citizen associations and the use of public space. Moreover, the regulations prescribing that non-government organizations shall pay 3% tax on grants considered gift are still in force, whereas there is no such obligation in case the state receives grants for the implementation of projects.

93. The Law on the Budget of the Republic of Serbia earmarks funds on account of civil sector activities in the course of every budget year. All competent ministries specify the amounts within their budget resources that are to be used for these purposes in the ongoing budget year. There is an evident trend of increase in the funds allocated for non-government organizations.

94. The cooperation between the state and the civil sector in various areas of human rights protection is on an increase. In this context, the Ministry of Human and Minority Rights signed, on behalf of the Government, the Memorandum of Co-operation with 148 non-government organisations on February 9, obliging the signatories to secure a regular exchange of information in the future regarding the activities concerning the preparation, adoption and implementation of laws and strategies in the field of respect for human rights and fundamental freedoms, as well as the preparation of reports on the realization of undertaken international obligations and other activities in the mandate of the Ministry. The Memorandum obliged the Ministry to work on the improvement of reporting systems by continuous supervision over the status of human rights and the identification of potential violations.

(d) The Army of Serbia

95. The Army of Serbia shall defend the country from external armed threat and perform other missions and assignments in accordance with the Constitution, law and principles of international law, which govern the use of force⁸³.

96. Pursuant to the revised organization of the Army of the Republic of Serbia, the military services are as follows: ground forces, air force and anti-aircraft defence; the branches of the army are: infantry, armoured units, artillery, engineering, artillery-rocket units for anti-aircraft operations, aviation, river units and units for electronic operations. The services of the Army of the Republic of Serbia are divided into general and logistic services. The general services include: human resources, telecommunications, intelligence, security, computer systems, atomic-biological-chemical, aerial reconnaissance and reporting, geodetic, legal, financial, meteorological and navigation service, while the logistics are: technical, service corps, sanitation, transportation, veterinary and construction service.

⁸³ Constitution of the Republic of Serbia, Article 139

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II. GENERAL FRAMEWORK FOR THE PROTECTION AND PROMOTION OF HUMAN RIGHTS

C) Acceptance of International Human Rights Norms

International Obligations

97. In compliance with the Constitution of the Republic of Serbia, the generally accepted rules of international law and recognized international treaties are integral to the legal system of the Republic of Serbia and are directly applied. Ratified international treaties must be in compliance with the Constitution.⁸⁴

98. The Republic of Serbia is a party to seven core international human rights treaties: the International Covenant on Civil and Political Rights and its two optional protocols, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and its optional protocol⁸⁵, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women and its optional protocol and the Convention on the Rights of the Child and its two optional protocols. The Republic of Serbia ratified the Convention on the Protection of Disabled Persons and its Optional Protocol in 2009. The Republic of Serbia signed the International Convention on the Protection of the Right of All Migrant Workers and Members of Their Families and the International Convention on the Protection of All Persons from Enforced Disappearance.

99. The Republic of Serbia is a member of the Slavery Convention and the pertaining Protocol; the Supplementary Convention on the Abolition of Slavery, Slave Trade, and Institutions and Practices similar to Slavery and the Final Act; the International Convention for the Suppression of White Slave Trafficking; the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; the Convention on the Prevention and Punishment of the Crime of Genocide; the International Convention against Apartheid in Sports; the Convention on the Status of Refugees and the pertaining Protocol; the Rome Statute of the International Criminal Court and a number of ILO conventions.

100. The Republic of Serbia has ratified 33 conventions of the Council of Europe. The European Convention for the Protection of Human Rights and Fundamental Freedoms and its thirteen protocols were ratified by the Republic of Serbia in December 2003. The Convention entered into force on March 4, 2004. The Protocol No. 14 to the Convention was ratified in April 2005. Reservations were made to the Convention regarding

⁸⁴ Article 16 (2)

⁸⁵ The Republic of Serbia has not yet established national pre-emptive mechanisms to prevent torture on the national level. The obligation should have been met within a year following the ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (2006).

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mandatory detention (which was envisaged by Article 142, paragraph 1 of the Criminal Procedure Code), the provisions on transparency of administrative dispute in the Republic of Serbia and certain provisions of the Law on Misdemeanours⁸⁶. The reservation regarding mandatory detention ceased to be valid in the meantime. The Republic of Serbia has also ratified the European Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment, the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities of the Council of Europe and the Revised European Social Charter.

D) Legal Framework for the Protection of Human Rights at the National Level

Legal Structure

101. The legal system of the Republic of Serbia is uniform. The Constitution is the supreme legal document of the Republic of Serbia. All laws and other general documents enacted in the Republic of Serbia must be in compliance with the Constitution. The laws and other general documents enacted in the Republic of Serbia may not be contrary to the ratified international treaties and generally accepted rules of international law⁸⁷.

102. All by-laws of the Republic of Serbia, general documents of organisations with delegated public powers, political parties, trade unions and civil associations and collective agreements must be in compliance with the law. Statutes, decisions and other general documents of autonomous provinces and local self-government units must be in compliance with the law. All general documents of autonomous provinces and local self-government units must be in compliance with their statutes⁸⁸.

103. Laws and other general documents are published prior to their entering into force. The Constitution, laws and by-laws of the Republic of Serbia are published in the Official Gazette of the Republic of Serbia, and statutes, decisions and other general documents of autonomous provinces are published in the Provincial Official Gazette. The statutes and general documents of local self-government units are published in local official gazettes. Laws and other general documents do not enter into force earlier than eight days from the date of publishing and may enter into force earlier only if there are particularly justified grounds to do so as specified at the time of their adoption.⁸⁹

104. Laws and other general documents may not have a retroactive effect. Exceptionally some law provisions may have a retroactive effect, if so required by general public interest as established during the adoption of the particular law. A provision of the Criminal Code may have a retroactive effect only if it is more favourable for the perpetrator.⁹⁰

⁸⁶ Official Gazette of Serbia and Montenegro -International Treaties, No. 9/03

⁸⁷ Constitution of the Republic of Serbia, Article 194, paragraphs 1, 2, 3, 5

⁸⁸ Constitution of the Republic of Serbia, Article 195

⁸⁹ Constitution of the Republic of Serbia, Article 196

⁹⁰ Constitution of the Republic of Serbia, Article 197

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Human Rights in the Constitution of the Republic of Serbia

105. The Second Part of the Constitution of the Republic of Serbia is dedicated to the issues of human and minority rights. The Constitution guarantees dignity and free personal growth, right to life, inviolability of physical and mental integrity, prohibition of slavery, servitude and forced labour, right to liberty and security, humane treatment of persons deprived of liberty, supplementary rights in case of incarceration without a court's decision, detention only upon the decision of the court, a limited period of detention, right to a fair trial, special rights of persons charged with criminal offense, legal certainty in criminal law, right to rehabilitation and compensation, right to equal protection and legal remedy, right to legal person, right to citizenship, freedom of movement, inviolability of home, confidentiality of letters and other means of communication, protection of personal data, freedom of thought, conscience and religion, churches and religious communities, conscientious objection, freedom of thought and expression, freedom of expression of national affiliation, promotion of respect for diversity, prohibition of inciting ethnic, racial and religious hatred, right to information; electoral right, right to participate in the management of public affairs, freedom of assembly, freedom of association, right to petition, right to asylum, right to property, right to inheritance, right to work, right to strike, right to contract marriage and equality of spouses, freedom to decide on birth giving, child rights, rights and duties of parents, special protection of the family, mother, single parent and child, right to legal aid, health care, social care, pension insurance, right to education, autonomy of university, freedom of scientific and artistic creativity, healthy environment⁹¹.

106. Persons belonging to national minorities are guaranteed special individual or collective rights by the Constitution of the Republic of Serbia, in addition to the rights guaranteed to all citizens. Individual rights are observed individually and collective rights in community with others, in accordance with the Constitution, law and international treaties. Persons belonging to national minorities take part in decision-making or decide independently on certain issues related to their culture, education, information and official use of languages and script through their collective rights in accordance with the law. Persons belonging to national minorities may elect their national councils in order to exercise the right to self-governance in the field of culture, education, information and official use of their language and script, in accordance with the law⁹². The members of national minorities are guaranteed the prohibition of discrimination, equality in performing public jobs, prohibition of forced assimilation, the right to preserve specific features, the right to associations and co-operation with their compatriots and the right to develop the spirit of tolerance by the Constitution.⁹³

National Regulations Relevant to the Protection of Human Rights

⁹¹ Constitution of the Republic of Serbia, Articles 23 to 74

⁹² Constitution of the Republic of Serbia, Article 75

⁹³ Constitution of the Republic of Serbia, Articles 76 to 81

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107. A large number of laws and other regulations governing specific segments of human rights has been adopted in the Republic of Serbia, such as: the Law on Refugees⁹⁴, the Law on Broadcasting, the Law on the Protection of Rights and Freedoms of National Minorities⁹⁵, the Law on Public Information, the Law on the Prevention of Violence and Improper Conduct at Sports Events⁹⁶, the Law on Responsibility for Violation of Human Rights⁹⁷, the Law on Free Access to Information of Public Interest⁹⁸, the Law on the Protection of Environment⁹⁹, the Law on the Organization and Competence of State Bodies in Combating Organized Crime¹⁰⁰, the Law on Employment and Unemployment Insurance¹⁰¹, the Law on Socio-Economic Council¹⁰², the Criminal Code, the Law on Underage Offenders of Criminal Acts and the Criminal and Legal Protection of Underage Persons¹⁰³, the Law on Enforcement of Criminal Sanctions¹⁰⁴, the Law on Offences¹⁰⁵, the Law on the Organization and Competence of State Bodies in Combat against High Technology Crime¹⁰⁶, the Law on the Ombudsman¹⁰⁷, the Family Law¹⁰⁸, the Labour Law¹⁰⁹, the Law on Civil Procedure¹¹⁰, the Law on Primary Education, the Law on Secondary Education, the Law on University Education¹¹¹, the Law on Health Care¹¹², the Law on Social Welfare and Social Security of Citizens, the Law on Health Insurance¹¹³, the Law on Police¹¹⁴, the Law on Citizenship of the Republic of Serbia¹¹⁵, the Law on the Prevention of Discrimination against Disabled Persons¹¹⁶, the Law on Asylum¹¹⁷, the Law on the Association of Citizens¹¹⁸, the Law on the Constitutional Court¹¹⁹, the Law on Passports¹²⁰, the Law on the Protection of Personal Data¹²¹, the Law on the Organization of Courts, the Law on Judges, the Law on Foreigners, the Law on the Anti-Corruption Agency¹²², the Law on the Fundamentals of the Education System, the Law on the Prohibition of Discrimination¹²³, the Law on Gender Equality, the Law on

⁹⁴ Official Gazette of the Republic of Serbia, No. 18/92, 45/02, 30/10

⁹⁵ Official Gazette of the Federal Republic of Yugoslavia, No. 11/2002

⁹⁶ Official Gazette of the Republic of Serbia, No. 67/03, 90/07 and 111/09

⁹⁷ Official Gazette of the Republic of Serbia, No. 58/03 and 61/03

⁹⁸ Official Gazette of the Republic of Serbia, No. 120/04, 54/07 and 104/09

⁹⁹ Official Gazette of the Republic of Serbia, No. 135/04 and 36/09.

¹⁰⁰ Official Gazette of the Republic of Serbia, No. 42/02, 27/03, 39/03, 67/03, 29/04, 45/05, 61/05 and 72/09

¹⁰¹ Official Gazette of the Republic of Serbia, No. 36/09

¹⁰² Official Gazette of the Republic of Serbia, No. 125/04

¹⁰³ Official Gazette of the Republic of Serbia, No. 85/05

¹⁰⁴ Official Gazette of the Republic of Serbia, No. 85/05 and 72/09

¹⁰⁵ Official Gazette of the Republic of Serbia, No. 101/05, 116/08 and 111/09

¹⁰⁶ Official Gazette of the Republic of Serbia, No. 61/05 and 104/09

¹⁰⁷ Official Gazette of the Republic of Serbia, No. 79/05 and 54/07

¹⁰⁸ Official Gazette of the Republic of Serbia, No. 18/05

¹⁰⁹ Official Gazette of the Republic of Serbia, No. 24/05, 61/05 and 54/09

¹¹⁰ Official Gazette of the Republic of Serbia, No. 125/04 and 111/09

¹¹¹ Official Gazette of the Republic of Serbia, No. 76/05, 97/08

¹¹² Official Gazette of the Republic of Serbia, No. 107/05

¹¹³ Official Gazette of the Republic of Serbia, No. 107/05 and 109/05

¹¹⁴ Official Gazette of the Republic of Serbia, No. 101/05.

¹¹⁵ Official Gazette of the Republic of Serbia, No. 135/04 and 90/07

¹¹⁶ Official Gazette of the Republic of Serbia, No. 33/06

¹¹⁷ Official Gazette of the Republic of Serbia, No. 109/07

¹¹⁸ Official Gazette of the Republic of Serbia, No. 51/92, 53/93, 67/93, 48/94, 12/97, 21/01 and 101/05

¹¹⁹ Official Gazette of the Republic of Serbia, No. 109/07

¹²⁰ Official Gazette of the Republic of Serbia, No. 90/07, 116/08 and 104/09

¹²¹ Official Gazette of the Republic of Serbia, No. 97/08

¹²² Official Gazette of the Republic of Serbia, No. 97/08

¹²³ Official Gazette of the Republic of Serbia, No. 22/09

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National Minorities Councils¹²⁴, the Law on Birth Registry¹²⁵, the Law on Political Parties, the Law on Associations. The adoption of the abovementioned laws provided for a harmonization of the legislation of the Republic of Serbia with international and European standards in the area of human rights.

108. The Government of the Republic of Serbia has adopted a number of strategies relevant for the protection and promotion of human rights, such as: the Poverty Reduction Strategy Paper, the Anti-Trafficking Strategy of the Republic of Serbia, the National Strategy for Resolving the Issues of Refugees and Internally Displaced Persons, the National Strategy for Improving Youth Health, the National Ageing Strategy, the National Strategy of Judiciary Reform, the Social Welfare Development Strategy, the National Employment Strategy 2005 - 2010, the National Strategy for Combating HIV/AIDS, the National Action Plan for Children, the Strategy for Improving the Status of Persons with Disabilities in the Republic of Serbia, the Professional Training Development Strategy in the Republic of Serbia, the Population Growth Strategy, the National Youth Strategy, the National Sustainable Development Strategy, the National Strategy for the Prevention and Protection of Children against Violence, the Strategy for Continuous Improvement of Health Care Quality and Security of Patients, the National Strategy for Promoting the Status of Women and Advancing Gender Equality, the National Employment Strategy 2005 - 2010, the Public Health Strategy of the Republic of Serbia, the Strategy for Improving the Status of the Roma in the Republic of Serbia, the Strategy of Reintegration of Returnees Based on Readmission Agreements, the Strategy of Safety and Health at Work in the Republic of Serbia 2009 - 2012 and the Migrations Management Strategy.

Limitation and Derogation from Human Rights

109. Pursuant to the Constitution of the Republic of Serbia, human and minority rights guaranteed by the Constitution may be restricted by the law if the Constitution allows for such restrictions and for the purposes allowed by the Constitution, to the extent necessary to meet the constitutional purpose of restriction in a democratic society and without encroaching upon the substance of the guaranteed right. The attained level of human and minority rights may not be lowered. When restricting human and minority rights, all state bodies, particularly the courts, shall be obliged to consider the substance of the restricted right, pertinence of restriction, nature and extent of restriction, relation of restriction and its purpose and possibility to achieve the purpose of the restriction with less restrictive means¹²⁶.

110. The Constitution of the Republic of Serbia allows for derogation from human and minority rights guaranteed by the Constitution, only in the scope necessary, after the declaration of state of war and state of emergency. The measures provided for derogation shall not bring about differences based on race, sex, language, religion, national

¹²⁴ Official Gazette of the Republic of Serbia, No. 72/09

¹²⁵ Official Gazette of the Republic of Serbia, No. 20/09

¹²⁶ Constitution of the Republic of Serbia, Article 20

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affiliation or social origin. Such measures shall cease to be effective upon ending of the state of emergency or war¹²⁷.

111. Pursuant to the Constitution of the Republic of Serbia, a state of war is proclaimed by the National Assembly, which may on that occasion specify the measures derogating from human and minority rights guaranteed by the Constitution.¹²⁸ If the National Assembly is not in a position to convene, the measures which provide for derogation from human and minority rights guaranteed by the Constitution shall be decided on by the President of the Republic together with the President of the National Assembly and the Prime Minister.¹²⁹ All measures prescribed in the period of the state of war shall be verified by the National Assembly when in a position to convene.¹³⁰

112. The National Assembly shall declare a state of emergency if “the survival of the state or its citizens is threatened by a public danger“ and on that occasion may specify the measures by means of which human and minority rights guaranteed by the Constitution shall be derogated.¹³¹ The decision on the state of emergency shall be effective 90 days at the most and may be extended for another 90 days.¹³² When the National Assembly is not in a position to convene, the decision proclaiming the state of emergency shall be adopted by the President of the Republic together with the President of the National Assembly and the Prime Minister, while measures which provide for derogation from human and minority rights may be prescribed by the Government with the President of the Republic as a co-signatory.¹³³ The decision must be submitted to the National Assembly for verification within the period of 48 hours from the date of its adoption, namely as soon as the National Assembly is in a position to convene. In case of a state of emergency, it is explicitly prescribed that, if the National Assembly fails to verify the decision, the decision on the declaration of a state of emergency shall cease to be valid upon the completion of the first session of the National Assembly held after the declaration of the state of emergency, and the measures derogating from human and minority rights shall cease to be valid 24 hours after the beginning of the first session of the National Assembly held after the declaration of the state of emergency.¹³⁴ The measures derogating from human and minority rights shall be effective 90 days at the most and may be „extended under the same terms“.¹³⁵

113. Derogation measures are by no means permitted in terms of: the right to dignity and free development of individuals, right to life, right to inviolability of physical and mental integrity; prohibition of slavery, servitude and forced labour; right to humane treatment of persons deprived of liberty; right to a fair trial; right to legal certainty in criminal law; right to legal person; right to citizenship; freedom of thought, conscience and religion; right to conscientious objection; right to freedom of expressing national affiliation;

¹²⁷ Constitution of the Republic of Serbia, Article 202, paragraphs 1, 2, 3

¹²⁸ Constitution of the Republic of Serbia, Article 201, paragraphs 1 and 3

¹²⁹ Constitution of the Republic of Serbia, Article 201, paragraph 2 and 4

¹³⁰ Constitution of the Republic of Serbia, Article 201, paragraph 5

¹³¹ Constitution of the Republic of Serbia, Article 200, paragraph 1 and 4

¹³² Constitution of the Republic of Serbia, Article 200, paragraph 2

¹³³ Constitution of the Republic of Serbia, Article 200, paragraph 5 and 6

¹³⁴ Constitution of the Republic of Serbia, Article 200, paragraph 8 and 9

¹³⁵ Constitution of the Republic of Serbia, Article 200, paragraph 7

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prohibition of inciting racial, ethnic and religious hatred; right to enter into marriage and equality of spouses; freedom to procreate; rights of the child; prohibition of forced assimilation.

Cooperation with International and Regional Bodies Dealing with Human Rights

(a) Cooperation with the International Criminal Tribunal for the Former Yugoslavia

114. The cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) has proceeded based on the Law on Cooperation with the International Tribunal for Criminal Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991¹³⁶.

115. The state bodies of the Republic of Serbia mandated to cooperate with the ICTY are: the National Council for Cooperation with the Tribunal, the Office of the National Council and the Action Plan Implementation Team. Furthermore, the Prosecutor's Office for War Crimes of the Republic of Serbia, the Office of the Ministry of Internal Affairs for Disclosing War Crimes, the National Security Council, the Ministry of Foreign Affairs, the Ministry of Justice, the Security-Information Agency, the War Crimes Council of the District Court of Belgrade and the Witness Protection Unit have an important role relating to the cooperation with the Tribunal, which was established within the Office for Disclosing War Crimes of the Ministry of Internal Affairs.

116. The forms of cooperation are as follows: submission of documentation to the Tribunal, release of persons from the obligation to keep secrets to be able to testify in the proceedings held before the Tribunal, submission of summons and other writs to persons in the territory of the Republic of Serbia, provision of protection to witnesses and members of their families, control over the defendants who are temporarily set free and are resident in the territory of Serbia, correspondence and direct contact with the Prosecutor's Office, the Secretariat and the Chair of the Tribunal, including all required technical assistance, provision of support and cooperation in searching for defendants at large and their transfer to the Tribunal, other forms of cooperation, such as direct cooperation between the Prosecutor's Office for War Crimes and the ICTY Prosecutor's Office through an exchange of data contained in the electronic databases of these institutions and other activities.

117. The Republic of Serbia has received more than 1,800 requests for assistance from the ICTY Prosecutor's Office since cooperation was established between the Republic of Serbia and the ICTY. The subject of the requests has been to submit the documents necessary for the ICTY Prosecutor's Office to prepare for the proceedings held before the Tribunal, as well as to allow insight into the archives of the state bodies of the Republic of Serbia and to release witnesses from the obligation to keep secrets. The Republic of Serbia has responded fully to almost all the requests, and only the most recent requests are still in the process of implementation.

¹³⁶ Official Gazette of the Federal Republic of Yugoslavia, No. 18/02 and 16/03

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118. The Republic of Serbia and the ICTY Prosecutor's Office entered the Agreement on Practical Modalities of Insight into the Archives of State Bodies in 2006. So far access has been allowed into the archives of the Ministry of Internal Affairs, the Ministry of Defence, the President's Office of Serbia, the Government of the Republic of Serbia, the Security-Information Agency and other competent state bodies that may be relevant sources of information for the ICTY investigators. There have been 26 visits of the Tribunal representatives to the archives of our state bodies thus far.

119. The Government of the Republic of Serbia has released more than 500 individuals from the obligation to keep state, official and military secrets since the establishment of the National Council for Cooperation with the ICTY, enabling them to give statements in the proceedings held before the ICTY in the capacity of witnesses. It should be mentioned that each person for whom the release from the obligation to keep secrets had been requested by the ICTY Prosecutor's Office was released from this obligation, without exceptions, enabling them to testify in the proceedings before the ICTY.

120. The Law on Measures in Respect of Property of Persons Indicted for War Crimes before the International Tribunal for Criminal Prosecution of Persons Responsible for Severe Violations of the International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 has been implemented with the aim to efficiently find and arrest the fugitives who are at large¹³⁷. Furthermore, the Law on Amendments to the Law on the Organization and Competence of State Bodies in the War Crime Proceedings¹³⁸ has been in force since 2007, effectively transferring the competences in the proceedings against persons accused of having partaken in hiding the persons indicted before the ICTY to specialized institutions for investigation of war crimes (the War Crimes Service of the Ministry of Internal Affairs of the Republic of Serbia, the War Crimes Prosecutor's Office of the Republic of Serbia and the War Crimes Council of the District Court in Belgrade). In this sense, the proceedings against the persons accused of having assisted in hiding two defendants are being held before the competent judicial bodies of the Republic of Serbia.

121. Twelve persons indicted before the ICTY have been arrested to date on the territory of the Republic of Serbia. Four indictees have been arrested within cooperation between the Serbian security services and foreign services, namely in Argentina, Russia, Bosnia and Herzegovina and Montenegro. The total of 27 indictees has surrendered voluntarily. One indicted person committed suicide in Belgrade. Two defendants are still at large. It is noteworthy that the Republic of Serbia has surrendered 43 indictees to the Tribunal out of 46 persons indicted before the ICTY, including the persons holding functions of President of the Federal Republic of Yugoslavia, President of the Republic of Serbia, Deputy Prime Minister of the Federal Government, Deputy Prime Minister of the Government, three former Chiefs of General Staff of the Yugoslav Army, Chief of State Security Service and a number of military and police generals.

¹³⁷ Official Journal of Serbia and Montenegro, No 15/06

¹³⁸ Official Gazette of the Republic of Serbia, No. 101/07

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(b) Individual Applications Submitted to the UN Treaty Bodies against the Republic of Serbia

122. The Republic of Serbia has accepted the competencies of the Human Rights Committee, the Committee Against Torture, the Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women to examine the complaints of individuals under their jurisdiction who claim to be victims of violation of the rights guaranteed by the international treaties by which those treaty bodies were established.

123. Ten individual applications have been submitted against the Republic of Serbia so far, three applications to the Committee of Human Rights, six applications to the Committee against Torture and one application to the Committee for the Elimination of Racial Discrimination. There is only one rejected application for formal legal reasons, one proceeding is under way, and decisions were adopted in all other cases in favour of the applicants. The Committee of Human Rights established a violation of the right to freedom of thought and expression (Article 19 of the International Treaty on Civil and Political Rights), the Committee against Torture established a violation of the right to impartial investigation and the right of a person claiming to have been subjected to torture to complain to the competent authorities to investigate into the case impartially (Articles 12 and 13 of the Convention against Torture), a violation of the right of the victim of torture to obtain compensation and fair and adequate indemnification including the means for adequate rehabilitation in two cases (Article 14 of the Convention against Torture), the Committee on the Elimination of Racial Discrimination established a violation of the right to effective legal remedy (Article 6 of the International Convention on the Elimination of Racial Discrimination).

124. There are no institutional mechanisms in the Republic of Serbia established to implement the decisions of the UN treaty bodies and the activities of the competent state bodies in respect of such activities are not coordinated. For this reason, the cases are mostly resolved through agreement on the payment of compensation for non-pecuniary damage. In order to overcome the existing situation, the Ministry of Human and Minority Rights has initiated an initiative to find the way to establish mechanisms to act according to such decisions through a public discussion between the competent state bodies and the civil sector.

(c) The European Court of Human Rights

125. The European Court of Human Rights passed 40 judgements until December 31, 2009 (one judgement in 2006, 14 judgements in 2007, 9 judgements in 2008 and 16 judgements in the course of 2009) and 47 decisions in relation to the Republic of Serbia. Out of the 40 judgements, the Court established at least one violation of the Convention provisions in 37 judgements, and no violation of the Convention in the remaining three judgements. The Committee of Ministers of the Council of Europe finalised a consideration of executing the judgements in two cases in the course of 2009, finding that the undertaken measures were satisfying.

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126. The total of 122 cases is being processed at the moment. In respect of the Republic of Serbia, the violation of the right to a trial within reasonable time (Article 6, item 1 of the European Convention on the Protection of Human Rights and Fundamental Freedoms) is the most frequent violation established before the European Court of Human Rights.

127. According to the statistical report of the European Court of Human Rights dating December 31, 2009, the Republic of Serbia had 3,200 (2.7%) applications at the stage of preliminary examination before the European Court of Human Rights.

(d) Cooperation with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

128. The delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has paid official visits the Republic of Serbia twice since the ratification of the European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The first visit to the then state unity of Serbia and Montenegro took place on September 16 to 29, 2004 and the second visit to the Republic of Serbia took place on November 19 to 29, 2007.

129. Following the second visit, the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment submitted a report with proposals and recommendations containing the data obtained through a direct review of the status and treatment of persons deprived of freedom in the Republic of Serbia. The Republic of Serbia submitted its replies to the report to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatments or Punishment in September 2008, wherein it primarily stressed that the recommendations of the Committee were accepted and followed upon as guidelines for the development and achievement of stipulated standards relating to the treatment of persons deprived of freedom in the Republic of Serbia, and that these would be included in short-term and long-term plans of competent state bodies.

E) Framework within which Human Rights are Promoted at the National Level

Competent State Agencies and Independent State Bodies Responsible for the Protection of Human Rights

National Assembly

130. The National Assembly is competent to ratify international treaties when the obligation of ratification is stipulated by the law and to adopt laws and other general acts within the competence of the Republic of Serbia. Committees are established to consider and discuss issues within the competence of the National Assembly, put forward documents, as well as to review the execution of policies, laws, other regulations and

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general instruments by the Government. The National Assembly comprises 30 standing committees, including: the Committee on Interethnic Relations, the Committee on Health and Family, the Environmental Protection Committee, the Education Committee, the Youth and Sports Committee, the Culture and Information Committee, the Committee on Labour, Ex-Servicemen's and Social Issues, the Poverty Reduction Committee and the Gender Equality Committee.

Government Bodies Competent for the Advancement and Protection of Human Rights

131. The Council for Child Rights of the Government was established in 2002. The mandate and the role of the Council are to: propose a coherent and holistic policy for children in compliance with the UN Convention on the Rights of the Child and the priorities of the UN Millennium Development Goals, the "World Fit for Children" UN Declaration and other relevant international documents; propose measures to harmonize Government policies with the legislation of the European Union and international standards in the field of protection of the rights of the child; raise awareness on the rights of the child in Serbia, underlying the rights of the child to protection against all forms of molestation, neglect and abuse, as well as the rights to inclusive education; promote participation of children in policy making and implementation regarding the protection of their rights; analyze the impact of policies undertaken by relevant government agencies/institutions related to the protection of children, the youth, families with children and birth and monitor the implementation and protection of the rights of the child in the Republic of Serbia. The Council adopted the document entitled "Review of the Achievement of the National Plan of Action for Children 2004 - 2009", which was used as a basis for developing the Draft National Plan of Action for Children 2010 - 2015. The Council for Child Rights is conducting activities of continuing the consultative process for harmonizing the Draft Action Plan with local plans of action for children.

132. **The Gender Equality Council of the Government of the Republic of Serbia** is an expert and advisory body dealing with issues relating to gender equality, advancing the status of women and monitoring the implementation of the project undertaken in this area, and was constituted in 2003. The new constitutive meeting of the Council was held on December 8, 2009. The Council gathers representatives of relevant ministries, the representatives of the civil society and academic community, as well as experts in the field of gender equality. The strategic priorities of the Council are to: develop democracy by monitoring gender sensitivity of the overall legislative system and meeting international obligations relating to gender equality; provide support to public institutions to apply equality policy through the national strategy for improving the status of women and advancement of gender equality with a specific focus on the measures of economic empowerment and gender-sensitive budgeting; raise awareness of the relevance of gender equality and fight against gender-based stereotypes, as well as to build capacities of the Council.

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133. **The Anti-Trafficking Council of the Government of the Republic of Serbia** was established in 2005 as an expert and advisory body of the Government. The Council was established to coordinate national and regional anti-trafficking activities, analyse the reports of relevant bodies of the international community on human trafficking and to declare views and put forward measures for the enforcement of recommendations given by international anti-trafficking bodies. The Council members include the ministers of interior, education and sports, finance, labour and social policy, health and justice.

134. **The Council for Improving the Status of the Roma of the Government of the Republic of Serbia** was established in 2008 and comprises 22 members, including the representatives of the Ministry of Finance, the Ministry of Health, the Ministry of Education, the Ministry of Public Administration and Local Self-Government, as well as other resources that might affect the improvement of the status of the Roma minority.

135. **The Council for National Minorities of the Government of the Republic of Serbia** was established in July 2009 and comprises the Prime Minister who also chairs the Council, ministries from six relevant ministries, the representatives of national councils and the President of the Federation of Jewish Communities of Serbia. The Council is mandated to preserve, improve and protect national, ethnic, religious, linguistic and cultural specific properties of the members of national minorities in the Republic of Serbia. National holidays and symbols were recognized at the constitutive meeting of the Council in October 2009 according to the submitted requests by the national councils: the emblems, flags and holidays of the Macedonian, Romanian, Bulgarian, Ukrainian, Ruthenian, Vlach, Greek and German national minorities, as well as the emblem and the flag of the Slovak national minority. It was also agreed that the state shall organize and promote the entry of national minorities into special electoral lists, as support for national minorities to realize one of the freedoms guaranteed by the Constitution that allows them to obtain the right to elect their national councils directly.

Ministry of Human and Minority Rights

136. The Ministry of Human and Minority Rights was established in mid-2008 and conducts the affairs of public administration relating to: general issues of the status of the members of national minorities; maintaining the registry of the national councils of national minorities; the election of the national councils of national minorities; the protection and promotion of human and minority rights; the preparation of regulations on human and minority rights; monitoring the harmonization of national regulations with the international law; the representation of the Republic of Serbia before the European Court of Human Rights; the status of the members of national minorities living in the territory of the Republic of Serbia and their observance of minority rights; the establishment of contacts between national minorities with their native countries; anti-discrimination policy; the status and implementation of competences given to the national councils of national minorities; the coordination of activities of public administration bodies relating to the protection of human rights and other activities prescribed by law.

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Ministry of Labour and Social Policy

137. The Gender Equality Directorate was established within the Ministry of Labour and Social Policy in the course of 2008. The Gender Equality Directorate is mandated to perform affairs relating to: the analysis of the state of affairs and proposal of measures for advancing gender equality; preparing drafts laws and other regulations in the field; improving the status of women and promoting gender equality and the policy of equal opportunities by implementing the recommendations of the Committee for Eliminating Discrimination against Women.

Commissariat for Refugees

138. The Commissariat for Refugees is a special organization established in 1992 according to the Law on Refugees. The Commissariat for Refugees is mandated to perform affairs related to the establishment of refugee status, the placement of refugees, records keeping as prescribed by the law, the coordination of assistance to refugees provided by other bodies and organizations in the country and abroad and overseeing that such assistance is rendered uniformly and timely, the accommodation of refugees in the areas of territorial units, the provision of conditions for refugees to return to the territories of their origin or to other territories as determined by the Commissariat for Refugees prior to their permanent placement and other tasks within its competence prescribed by law.

139. Pursuant to the recommendations of the Special Rapporteur of the Secretary-General for the Human Rights of Internally Displaced Persons as of 2005, the Government adopted the Conclusion on Adopting the “Measures and Activities for Creating Conditions for a Sustainable Return to Kosovo and Metohija”, mandating the Commissariat for Refugees to establish a special internal organizational unit to deal with the issues of accommodating and protecting the rights of internally displaced persons. The Commissariat for Refugees keeps records of internally displaced persons from Kosovo and Metohija and issues displacement documents; in the field of admission and care, the Commissariat accommodates and supports internally displaced persons in collective centres of the Republic of Serbia outside of the Autonomous Province of Kosovo and Metohija, as well as in 17 collective centres in the territory of the Autonomous Province of Kosovo and Metohija; provides individual humanitarian assistance to internally displaced persons and their associations within its possibilities; puts forward and implements measures to improve the living conditions of internally displaced persons.

Provincial Secretariat for Regulations, Administration and National Minorities

140. The Provincial Secretariat for Regulations, Administration and National Minorities was established in 2002 as a department of the Executive Council of the Autonomous Province of Vojvodina. The following activities are performed by the Secretariat in the area of promoting the rights of national minorities: normative and legal affairs, study and analytical affairs, statistical and record-maintaining affairs and documentation affairs

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relating primarily to the accomplishment of collective and individual rights of the national minorities in the AP Vojvodina. The competence of the Provincial Secretariat also includes overseeing the implementation of the regulations on the official usage of languages and scripts in the AP Vojvodina. The project of the Executive Council of the AP Vojvodina entitled “Promotion of Multiculturalism and Tolerance in Vojvodina” has been implemented since 2005 with the aim to develop the spirit of multi-ethnic tolerance, mutual respect and trust among the citizens of the AP Vojvodina.

Provincial Labour, Employment and Gender Equality Secretariat

141. The Provincial Labour, Employment and Gender Equality Secretariat was established in 2002 as a department of the Executive Council of the AP Vojvodina; the main objective of the Secretariat is to monitor and improve the conditions in the field of labour, employment and gender equality in the territory of the AP Vojvodina. The Gender Equality Council of the Provincial Secretariat was established by the decision of the Provincial Secretariat, which renders advisory assistance in the definition of activities in the field of gender equality.

Office for Roma Inclusion

142. The Office for Roma Inclusion was established by the decision of the Assembly of the AP Vojvodina in 2006 in order to implement the action plans for integration of the Roma, as well as to develop and implement the programmes for the improvement of the Roma status in the field of education, health, employment, housing, human and other rights. The Roma Integration Council of the AP Vojvodina was established in 2005 as a working body of the Executive Council of the AP Vojvodina with the task to: put forward measures and activities aimed at the integration of the Roma in the AP Vojvodina, give opinions on undertaken measures and activities, cooperate with the National Council of the Roma National Minority and carry out other activities aiming to improve the general status of the Roma in the AP Vojvodina.

Independent Public Institutions for the Protection of Human Rights

(a) Ombudsman

143. The Constitution of the Republic of Serbia¹³⁹ prescribes that the Ombudsman shall be an independent state body protecting the rights of citizens and supervising the activities of state administration bodies, the body in charge of legal protection of property rights and interests of the Republic of Serbia, as well as other bodies and organizations, companies and institutions entrusted with public powers. The Ombudsman is not authorized to supervise the activities of the National Assembly, the President of the Republic, the Constitutional Court, the courts and public prosecution offices. The Ombudsman is appointed and released from duty by the National Assembly. The Ombudsman shall account for their work to the National Assembly and shall enjoy

¹³⁹ Article 138

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immunity as a deputy. The Ombudsman is accountable for its activities to the National Assembly and has the immunity of a deputy.

144. The institution of the Ombudsman is governed by law. The Ombudsman was introduced into the legal system of the Republic of Serbia pursuant to the Law on Ombudsman. The Ombudsman of the Republic of Serbia has four deputies specialized in the fields of the protection of rights of persons deprived of liberty, gender equality, the rights of the child, the rights of persons belonging to national minorities and the rights of persons with disabilities. The Ombudsman was elected at the meeting of the National Assembly of the Republic of Serbia held on June 29, 2007 and started working on July 23, 2007. The expert team of the Ombudsman started working on December 24, 2007.

145. The Ombudsman of the Republic of Serbia received 1,030 formal citizen complaints in 2008. The Ombudsman makes contacts with citizens in order to get informed about various violations of human rights. The total of 4,863 of such contacts was made in the course of 2008. In respect of specific fields of law, the most frequent applications are made on account of violations of economic and social rights. According to the applications, the most frequently violated are the rights to pension and disability insurance (12.2%), as well as those related to labour rights (10.7%). The largest number of applications by citizens relates to the activities of the bodies entrusted with public powers (254) and to the activities of ministries (220).

146. The Ombudsman submitted four amendments to the Draft Amendments to the Criminal Code in July 2009 which were proposed by non-government organizations dealing with the protection of the status of women and advancement of gender equality. Sixty civil society organizations of the Republic of Serbia supported the proposals made by the Ombudsman.

147. The total of RSD 92,247,657.00 was allocated in the budget of the Ombudsman in 2008 to perform all the activities prescribed by law, which is in compliance with the requirements of the financial plan 2008 submitted for adoption by the Ombudsman to the Ministry of Finance. There are no specifically identified funds for the activities of deputies in the total amount of funds from the budget of the Republic of Serbia allocated for the activities of the Ombudsman. However, such funds are available depending on the planned and undertaken activities of the deputies.

(b) Provincial Ombudsman

148. The Provincial Ombudsman was established in 2002 by the Provincial Assembly Decision on the Provincial Ombudsman¹⁴⁰. The seat of the Provincial Ombudsman is located in Novi Sad, and two regional offices have also been established in Pančevo and Subotica. The Ombudsman has five deputies (in charge of general issues, gender equality, protection of the rights of national minorities and protection of the child), who are appointed by the Assembly of the AP Vojvodina for a period of 6 years.

¹⁴⁰ Official Gazette of the Autonomous Province of Vojvodina, No. 23/02, 5/04 and 16/05

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149. The Provincial Ombudsman acted in 597 cases in the course of 2008, which is close to the number of 605 cases in 2007. Apart from the applications against which proceedings have been initiated, there are approximately 2,000 registered citizen referrals to this institution against which proceedings have not been initiated for various reasons (late submission of applications, non-competence of the Ombudsman, non-exhaustion of available legal remedies, etc.). However, the citizens who had submitted the applications were informed about the available possibilities of acting to protect their rights. There is an evident increase in the number of cases wherein violations of the rights of citizens who had referred to the Provincial Ombudsman were remedied as early as during investigation, as well as the number of cases wherein the Provincial Ombudsman sent recommendations to specific bodies to eliminate violations of the pertaining rights. Furthermore, the time limits in which bodies provide their replies are growing shorter and/or the deadlines for submitting replies are seldom exceeded, which indicates that awareness has been raised about the obligations towards the Ombudsman and that respect and trust thereof has increased, speaking in favour of the strengthening of the institution.

150. The funds necessary for the activities of the Provincial Ombudsman are provided from the budget of the AP of Vojvodina. Pursuant to the Decision on the Budget of the Autonomous Province of Vojvodina in 2008¹⁴¹, the budget funds envisaged for the institution totalled RSD 35,914,331.60, whereas the expenditures totalled RSD 33,506,357.42 and/or there was an execution of 93.30% of budget funds against the envisaged plan.

(c) Local Level Ombudsman

151. The local level Ombudsman is envisaged by the Law on Local Self-Government. A local self-government unit may appoint the Ombudsman mandated to oversee the respect for citizen rights, establish violations executed by documents, actions or failure to act by administration bodies and public services, in case there is a violation of regulations and general instruments of the local self-government unit¹⁴². Ombudsmen have so far been established in eleven towns.

(d) Commissioner for Information of Public Importance and Protection of Personal Data

152. The Commissioner for Information of Public Interest and Protection of Personal Data was established on the grounds of the Law on Free Access to Information of Public Importance as an autonomous and independent state body. The Law on the Protection of Personal Data extended the role of the Commissioner for Information of Public Importance to the protection of personal data. The Commissioner has a supervisory role over personal data processing, the right to decide in the proceedings on appeal and other competences related to the collection, keeping and protection of personal data¹⁴³. The Commissioner for Information of Public Importance and Protection of Personal Data became operational in December 2004.

¹⁴¹ Official Journal of the Autonomous Province of Vojvodina, No 21/08

¹⁴² Article 97, paragraph 1

¹⁴³ Law on the Protection of Personal Data, Article 44

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153. The Commissioner for Information of Public Interest and Protection of Personal Data resolved 1,145 applications in 2008, only 102 applications (8.9%) of which were found groundless or had formal errors. The subject of applications most frequently related to: the conduct of proceedings before administrative bodies in order to accomplish another right or before judiciary bodies, the disbursement of public resources, budgetary and donor funds, privatization, projects, investments, public procurement procedures, the legality of procedures for issuing various permits, in particular construction permits, the protection of personal freedoms and personal and property rights, salaries and other earnings from the budget, the recruitment of personnel and the number of employees, documentation regarding medical treatment, environmental protection, animal protection measures, the decisions of prosecution and judiciary bodies, etc.

154. The majority of applications received by the Commissioner in the course of 2008 were referred against republic agencies and organizations, followed by local self-government bodies, judiciary bodies and public companies, whereas the fewest applications were referred against provincial bodies. The first instance bodies against whom the applications were submitted acted according to the request of the information seeker and/or the claimant once they learnt the claim had been filed in approximately 70% of cases, while bodies acted in another 20% of cases after decisions had been made against the appeal. Information seekers were provided access to information in more than 90% of cases in the course of 2008 due to the intervention of the Commissioner.

155. The Commissioner for Information of Public Interest and Protection of Personal Data has limited financial resources to perform its mandated tasks. This is evident from the execution of the 2009 budget, inclusive of October 30, 2009. Based on the experience and estimations of optimal funds, the Commissioner proposed the total of RSD 115,860,000.00 in 2009. However, the total amount of RSD 57,013,000.00 was approved, of which only RSD 33,810,243.98 (59.30%) was executed. This trend has been present since the establishment of the institution.

(e) Commissioner for the Protection of Equality

156. The Law on the Prohibition of Discrimination established the Commissioner for the Protection of Equality appointed by the National Assembly and mandated to receive and consider complaints concerning violations of the law and to render opinions and recommendations in specific cases and issue warnings (the Commissioner may inform the public accordingly should a person not eliminate the violation of a right within 30 days from the date of issuing the warning); to inform the applicant about the rights and possibilities to initiate court or other protection proceedings and/or propose the conciliation procedure; to file actions for violations of rights prescribed by the law on its behalf and with the consent and for the account of the discriminated person, if the court proceedings on the same matter has not already been initiated or made final; to make misdemeanour charges for violations of the rights envisaged by the law hereof; to submit annual and special reports to the National Assembly on the status of gender protection; to warn the public of the most

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frequent, typical and severe cases of discrimination; to monitor the implementation of the law and other regulations, initiate the adoption or amendments to regulations in order to implement or advance protection against discrimination and provide opinions on the relevant provisions of draft laws and other regulations relating to the prohibition of discrimination; to establish and maintain cooperation with bodies competent for the issues of equality and protection of human rights on the level of autonomous province and local self-government; to recommend equality achievement measures to public authorities and other persons. The National Assembly elected the Commissioner for the Protection of Equality in May 2010.

Training on Human Rights

157. The Ministry of Human and Minority Rights provides training and education in the field of human rights by: working with children of primary and secondary schools through lectures, discussions, workshops and distribution of publications appropriate for their age; organizing competitions with human rights topics targeting students of primary and secondary schools and non-government organizations; printing books and other publications in the field of human rights; media campaigns promoted on the television and in radio programmes, press articles and advertisements, television and radio clips, billboards, posters, badges, stickers, street campaigns and discussions with citizens; seminars, conferences and round tables, such as trainings on human and minority rights for the journalists of minority media, regional round tables in towns and cities with multi-ethnic population, round tables in the South of Serbia in towns with predominant Albanian population; producing documentaries on human and minority rights in cooperation with the television; providing financial support for the best students among vulnerable groups.

158. The training on human rights is also provided in the field of judiciary. The Judicial Training Centre is an organisation founded by the Ministry of Justice and the Association of Judges of the Republic of Serbia in 2001. The Centre provides programmes of basic, specialized and permanent training and professional development targeting judicial functionaries and employees in the Republic of Serbia. The Judicial Training Centre covers the topics of the institutional protection of human rights and standards envisaged by the United Nations and the Council of Europe conventions within its regular annual programme. Anti-discrimination seminars and trainings for judges and prosecutors have been organized since 2005 (the International Convention on the Elimination of All Forms of Racial Discriminations, standards and practices of the Committee on the Elimination of Racial Discrimination; standards of the European Court on Human Rights, Article 14 of the European Convention and the Protocol 12 on the Convention, gender equality and the prohibition of discrimination; the Anti-Discrimination Law). The Judicial Training Centre has included the anti-discrimination training for judges and prosecutors in its ongoing program since 2007.

159. The Training and Professional Development Centre of the Administration for the Enforcement of Penal Sanctions within the Ministry of Justice carries out regular training for security service trainees, the security service staff, the employees who are candidates

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for officers in charge of community service sanctions and conditional discharge with protective surveillance, other employees of the Administration and the judicial guards. The trainings and professional development are conducted through basic, additional and specialist courses, as well as other forms of training.

160. The Centre has conducted a range of basic and specialist courses for security service trainees and staff of all ranks in cooperation with the OSCE Mission to Serbia. The programme covers the issues of treatment of persons deprived of liberty, training in appropriate and lawful use of means of coercion, imposing corrective sanctions and penology and the basics of the constitutional law including the basic human and minority rights guaranteed by the Constitution of the Republic of Serbia, the European Convention on Human Rights, the International Convention on Civil and Political Rights, the European Prison Rules and the case-law of the European Court of Human Rights. In addition to the training for security service staff, the Centre now provides education and training for the representatives of correctional service, lawyers, healthcare workers, trainers, directors of correctional institutions and heads of services.

161. The police are trained in human rights in the Basic Police Training Centre, as well as at in the Criminal-Police Academy. The employees of the police undergo the twelve-month training covering the abovementioned fields in line with the Programme of Professional Development of Police Officers of the Ministry of Internal Affairs.

162. A campaign on raising awareness of the public on the principles of gender equality and rights of women was conducted regarding the 101st anniversary of March 8, the International Women's day and fight for the human rights of women in March 2009: the Danas daily (30,000 copies) published the vocabulary of gender equality with the aim to inform the general public about the basic notions and principles of this field throughout the month. The campaign was launched on March 8, 2009 by publishing supplements in the Danas and the Politika dailies (210,000 copies in total) on the rights of women in Serbian legislation and on the institutions women may refer to for assistance.

163. A considerable number of NGOs in the Republic of Serbia provides education in the field of human rights. The Specialist Studies on Humanitarian Law and Human Rights have been provided over the last three years in cooperation with the Faculty of Political Sciences, the University of Belgrade and with support of the OSCE and the International Committee of the Red Cross. The specialist studies are intended for civil and judicial servants, journalists, the staff of non-government and international organizations. Moreover, human rights schools are organized for future lecturers, judges, prosecutors, public attorneys and lawyers, including the School for Future Decision-Makers. The training is carried out in the form of seminars, conferences and lectures.

Development Cooperation and Assistance

164. The system of United Nations in the Republic of Serbia includes 15 residential agencies: UNDP, UNICEF, UNHCHR, UNFPA, FAO, ICTY, IOM, UNOB, WHO, UNODC, UNHCHR, UNOPS, UNIFEM, UN HABITAT. The engagement of the United Nations in the Republic of Serbia has thus far largely been oriented towards

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strengthening the capacities and providing assistance for formulating policies, legislation and the regulatory framework.

165. The Government prepared the Country Programme Document for the period 2005 to 2009 with the assistance of the UNDP. The document sets forth the basic goals and opportunities for UNDP support targeting national programmes and priorities. The Country Programme Action Plan was adopted to help implement the Country Programme Document.

166. The current activities of joint programming between the UN and the Government relate to: promoting the employment of youth and migration management (the joint programme amount is estimated to USD 8,043,000, and is managed by the International Organization for Migrations (IOM) in cooperation with the Ministry of Economy and Regional Development); the development of the private sector by promoting sustainable tourism in view of rural development and support for such tourism (the programme value is estimated at USD 4,000,00 and is managed by the UNDP in cooperation with the Ministry of Economy and Regional Development and the Ministry of Agriculture, Forestry and Water Management); the project of the Millennium Development Goal Achievement Fund relating to the peaceful resolution of conflicts in society (the project value is estimated at USD 8,000,000 and is managed by the UNDP in cooperation with 13 municipalities of the Jablanica and Pčinj counties and the Ministry for Public Administration and Local Self-Government); the joint anti-trafficking program of the UNHCR, the International Organization for Migrations (IOM) and the United Nations Office on Drugs and Crime (UNODC) in Serbia, under the auspices of the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) (the first joint initiative of UN agencies relating to anti-trafficking in the Republic of Serbia estimated at USD 1,654,944.00).

167. The United Nations Country Team (UNCT) initiated the development of the United Nations Development Assistance Framework (UNDAF) in the Republic of Serbia for the period 2011 to 2015 in partnership with the Government, civil society and other key stakeholders. The document identifies three strategic areas: good governance, sustainable development and social inclusion, as well as regional stability and cooperation.

168. The OSCE Mission to the Republic of Serbia works to: improve democratic institutions at all levels: Parliamentary support, support to local government and reform of the defence and security sector; implements projects relating to national minorities, gender equality, youth, education, refugees and internally displaced persons, anti-trafficking and human rights; implements the programme of support to the Roma as well as programmes relating to environmental protection.

169. The OSCE Mission to the Republic of Serbia also works in the following fields: reform of the judiciary, organized crime, anti-corruption, domestic proceedings on war crimes, reform of imprisonment institutions, human rights institutions and translation of legal documents.

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170. The OSCE Mission to the Republic of Serbia provides relevant expert support in the field of judiciary reform. The OSCE provides support to the implementation of the National Judicial Reform Strategy and the operations of the Judicial Academy in cooperation with the Ministry of Justice, courts, prosecutor offices and the associations of judges and prosecutors.

171. The OSCE Mission to the Republic of Serbia supports the building of judiciary capacities in the field of resolving organized crime issues by strengthening the technical preconditions of selected prosecutors and investigative judges and by increasing the efficiency of institutions dealing with organized crime issues. Furthermore, the Mission has developed a strategy for supporting national judiciary to maintain criminal proceedings for war crimes as a means for achieving reconciliation. The Mission has supported cross-border judicial cooperation between the Republic of Serbia, the Republic of Croatia, Bosnia and Herzegovina and Montenegro in relation to war crimes proceedings since 2004 in cooperation with other missions, under the title of “Palić Process”.

172. The OSCE Mission to the Republic of Serbia has developed a complex programme of support for the Ministry of Justice in the field of penitentiary institutions reform. The programme activities include the reform of regulations, the training of staff employed in penitentiary institutions and the establishment of the Centre for Training the Staff of Penitentiary Institutions. The Mission supported the Ministry of Justice in 2010 to secure conditions for a full and priority implementation of an alternative penalty system.

173. The OSCE Mission to the Republic of Serbia provides support to the harmonization of national regulations and practices with international anti-corruption standards in the field of anti-corruption measures implementation. The activities of the Mission are also aimed at strengthening the capacities of anti-corruption institutions.

174. The OSCE Mission to the Republic of Serbia has been providing support for the establishment of national institutions for the protection of human rights since 2001. The activities of the Mission in 2010 shall be directed towards strengthening the capacities of the Ombudsman, the Provincial Ombudsman and the network of local Ombudsmen.

F) Reporting Process at the National Level

175. The Republic of Serbia has so far presented the following reports to the competent United Nations treaty bodies: the Initial Report on the Implementation of the International Covenant on Civil and Political Rights (July 2004), the Initial Report on the Implementation of the International Treaty on Economic, Social and Cultural Rights (May 2005), the Initial Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women (May 2007), the Initial Report on the Implementation of the Convention on the Right of the Child (May 2008) and the Initial Report on the Implementation of the Convention against Torture and Other Cruel, Inhuman and Degrading Punishment or Treatment (November 2008), the Initial Report on the Implementation of the Optional Protocol on the Participation of Children in

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War Conflicts to the Convention on the Rights of the Child and the Initial Report on the Implementation of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography to the Convention on the Rights of the Child (May 2010).

176. The Second Periodic Report on the Implementation of the International Covenant on Civil and Political Rights was submitted for review to the Committee on Human Rights in December 2008, whereas the Initial Report on the Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination was submitted to the Committee on the Elimination of Racial Discrimination in June 2009.

177. The Republic of Serbia underwent the process of universal periodical review by the Human Rights Council of the United Nations in December 2008. The recommendations of the Working Group relate to the ratification of relevant international treaties in the field of human rights; the adoption of a separate and comprehensive anti-discrimination law, the measures of ensuring higher accessibility to information for the Commissioner for Information of Public Interest and ensuring the effectiveness of the Ombudsman's Office; the strengthening of national mechanisms for enforcing the decisions of treaty bodies, the establishment of a fully autonomous mechanism of prevention in consultations with civil society; the intensification of fight against neo-Nazi groups and other groups who promote racial hatred and violence; the undertaking of specific measures for reducing the high unemployment rate of persons with disabilities; the implementation of a comprehensive national strategy for preventing child trafficking and sexual abuse; the establishment of full cooperation with the International Criminal Tribunal for the former Yugoslavia; the undertaking of adequate measures to guarantee the protection and promotion of religious freedoms, the promotion of the human rights defenders; the undertaking of positive steps towards the promotion of equality and non-discrimination among diverse national minorities; the undertaking of necessary measures to advance socio-economic conditions of refugees and internally displaced persons.

178. The preparation and coordination of the development of periodical reports of the Republic of Serbia on the implementation of fundamental international treaties on human rights protection is in the mandate of the Ministry of Human and Minority rights. The Ministry submits the drafted report to the Government for adoption. The report is then forwarded to the relevant United Nations treaty body and presented to the public.

179. The Ministry of Human and Minority Rights launched the process of reforming the existing reporting system in the course of 2008. The essence of the reform is to set up an inter-sector reporting mechanism and to involve non-government organizations in the process. The Ministry of Human and Minority Rights signed the Memorandum of Cooperation with the non-government sector on February 9, 2009 on behalf of the Government, obliging the parties to ensure a regular future exchange of information in respect of the activities concerning the preparation, adoption and implementation of laws and strategies in the field of respect for human rights and fundamental freedoms, the preparation of reports on the implementation of undertaken international obligations, as well as other activities in the mandate of the Ministry.

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180. In order to achieve the set goal, the Ministry of Human and Minority Rights organized three round tables for the representatives of sector agencies and relevant non-government organizations in the course of 2008/2009, with the support of the UN Office for Human Rights and the OSCE Mission to the Republic of Serbia. The subject of the round tables was reporting, the basic supervision mechanism applied by the United Nations treaty bodies regarding the implementation of the international treaties in the field of human rights in the member states, as well as the status and the role of human rights defenders in the Republic of Serbia. The Conference on Reporting to the United Nations Treaty Bodies was organized in May 2009, its focus being the harmonized guidelines for reporting against the international treaties on human rights, with a special review of the expanded joint core document.

181. The Conference was followed by the establishment of the Working Group for the Development of the Joint Core Document on the Republic of Serbia, gathering the representatives of competent state agencies and relevant non-government organizations. The working group prepared the First Draft Report that was reviewed at the working meetings. Academic experts and the United Nations experts were engaged at the last meeting to steer the Working Group in preparing the Second Draft Report by applying adequate techniques and providing professional input. An expert was engaged to review the prepared Second Draft Report and provide suggestions and guidelines for the preparation of the final version of the report. The Ministry of Human and Minority Rights intends to establish this method of preparation of periodical reports on the implementation of international treaties on the protection of human rights as a good practice to be applied in the new reporting system.

G) Other Related Human Rights Information

182. The Republic of Serbia has adopted a number of national strategies governing the protection of human rights in their related sections. However, there is still no comprehensive national strategy for the protection and promotion of human rights in place.

183. The Government launched the preparation of the Poverty Reduction Strategy Paper (PRS) in the Republic of Serbia towards the end of 2002. The fundamental principles, strategic directions and forms of preparation and implementation thereof are defined in the PRS baseline document approved of by the World Bank and the International Monetary Fund. The Poverty Reduction Strategy is integral to the International Assistance and Development Cooperation Framework of the Government and contains the plan of activities for the achievement of the Millennium Development Goals of the United Nations.

184. The three fundamental goals of the PRS are: dynamic development and economic growth, focusing on job creation in the private sector; prevention of new poverty as a consequence of the forthcoming modernization and restructuring and the rationalization of state and its fundamental functions; efficient implementation of existing programs and creation of new programs, measures and activities directly targeting the poorest and

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socially most vulnerable groups, with a focus on the underdeveloped regions (children, the elderly, persons with disabilities, refugees and internally displaced persons, the Roma, the rural population and the undereducated), particularly in the least developed regions.

185. The document entitled National Millennium Development Goals in the Republic of Serbia was adopted in 2007. Eight national goals/tasks were established for each global Millennium Development Goal to be achieved by 2015.

186. The implementation of the initiative entitled Decade of Roma Inclusion was launched on the occasion of signing the Declaration on the Decade of Roma Inclusion 2005 – 2015 in Sophia on February 2, 2005. The goal of this international initiative which gathers the countries of Central and South-East Europe, international organizations, associations of citizens and the representatives of the Roma civil society is to improve the status of the Roma, and to reduce unacceptable discrepancies between the Roma and other population. In addition to specific priority fields (housing, education, employment and health), special attention was paid to the prevention of discrimination, poverty reduction and improvement of the status of women. The fundamental principle is to include the representatives of Roma communities in all processes. The Republic of Serbia chaired the Decade of Roma Inclusion 2005 - 2015 in the period from July 1, 2008 throughout the end of June 2009.

187. The Government adopted the Anti-Trafficking Strategy in December 2006, which was developed in compliance with the Guidelines for the Development National Plans of Action of the Stability Pact and in line with the Programme for the Development and Implementation of a Comprehensive National Anti-Trafficking Response and Best Practices in the Region that was prepared by the International Centre for Migration Policy Development (ICMPD). The strategic anti-trafficking goals of the Republic of Serbia are grouped in five areas: institutional framework, prevention, assistance, protection and reintegration of victims, international cooperation and monitoring and evaluation of results. The National Anti-Trafficking Plan of Action 2009 – 2011 was adopted in April 2009, whereby the Republic of Serbia met one of the technical conditions for the liberalization of the EU visa regime and contributed largely to a more effective fight against human and child trafficking in the Republic of Serbia.

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188. The National Sustainable Development Strategy, adopted by the Government in 2008, was launched as an immediate response to the World Summit on Sustainable Development at the proposal of the Swedish Ambassador to Belgrade. Its preparation was launched in July 2005 in cooperation of the Deputy Prime Minister's Office, the United Nations Development Programme (UNDP) and the Swedish International Development Agency (SIDA). The goal of the Strategy is to achieve the balance of three key factors and/or pillars of sustainable development: the sustainable development of economy and technology, the sustainable development of society on the grounds of social balance and environmental protection and rational usage of natural resources.

189. The Migrations Management Strategy was adopted in July 2009. The overall goal of the strategy is to manage migrations comprehensively in order to facilitate the accomplishment of sector objectives and state priorities in the field of migrations and ensure: the management of migrations in compliance with sustainable population policy and long-term economy development requirements and labour market trends in the Republic of Serbia; the abolishment of the visa regime for the citizens of the Republic of Serbia and placement on the EU Schengen White List, the progress in negotiations on visa liberalization or visa facilities with other countries in Europe and the world; the implementation of the integrated border management concept; the enhancement of cooperation with diaspora and promotion of return to the mother country; the creation of conditions for young experts and talented people to work in their own country and the conditions for a circulation of knowledge of people in diaspora; the creation of conditions for the integration of foreigners and efficient protection of rights and interests of the citizens of the Republic of Serbia who work and live abroad; the implementation of clear and effective procedures to prevent and suppress illegal migrations (illegal border crossing, illegal stay of foreigners after the expiration of their residence permit, smuggling of migrants, human trafficking); the resolution of the issue of refugees and internally displaced persons; efficient and effective admission and sustainable socio-economic reintegration of returnees – the citizens of the Republic of Serbia on the grounds of the readmission agreement.

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III. INFORMATION ON NON-DISCRIMINATION AND EQUALITY AND EFFECTIVE REMEDIES

1) Non-discrimination

190. The Constitution of the Republic of Serbia stipulates that all citizens are equal and that everyone has the right to equal legal protection, without discrimination. All direct or indirect discrimination based on any grounds, particularly on race, sex, nationality, social origin, birth, religion, political or other affiliations, property, culture, language, age, mental or physical disability shall be prohibited¹⁴⁴.

(a) Law on the Prohibition of Discrimination

191. The legal system of the Republic of Serbia did not contain an integrated system of protection against discrimination establishing overall conditions, measures and instruments of efficient anti-discrimination until March 2009. A large number of regulations had been applied which governed protection against discrimination non-systematically and partially, by regulating specific fields or targeting specific vulnerable groups.

192. The Law on the Prohibition of Discrimination prescribes the general prohibition of discrimination, aspects and cases of discrimination, including the procedures of protection against discrimination¹⁴⁵. The Commissioner for the Protection of Equality was established by the Law as an independent state body, independent in performing activities established by the law thereof.

193. The Law on the Prohibition of Discrimination defines the terms of “discrimination” and “discriminatory treatment” as any unjustified differentiation or unequal behaviour and/or omission (exclusion, limitation or giving preference) with regard to persons or groups and members of their families, or persons close to them, in an open or covert manner, based on race, colour of skin, predecessors, citizenship, national affiliation or ethnic origin, language, religious or political opinions, sex, gender identity, sexual orientation, property status, birth, genetic characteristics, health status, disability, marital and family status, criminal record, age, appearance, membership in political, labour union or other organizations and other real and/or assumed personal characteristics¹⁴⁶.

194. The Law on the Prohibition of Discrimination defines the forms of discrimination as direct and indirect discrimination, the violation of principles of equal rights and obligations, holding persons accountable, association to commit discrimination, hate speech and harassment and humiliating treatment¹⁴⁷. The severe forms of discrimination stipulated in Article 13 of the law thereof include, *inter alia*, incitement and instigation of inequality, hatred and intolerance on the basis of national, racial or religious affiliation,

¹⁴⁴ Article 21, paragraphs 1, 2, and 3

¹⁴⁵ Article 1

¹⁴⁶ Article 2, paragraph 1, indent 1

¹⁴⁷ Article 5

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political affiliation, sex, gender identity, sexual orientation and disability, slavery, human trafficking, apartheid, genocide, ethnic cleansing and the instigation thereof, as well as the instigation or discrimination by the public authorities and in procedures held before the public authorities¹⁴⁸.

195. The Law on the Prohibition of Discrimination regulates judicial protection against discrimination, stating that every person exposed to discriminatory treatment is entitled to filing a claim to the court. The procedure instituted according to the appeal is considered urgent¹⁴⁹. The supervision over the enforcement of the Law on the Prohibition of Discrimination is conducted by the ministry in charge of human and minority rights¹⁵⁰.

(b) Criminal and Legal Protection against Discrimination

196. Discrimination is criminally sanctioned and prohibited in various fields of social life in the Republic of Serbia, primarily in the field of education, labour relations, information and healthcare.

197. The Criminal Code prescribes a prison sentence of up to three years for any individual who deprives or limits another person's individual or civil rights set forth in the Constitution, the laws or other regulations or general instruments and the ratified international treaties, or favours these individuals and gives them benefits based on their national or ethnic affiliation, racial or religious affiliation or absence of affiliation, or based on differences in terms of political or other beliefs, sex, language, education, social position, social origin, property status or another personal characteristic. If the act is committed by an official when performing their official duties, the official shall be punished by a term of imprisonment of three months to five years.¹⁵¹

198. Pursuant to the Criminal Code, the person causing or inciting national, racial or religious hatred or intolerance among the nationalities and ethnic communities living in Serbia, shall be sentenced to prison from six months to five years. If the offence specified in paragraph 1 of this Article is committed by coercion, maltreatment, compromising safety, exposure to derision of national, ethnic or religious symbols, damage to goods, desecration of monuments, memorials or graves, the offender shall be sentenced to prison from one to eight years. Should the offence occur by abuse of official position or authority, or if these offences result in riots, violence or other grave consequences to the co-existence of nationalities, national minorities or ethnic groups living in Serbia, the prescribed sentence is prison from one to eight years and/or prison from two to ten years¹⁵².

199. The provisions of the Criminal Code stipulate that the person who violates fundamental human rights and freedoms guaranteed by the generally accepted provisions of the international law and the international treaties on the grounds of race, colour,

¹⁴⁸ Article 13

¹⁴⁹ Articles 41 to 46

¹⁵⁰ Article 47

¹⁵¹ Article 128

¹⁵² Article 317

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nationality, ethnicity or other personal characteristic shall be sentenced to prison from six months to five years. The penalty specified in paragraph 1 of this Article shall be imposed on whoever persecutes organizations or individuals due to their commitment to the equality of people. Whoever propagates ideas of superiority of one race over another or propagates racial intolerance or instigates racial discrimination shall be sentenced to prison from three months to three years¹⁵³.

200. The number of criminal charges filed on account of discrimination has increased as of 2004 when the Ministry of Internal Affairs instructed all regional police administrations to press charges in all cases with even the smallest indications of offence motivated by national, racial or religious hatred (even when committed by unknown persons), in order to step up the security of minority groups and religious facilities. Priority measures are undertaken to resolve all cases of incidents motivated by the ethnic affiliation of the damaged person as urgently and comprehensively as possible, pursuant to specific plans made up for each individual case whose implementation involves a joint participation of the officers of criminal police and police in uniform. More specifically, police officers undertake measures to resolve incidents, identify, bring in and report suspects to competent prosecutor's offices in the course of preliminary criminal proceedings based on the claims of public prosecutors and by applying police powers.

(c) Other Regulations Containing Provisions on the Prohibition of Discrimination

201. The Law on the Fundamentals of the Education System prescribes that the education system shall provide equal right and access to education for all children, students and adults without discrimination on the grounds of sex, social, cultural, ethnic, religious or other affiliations, place of temporary or permanent residence, economic or health status, developmental difficulties and disability or other grounds. Educational activities are conducted by institutions and organizations mandated by law. The activities endangering, humiliating, discriminating persons and/or groups of persons a on the grounds of racial, national, ethnic, linguistic, religious or sex affiliations, physical and mental characteristics, developmental difficulties and disability, health status, age, social and cultural origin, property and political affiliation, including incitement or non-prevention of such activities, are prohibited in these institutions, as well as on other grounds established by law prescribing the prohibition of discrimination. No physical, mental or social abuse is allowed in education institutions, including harassment or neglect of children and students, corporal punishment or insults and/or sexual abuse of children and students or employees.¹⁵⁴

202. The Labour Law prohibits direct and indirect discrimination of persons seeking employment, as well as those employed, regardless of sex, birth, language, colour of skin, age, pregnancy, health care and/or disability, national affiliation, religion, marital status, family obligations, sexual orientation, political or other opinions, social origin, property status, membership in political organizations and labour unions or another personal characteristic. Discrimination is prohibited in terms of employment conditions and the

¹⁵³ Article 387

¹⁵⁴ Article 3, paragraph 1, point 1; Article 44, paragraph 1; Article 45, paragraph 1

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selection of candidates for performing a specific job, working conditions and all labour-related rights, education, professional training and advancement, promotion and termination of the labour contract. The labour contract provisions establishing discrimination on some of the specified grounds shall be considered null and void¹⁵⁵.

203. The Law on Broadcasting stipulates that the regulation of relations in the field of broadcasting shall be founded, *inter alia*, on the principles of impartiality, the prohibition of discrimination and the transparency of procedures for issuing broadcasting permits. The prohibition of discrimination is more thoroughly regulated by other provisions outlined by the law. The permits for broadcasting radio and TV programmes shall be issued under equal conditions¹⁵⁶. The accomplishment of general interests in the field of public broadcasting shall be achieved by ensuring diversity and mutual harmonization of contents in the programmes produced and broadcasted within the public broadcasting service, supporting democratic values of a modern society, in particular the respect for human rights and cultural, national, ethnic and political pluralism¹⁵⁷. The representatives of the public broadcasting service, *inter alia*, shall produce and broadcast programmes oriented towards all segments of society, without discrimination, keeping in mind in particular the specific social groups.

204. The Law on Public Information stipulates the prohibition of discrimination in media distribution and/or stipulates that a person dealing with media distribution shall not refuse to distribute a media without a justified commercial reason, nor shall set the conditions contrary to market principles in terms of media distribution¹⁵⁸.

205. Pursuant to the Law on Free Access to Information of Public Interest, the rights stipulated by this law apply to all persons under equal conditions, irrespective of their citizenship, permanent or temporary residence and/or seat or personal characteristics such as race, religion, national and ethnic affiliation, sex, etc.

206. One of the main principles of the Law on Health Care is the principle of equity of health care to be achieved through the prohibition of discrimination when providing health care services, *inter alia*, on the grounds of race, national affiliation, religion, culture or language¹⁵⁹.

207. The Law on Churches and Religious Communities sets forth the prohibition of religion-based discrimination. The provisions of this law stipulate that no person shall be subject to coercion impairing the freedom of religious belief or be forced to declare faith and religious beliefs or the non-existence thereof. No person shall be harassed, discriminated or privileged due to their religious beliefs, belonging or failure to belong to a religious community, participation or failure to participate in worshipping or religious

¹⁵⁵ Articles 18, 20

¹⁵⁶ Article 38 (2)

¹⁵⁷ Article 77 (3)

¹⁵⁸ Article 16

¹⁵⁹ Article 20, paragraphs 1 and 2

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ceremonies and observing or failure to observe the guaranteed religious freedoms and rights¹⁶⁰.

208. The Law on the Prevention of Discrimination against Persons with Disabilities¹⁶¹ stipulates the general principles of the prohibition of disability-based discrimination, special cases of discrimination against persons with disabilities, the procedure of protection of persons subjected to discrimination and the measures to be undertaken to stimulate equality and social inclusion of persons with disabilities. The law thereof prescribes special rules of civil procedure in the disputes for the protection against discrimination based on disability. The procedure is instituted by an action filed by a person with disabilities that had been discriminated or by their legal representative. The action may, under specific law-envisaged conditions, be filed by the companion of the person with disabilities. The claim may file for: the prohibition of carrying out an act that would constitute discrimination; the cessation of continued or repeated carrying out of the act of discrimination; the removal of consequences of discrimination; the declaration that defendant carried out an act of discrimination and the compensation for material or non-material damage caused. Civil procedures in cases of discrimination on grounds of disabilities are subject to re-examination.¹⁶²

209. The Law on Gender Equality stipulates the creation of equal opportunities for exercising rights and obligations, the undertaking of measures to prevent and eliminate discrimination based on sex and gender and the procedure of legal protection of persons subjected to discrimination.¹⁶³

210. The Law on Civil Servants¹⁶⁴ prohibits favouring or denying civil servants their rights or duties, in particular due to racial, religious, sex, national or political affiliation, or due to another personal property.

211. The Law on Police¹⁶⁵ stipulates that the police shall abide by, *inter alia*, the international treaties and conventions adopted by the Republic of Serbia, the international standards on police conduct and requirements set forth in the international instruments relating to the observance of human rights and non-discrimination when executing police activities. According to the law, authorized officials shall act without bias when executing police competences and shall provide equal law-stipulated protection to all persons without discrimination on any grounds¹⁶⁶

212. The Law on the Prohibition of Manifestations of Neo-Nazi or Fascist Organizations and Associations and the Prohibition of Using Neo-Nazi or Fascist Symbols and Features¹⁶⁷ prohibits manifestations, display of symbols or features or any other activities

¹⁶⁰ Article 2

¹⁶¹ Article 1

¹⁶² Articles 39 to 45

¹⁶³ Article 1

¹⁶⁴ Official Gazette of the Republic of Serbia, No. 79/05, 81/05, 83/05, 64/07, 67/07, 116/08 and 104/09

¹⁶⁵ Article 12

¹⁶⁶ Article 35

¹⁶⁷ Official Gazette of the Republic of Serbia, No. 41/09, Articles 2 (1), 3 and 4

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of the members and supporters of neo-Nazi or fascist organizations and associations promoting the ideas and activities of such organizations and associations. The law also prohibits the production, copying, storage, presentation, glorification or dissemination of promotional material, symbols or features which incite, encourage or spread hatred or intolerance against free affiliations of citizens, racial, national or religious hatred or intolerance, propagate or justify neo-Nazi and fascist ideas and organizations or jeopardize the public order in some other way, as well as the production, copying, storage, presentation or dissemination or any other form of using symbols promoting or justifying the ideas, activities or actions of persons convicted of war crimes.

2) Measures for Preventing Discrimination and Achieving Full and Effective Equality of Specific Vulnerable Groups

213. The Constitution of the Republic of Serbia stipulates that special measures which the Republic of Serbia may introduce to achieve full equality of individuals and/or groups of individuals who are in a substantially unequal position compared to other citizens shall not be considered discriminative.¹⁶⁸ A similar provision is contained in the Constitution when it comes to the members of national minorities¹⁶⁹.

214. The Law on the Prohibition of Discrimination stipulates that special measures introduced to achieve full equality, protection and advancement of individuals and/or group of individuals in unequal position shall not be considered discriminative.¹⁷⁰

215. The Law on Gender Equality stipulates that the adoption of specific measures aiming to eliminate or prevent an unequal status of women and men, including the achievement of equal gender opportunities, shall not be considered discriminative nor violating the principle of equal rights and obligations¹⁷¹. It envisages the elimination of *de facto* discrimination taking into consideration sex, marital or family status, pregnancy or parenthood by means of specific measures. The measures are temporary and are aimed at eliminating inequality, achieving equality and in this sense shall not be considered discriminative.

216. In accordance with the Law on Employment and Insurance in Case of Unemployment, the main instrument of active employment policy is the National Employment Action Plan which has been harmonized with the National Employment Strategy. The Action Plan includes, among other things, the categories of difficult-to-employ persons that are prioritized with regard to inclusion in the measures of active employment policy¹⁷².

¹⁶⁸ Article 21 (4)

¹⁶⁹ Article 76 (3)

¹⁷⁰ Article 14

¹⁷¹ Article 7

¹⁷² Article 37 paragraphs 1 and 2, and article 39 paragraph 1 point 7

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217. The Law on the Fundamentals of the Education System stipulates that special measures introduced to achieve full equality, protection and advancement of persons and/or a group of persons in an unequal position shall not be considered discriminative.¹⁷³

218. The Law on the Prevention of Discrimination of Persons with Disabilities stipulates that the provisions of laws, regulations or decisions and special measures adopted to improve the status of persons with disabilities, members of their families and associations of persons with disabilities providing special support necessary to enjoy and observe their rights under equal conditions applicable for other persons shall not be considered a violation of the principles of equal rights and obligations, nor shall they be considered discriminative. The law thereof stipulates that the measures undertaken to stimulate faster employment of persons with disabilities pursuant to the law governing the employment of persons with disabilities shall not be considered discriminative.¹⁷⁴

Vulnerable Groups

(a) Persons with Disabilities

219. Pursuant to the estimations of the World Health Organization (WHO), there are close to 800,000 persons with disabilities residing in the Republic of Serbia. Over 70% of persons with disabilities are impoverished, whereas as much as a half of their income comes from various social policy measures – disability allowance, caregiver benefits, increased caregiver benefits, etc. The Ministry of Labour and Social Policy has established partnerships with over 500 non-government organizations of persons with disabilities and provides financial and professional assistance. The financial assistance is provided pursuant to the Law on Associations, financing the programmes implemented by the organizations based on the results of public competitions.

220. The failure to observe the right to education is one of the major causes of further impoverishment and social exclusion of persons with disabilities. The adoption of the Law on the Fundamentals of the Education System should alter these trends because it distinctly and unambiguously introduces inclusive education in pre-school, elementary and secondary schools. The Law prescribes enrolment conditions (the decision is left to the parents/guardians), education methods (individual studying, the development of individual educational plans, the coordination of teaching processes and specific standards, final exams) and necessary support for the family and the child, as well as the development of higher quality and more accountable education institutions. The exercise of the right to education shall have a long-term impact and shall significantly improve the status of persons with disabilities. The new system law on education provides for quality education of vulnerable children, in particular children with disabilities, which has not been the case earlier.¹⁷⁵

¹⁷³ Article 44 (3)

¹⁷⁴ Article 8 (1) and Article 23 (1) and (2)

¹⁷⁵ Ibidem

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221. The ratification of the Convention on the Rights of Persons with Disabilities shall provide for opportunities to introduce more rapid and efficient amendments to the legal and administrative framework. It shall be particularly important to invest efforts into the amendments of legal provisions as well as the practices concerning the deprivation of working capacity of adult persons with disabilities.

222. The Strategy on Improving the Status of Persons with Disabilities, a document adopted by the Government in December 2006, is a medium-term plan of measures and activities of all social stakeholders aiming to accomplish an improved status of persons with disabilities to the position of equal citizens enjoying all rights and responsibilities. The accomplishment of the goals and objectives of the strategy is set for the period from 2007 through 2015, including actions plans which are adopted for periods of two years.

223. The Strategy is based on the following principles: respect for dignity, individual autonomy, independence of persons with disabilities, including their right to make decisions on their own life, non-discrimination, full and effective participation and inclusion of persons with disabilities in all fields of social life, respect for diversities and acceptance of disability as part of human diversity and humanity, equal opportunities based on equal rights, accessibility, equality of men and women, respect for development capacities of children with disabilities and respect for the rights of children to establishing their own identity.

224. The document prescribes measures and activities which shall help mainstream the social model and approach based on human rights into the policies affecting the status of persons with disabilities: mainstreaming issues relating to the status of persons with disabilities into general development plans; developing efficient legal protection; availability of social, health and other services based on the rights and needs of beneficiaries; developing policies and implementing programmes providing equal opportunities for persons with disabilities and encouraging independence, personal development and active living in all areas; providing access for persons with disabilities to the constructed environment, accessible transportation, information, communications and public services, and providing adequate living and social safety standards.

225. However, the Strategy fails to envisage measures for improving the status of the most vulnerable groups of persons with disabilities – the beneficiaries of social protection institutions. The Strategy rather includes measures for the prevention of institutionalization and the development of local support services. Although this is an important process, efforts should be simultaneously invested into the process of deinstitutionalization and/or securing dignified and fulfilled living for the beneficiaries of institutions.

(b) Women

226. The Constitution of the Republic of Serbia prescribes that the state shall guarantee equality of women and men and support the policy of equal opportunities.¹⁷⁶ Forced

¹⁷⁶ Article 15

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labour is prohibited and sexual or financial exploitation of persons in unfavourable position is considered forced labour.¹⁷⁷ The Constitution sets forth equality in marriage and family, freedom of decision-making in respect of birth giving and special protection for mothers, self-supporting parents and children.¹⁷⁸

227. The Assembly of the AP of Vojvodina adopted the Declaration on Gender Equality and the Decision on Gender Equality in August 2004. The Declaration on Gender Equality of the Assembly of the AP of Vojvodina strives for the achievement of the policy of equal opportunities for women and men in all areas, especially in the field of labour and employment, political and public life, social and health care, education, information, culture and sports. The Decision on Gender Equality defines the method of accomplishment of the right to gender equality in the AP of Vojvodina and sets forth specific measures to achieve the equality of women and men in different areas.

228. The Law on Gender Equality envisages the creation of equal opportunities regarding the exercise of rights and responsibilities, specific measures of prevention and elimination of discrimination based on sex and the procedure of legal protection for persons discriminated against. The Law regulates the following fields: employment, social protection and health care, family relations, education, culture and sports and political and public life.

229. The Law on Gender Equality stipulates that the guarantee of equal opportunities for the participation of women and men in the political life is a precondition and an assumption for achieving full gender equality. The Law therefore sets forth specific measures for the areas of political and public life which shall lead to achieving equality in public authorities, the Republic, Provincial, town and municipal bodies, in political parties, labour unions, associations and international cooperation delegation.

230. Specific measures conducive to accelerated achievement of gender equality in the field of political rights have been introduced in the Republic of Serbia for the first time on the grounds of the Law on Local Elections, which prescribes that every applicant of electoral list at the local elections (elections for municipal and city assemblies) is obliged to contain a specific number of women as candidates, in compliance with the regulations and criteria elaborated in the law. Specific measures were introduced on the national level in 2004 by the amendments to the Law on the Election of Deputies by providing that every applicant of electoral list shall have at least 30% of candidates of the less represented sex in the list. The Decision on the Election of Deputies in the Assembly of the Autonomous Province of Vojvodina introduced the same rule in 2004. In practice, however, the quota has not been achieved in the previous two election cycles since the Law on Local Elections and the Law on the Election of Deputies prescribe the quota for electoral lists and not for the mandates.

231. The Government of the Republic of Serbia adopted the National Strategy for Improving the Status of Women and Advancing Gender Equality in February 2009. The

¹⁷⁷ Article 26 (3)

¹⁷⁸ Articles 62, 63 and 66

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drafting process conducted in the course of 2008 was managed by the Directorate for Gender Equality. The strategy was drafted on the basis of the National Action Plan for Improving the Status of Women and Advancing Gender Equality, which involved 33 non-government organizations in the course of 2006. The strategy is integral to the overall changes in society and is harmonized with other strategic documents, in particular the Poverty Reduction Strategy in the Republic of Serbia and the UN Millennium Development Goals. Furthermore, the Strategy follows the social trends and is realistic in respect of the financial capacities of the state.

232. The fundamental principles of the Strategy are to: increase the participation of women in decision-making processes and achieve equal representation of both sexes, improve the economic status of women as one of the preconditions for the accomplishment of gender equality, achieve gender equality in education, improve women's health and gender equality in healthcare policy, prevent and eradicate violence against women and enhance the protection of victims, and eliminate gender stereotypes and promote gender equality in the media. The adoption of the Action Plan for the implementation of the National Strategy for Improving the Status of Women and Advancing Gender Equality is under way. The preparation thereof was managed by the Directorate for Gender Equality, which involved only six non-government organizations tackling the protection of the rights of women.

233. The promotion of gender equality is accomplished through other national strategies as well, such as the Social Welfare Development Strategy, which envisages the development of a social services network, the adoption of the Protocol on Acting in Case of Violence based on the Project entitled "Combating Sexual and Gender-Based Violence", the strengthening of specific professional capacities of personnel in social work and protection centres (protection against abuse and neglect of children, adults and the elderly and against family violence), the development of emergency services (24 hours on duty, establishment and support for SOS services), the introduction of accreditation and permits in the system; the National Employment Strategy, which supports gender equality relating to employment and earnings, and stresses in particular the need to harmonize the professional and family life of women; the Strategy for the Improvement of the Status of Persons with Disabilities, whose specific objective is to develop and ensure equal opportunities for women with disabilities to take equal and active participation in the life of their community; the National Ageing Strategy, which aims to prevent the neglected cases of abuse and violence against the elderly, in particular against women and the Population Growth Strategy.

234. Institutional mechanisms of gender equality have been established on different levels in the Republic of Serbia, such as: the Gender Equality Committee of the National Assembly of the Republic of Serbia; the Gender Equality Council of the Government of the Republic of Serbia; the Directorate for Gender Equality; the Ombudsman; the Gender Equality Committee of the Assembly of the AP of Vojvodina; the Provincial Labour, Employment and Gender Equality Secretariat of Vojvodina; the Provincial Gender Equality Institute; the Provincial Ombudsman and local gender equality commissions.

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Domestic Violence

235. The Family Law prohibits family violence.¹⁷⁹ The law defines family violence as the behaviour of a family member that endangers the physical integrity, mental health or tranquillity of another family member.¹⁸⁰ The following measures may be undertaken against a violent family member: the issuance of an injunction from the family house or apartment irrespective of the ownership right and/or renting the property; the prohibition of approaching the family member at a certain distance; the prohibition of access to the place of residence or workplace of the family member at a certain distance; the prohibition of further harassment of the family member¹⁸¹. Since these are new legal measures relating to family legal protection, special provisions of the Family Law set forth the procedures for undertaking such measures¹⁸². The characteristics of the procedure are special urgency, deviation from the disposition principle and that an appeal against the adopted judgement shall not delay its enforcement.

236. Family violence is sanctioned pursuant to the Criminal Code. Three non-government organizations dealing with the protection of the rights of women and advancing gender equality, namely the Autonomous Women's Centre, the Women's Research Centre of Niš and the Victims' Society of Serbia, have under the proposal of the Ombudsman initiated amendments to the Criminal Code.

237. Following the incrimination of family violence, the police are legally obliged to take official action in cases of violence against women. Training has been carried out in a number of police units and internal protocols have been prepared on family violence, directly affecting the conduct of police officers. Progress has also been achieved by employing a larger number of police women in said units. Furthermore, some medical institutions have their internal protocols concerning treatment of victims of family violence. The working group at the level of the Ministry of Health has recently been established to prepare a universal protocol on the treatment of victims by medical experts.

238. The Assembly of the AP of Vojvodina adopted the Strategy for the Protection against Domestic Violence and Other Forms of Gender-Based Violence for the period from 2008 to 2012 in September 2008. The Strategy identifies violence prevention measures: general legal and political measures, preventive measures, educational measures, support and protection measures, legal assistance and protection of victims. The Strategy also contains recommendations to official bodies and institutions to initiate amendments to the Criminal Code, the Family law, the Law on Weapons and Ammunition and to amend procedures of public services and institutions, in order to prevent any possible obstacles in the process of timely and efficient prevention and protection of victims of domestic violence.

239. The Provincial Labour, Employment and Gender Equality Secretariat launched the implementation of a three-year project entitled Towards a Comprehensive System for

¹⁷⁹ Article 10 (1)

¹⁸⁰ Article 197 (1)

¹⁸¹ Article 198

¹⁸² Articles 283 to 289

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Eradicating Violence against Women in Vojvodina in 2009. Relevant non-government organizations have also been involved in the implementation of project activities. The Autonomous Women's Centre has been engaged in providing training for the experts of the Social Protection Institute of the Republic of Serbia, whereas the Victims' Society of Serbia NGO has conducted a research on the presence of domestic violence in the AP of Vojvodina and is maintaining a registry of services for the victims of violence.

240. The Autonomous Women's Centre non-government organization is the leading organization systematically dealing with the standardization of activities of professionals from all relevant services (social work centres, police, healthcare institutions, prosecution offices, courts) in respect of domestic violence since 2002. The Autonomous Women's Centre was the first to launch the training of judges of specialized family-related councils on the application of the new institute. Furthermore, the Guidelines through the System of Family Legal Protection against Domestic Violence were developed in 2006. The Autonomous Women's Centre was the first to conduct a research of the case-law entitled Family Legal Protection against Domestic Violence and the Case-Law of the Courts in Belgrade (2008) and a research of the case-law in the courts in the Republic of Serbia (2009). More than 400 persons have attended various seminars and expert meetings targeting the representatives of the judiciary.

241. The Autonomous Women's Centre held more than 70 seminars in over 30 towns in 2009. Furthermore, the organization prepared the first drafts of the Protocol on the Work of Professionals in Social Work Centres and the Protocol on the work of the Police in 2005. The proposals of both protocols were submitted to the competent ministries for review, with no response on their part. The Autonomous Women's Centre prepared a form for recording domestic violence in cooperation with the Institute of Forensic Medicine which served as a basis for the development of a standard form by the Ministry of Health.

242. The Ministry of Labour and Social Policy funded 232 local projects through the Social Innovations Fund in the period from 2003 through 2008, totalling over EUR 6 million. One third of the projects were implemented by non-government organizations, fifteen of which related to domestic violence (funded by the Fund from 2003 to 2005): opening shelter houses for women and children who are victims of violence, SOS telephones, training of experts for working with victims of violence and offenders, programmes of economic empowerment of impoverished rural women, additional qualifications for women who are victims of violence.

243. The Civil Society Dialogue Forum has been established in the field of gender equality to enhance dialogue and the system of efficient and direct transfer and exchange of information, views and perspectives between the national and local gender equality mechanisms and civil society. Local gender equality mechanisms make up the majority members of the Forum, wherefore the number of non-government organizations partaking in the dialogue with the Directorate for Gender Equality was reduced to six by the third meeting of this body. Since the Forum has the role to develop the Action Plan for the National Strategy for Improving the Status of Women and Advancing Gender

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Equality, 44 non-government organizations dealing with the issues of women and gender equality, unsatisfied with the process and their position, protested in public in September 2009.

(c) Children

244. Children account for 19.6% (1,467,273) of the total population: girls account for 18.5% (714,530) of the female population and boys account for 20.6% (752,743) of male population.¹⁸³ Progress has been achieved in Serbia considering the reduction of child mortality. The mortality rate is decreasing rapidly among children below 5 years of age, as well as among infants and children in neonatal and perinatal period. This was facilitated by a more effective coverage of the population by antenatal and postnatal health care, as well as improved coverage by immunization. The inoculation coverage is on the increase and is reaching significantly high rates. The percentage of infants breastfed until six months of age is also improving.

245. The National Plan of Action for Children is a strategic document adopted by the Government in 2004, identifying the overall national policy targeting children until 2015. The document was drafted by the Council for the Rights of the Child of the Government of the Republic of Serbia. The National Plan of Action for Children represents a turning point regarding the approach of society towards children and expanding the national development policy by integrating child-oriented policies. The National Plan of Action was developed on the basis of four fundamental principles underpinning the provisions of the Convention on the Rights of the Child: non-discrimination, the best interests of the child, the right to life, survival and development, as well as child participation. The following priorities determine the structure of the National Plan of Action for Children: (1) poverty reduction, (2) quality education for all children, (3) better health for all children, (4) improvement of status and rights of children with disabilities, (5) protection of the rights of children without parental custody, (6) protection of children against abuse, neglect, exploitation and violence and (7) strengthening national capacities to resolve the problems of children.

246. The Council for the Rights of the Child of the Government of the Republic of Serbia adopted the document entitled Overview of the Achievement of the National Plan of Action for Children 2004 - 2009 in 2009, which was used as a basis for drafting the National Plan of Action for Children 2010 - 2015. The priorities set in the Draft document for the period from 2010 through 2015 include: (1) poverty reduction and social inclusion of children, (2) better health for all children, (3) quality education for all children, (4) improving the status and rights of children with disabilities, (5) protection of the rights of children without parental custody, (6) protection of children against abuse, neglect, exploitation and violence (7) and strengthening the capacities to promote the rights and the status of children. The Council for the Rights of the Child is currently implementing activities of continuing the consultative process, which includes the

¹⁸³ Annex 1 of the Report hereof contains Table 1 which provides an overview of the structure of the population by sex and age, for each national community.

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harmonization of the draft document with local plans of action for children¹⁸⁴, which shall be followed by integrating the suggestions, comments and inputs into the document.

247. The revision of the National Plan of Action for Children in 2009 and 2009 has included the analysis of strategies/action plans dealing with issues of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. These documents include the National Plan of Action for Combating Human Trafficking, the National Strategy for the Prevention and Protection of Children against Violence and the pertaining Plan of Action. The strategies/action plans were taken as a foundation for identifying activities in the revised National Plan of Action for Children.

248. The National Strategy for the Prevention and Protection of Children against Violence was adopted in December 2008. The Government adopted the Action Plan for implementing the National Strategy for the Prevention and Protection of Children against Violence. It is difficult to provide exact data about the actual scale of violence against children in the Republic of Serbia since there is no uniform system of recording and monitoring the phenomenon. The institutions dealing with the issues of violence use different parameters to review and register this phenomenon, which makes the data difficult to compare. The research conducted by individual scientific institutions and non-government organizations over the last ten years present a significant source of data on violence against children. The children from the following groups are considered particularly vulnerable in the Republic of Serbia: children from impoverished families, Roma children, children from families of refugees and displaced persons, children without parental custody and/or children separated from parents, children in institutions, children with disabilities, children in the re-admission procedure.

249. The following issues have been identified based on the analysis of the current status and/or the priorities relating to the prevention and protection of children against violence: a low level of awareness of the population about the presence of violence; tolerance for various forms of violence and insufficient and/or lacking education of the public on how to face violence against children; a lack of comprehensive strategies and system mechanisms of prevention and response to the problem of violence against children; insufficiently developed legislation in this field, as well as mechanisms for their implementation and monitoring of the needs for the ratification of relevant instruments for the protection of human rights and the development of a guide for the rights of

¹⁸⁴ The Overview of the Achievement of the National Plan of Action (NPA) for Children 2004 – 2009 took into account the achievements of the implemented Local Plans of Action (LPA) for Children. In order to contribute to the realization of the NPA objectives, the UNICEF introduced a programme in 2004 aiming to motivate municipalities to draft their specific LPAs based on the policies identified in the national document – NPA for Children. In addition to the seven priorities defined in the NPA, the LPAs contain three additional priorities: the promotion of sports as a component conducive to personal development and socializing; the enhancement of the cultural life of children and informing children on children. The development of the LPAs was based on a uniform methodological structure harmonized with the NPA, and the basic goal of the development thereof was to translate the national priorities into locally specific needs, pursuant to the principles of decentralization and sustainable development of the Republic of Serbia. The total of 21 municipalities/towns in Serbia have adopted and implemented their LPAs. Pilot municipalities/towns: Sjenica, Kragujevac, Pirot, Prokuplje, Kruševac, Kanjiža, Senta, Bela Palanka, Valjevo, Osečina, Ljubovija, Vranje, Nova Varoš, Prijepolje, Priboj, Lebane, Bečej, Novi Pazar, Bojnik, Vladičin Han i Kraljevo

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children in different fields; an insufficiently developed cross-sector network for the protection of children against violence; an underdeveloped information system for the collection of data on violence against children; the lack of a protocol for registering violence and underdeveloped reporting procedure; insufficient research about the frequency of violence against children and assessments of vulnerability risk of children to violence and abuse.

250. Based on the identified priority issues relating to the prevention and protection of children against violence, the Strategy established two general strategic goals: the development of a safe environment conducive to exercising the right of every child to be protected against all forms of violence and the establishment of a national system of prevention and protection of children against all forms of abuse, neglect and exploitation. The strategic goals are elaborated on through specific objectives and measures.

251. The Government adopted the General Protocol on Child Protection from Abuse and Neglect in August 2005. The implementation of the General Protocol contributes to the establishment of an operative and efficient multi-sector network and the introduction of a coordinated procedure for the protection of the child who is a real or potential victim of abuse and neglect, and provides for adequate intervention, recovery and conditions for further secure development of the child. The approach provides for the protection of the child as a single process, although it involves diverse systems with their own specific characteristics.

252. Furthermore, special protocols for the protection of children against abuse targeting social protection institutions have been adopted (Special Protocol for the Protection of Children against Abuse and Neglect in the Social Protection Institutions, 2006), as well as the police (Special Protocol on the Work of Police Officers relating to the Protection of Underage Persons against Abuse and Neglect, 2006), education (Special Protocol for the Protection of Children and Students against Violence, Abuse and Neglect in Educational Institutions, 2007), health care (Special Protocol of the System of Health Care for the Protection of Children against Abuse and Neglect, 2009) and the judiciary (Special Protocol on the Work of the Judiciary in the Protection of Minors against Abuse and Neglect, 2009).

(e) Refugees, Internally Displaced Persons, Asylum-Seekers

Refugees and Internally Displaced Persons

253. Pursuant to the Law on Refugees and the decrees prescribing the methods of care for refugees and displaced persons, refugees enjoy a full freedom of movement and residence in the territory of the Republic of Serbia. Internally displaced persons also enjoy freedom of movement and residence as the citizens of the Republic of Serbia.

254. The Republic of Serbia is a country with the highest number of refugees and internally displaced persons in Europe. The number of refugees has reduced by over 80% since 1996 to date. Their number has dropped to 104,246 according to the 2004/2005

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registration of refugees in comparison to the total of 538,000 registered in the 1996 population census and/or 346,000 in the 2001 population census.

255. The reduction in the number of refugees is predominantly a result of their integration in the Republic of Serbia, which is a further consequence of the implementation of the Law on the Citizenship of the Republic of Serbia. Over 200,000 persons received the citizenship of the Republic of Serbia, and the number of refugees reduced by additional 140,000 persons through the process of returning to Bosnia and Herzegovina and the Republic of Croatia (30% of returnees to Bosnia and Herzegovina and 18% of returnees to the Republic of Croatia). There are still approximately 86,000 refugees residing in the Republic of Serbia, mostly from the Republic of Croatia (75%) and from Bosnia and Herzegovina.

256. The Sarajevo Process is a regional initiative which, with the involvement of the UNHCR, the European Commission and the OSCE, was supposed to provide supervision over the return of refugees and the observance of their respective rights. The Republic of Serbia has fallen behind in the implementation of the Sarajevo Declaration as a result of the Republic of Croatia having universally declared the Sarajevo Process finalized claiming that unresolved matters ought to be dealt with bilaterally and since other countries involved in the Sarajevo Process were not interested as indicated by the bilateral negotiations between the Republic of Croatia and Bosnia and Herzegovina. The Republic of Serbia has initiated the organization of a conference to review the unresolved issues and identify mechanisms for solving, with regional countries undertaking their obligations. The Conference entitled “Permanent Solutions for Refugees and Internally Displaced Persons – Cooperation between Countries in the Region”, held on March 25, 2010 in Belgrade, resulted in a joint statement of the Ministers of Internal Affairs of the Republic of Serbia, the Republic of Croatia, Bosnia and Herzegovina and Montenegro on the unresolved issues of refugees and internally displaced persons and the necessity to intensify regional cooperation to achieve a just, comprehensive and permanent solution. The statement reaffirmed the principles of the Sarajevo Declaration.

257. The involvement of international community in resolving all issues of displaced population in the region is vital for the Republic of Serbia, because otherwise there would be no mechanisms of verifying the achieved results. A full implementation of the Sarajevo Declaration is, however, one of the priorities set in the European Partnership with the Republic of Serbia. The most important obstacle to a final resolution of the refugee issue in the region is the lack of free access to all acquired rights in the country of origin and/or conditioning the observance of rights acquired through returning to the countries thereof.

258. National strategies of the Government, particularly the Poverty Reduction Strategy, the National Employment Strategy for the period 2005 – 2010 and the National Strategy for Resolving the Issues of Refugees and Internally Displaced Persons, identify additional programmes, measures and activities relating to the employment of refugees. The additional programmes, measures and activities established in strategic documents have been partially implemented. The National Investment Plan provided funds for financing

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projects dealing with housing issues of refugees, as well as the financial agreement between the Republic of Serbia and the European Union on utilizing resources of pre-accession funds. A number of projects facilitating the employment and self-employment of refugees are implemented since economic empowerment is vital for their integration.

259. Persons granted the refugee status are entitled to free education. The children of refugees are paid the costs of accommodation in student boarding homes from the budget when necessary. The National Employment Strategy 2005 - 2010 prescribes scholarships for children from impoverished refugee families and internally displaced households for secondary schools and universities. The Government established the Fund for Young Talents of the Republic of Serbia in 2005. The general conditions for granting financial support to young talents prescribe that young talents may also have the refugee status and residence in the Republic of Serbia.

260. The Law on Refugees stipulates the right of refugees to health care on the primary, secondary and tertiary level. The newly-adopted Law on Health Protection stipulates that persons without an insurance (based on an employment relation or pension) shall be provided health protection from the budget. Refugees are not liable to pay the prescribed share in the costs of treatment. The Poverty Reduction Strategy prescribes the preparation and implementation of national programmes aimed at particularly vulnerable groups, including health care programmes for refugees. The measures for protection of vulnerable groups should be integrated into the regular health care programmes. The deadlines for the preparation and implementation of national programmes aimed at particularly vulnerable groups have expired, and the measures have not been implemented.

261. Refugees are provided the right to social welfare, as well as the family-legal protection. All refugee children without parental care are accommodated in the appropriate institutions or foster families. The elderly are provided accommodation in elderly homes and the costs for their accommodation are financed from the budget of the Republic of Serbia. Refugees are entitled to material benefits. The Poverty Reduction Strategy envisages additional measures for the enhancement of social safety of refugees which have not yet taken place.

262. The housing programmes for refugees are implemented from budgetary and donor resources. The existing models of housing are: social housing – finalized construction, construction by means of partial self-support, construction by self-support, free of charge construction materials, micro loans for construction materials and qualified labour, social housing under protected conditions, purchase of rural households, subsidy loans, local forms of social housing. The Law on the Amendments to the Law on Refugees¹⁸⁵ regulates the issues of use, rent and gain of property rights over flats and houses for refugees built from budgetary or donor resources. The lack of sufficient funds providing support and assistance for the housing needs of refugees is the fundamental limiting factor for mitigating the scope and severity of the housing issues of refugees in the Republic of Serbia.

¹⁸⁵ The Official Gazette of the Republic of Serbia, No. 30/10

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263. A specific program of social housing under protected conditions has been developed in the Republic of Serbia, providing special benefits for the most vulnerable categories of refugees and internally displaced persons. The refugees meeting the set criteria are enabled access to social housing. Over 1300 various housing solutions were found for refugees and internally displaced persons in 2009.

264. The closing of collective centres, although seemingly a humane option, presents in reality a great challenge for the most vulnerable population if they are not provided with permanent housing solutions. The Commissariat for Refugees therefore closes down the collective centres according to a plan, providing permanent solutions for the beneficiaries. If a collective centre is to be closed down for other reasons (a request by the owner of the facility), all refugees are provided with a possibility to be transferred to another collective centre or to obtain one-off assistance facilitating the transfer from the collective centre to the so-called private accommodation. The number of collective centres has reduced by 86% since their planned closing was launched. There are 60 collective centres currently remaining in the Republic of Serbia, 17 of which are located in the Autonomous Province of Kosovo and Metohija.

265. Internally displaced persons, as the citizens of the Republic of Serbia, enjoy all the rights guaranteed by the Constitution and the laws of the Republic of Serbia. There are 209,722 internally displaced persons from the AP of Kosovo and Metohija in total in the Republic of Serbia. The structure of internally displaced persons according to their nationality is: 75.2% Serbs, 10.9% Roma, 3.9% Montenegrins, 2.5% Muslims, 1.5% Goranci, 0.4% Egyptians, 0.2% Albanians, 0.2% Macedonians, 0.2% Yugoslavs, 0.1% Croats and 0.1% Turks. The total of 4.8% persons has not declared their national affiliation.

266. All persons registered as internally displaced persons from the AP of Kosovo and Metohija have been issued displaced persons identity cards, which is used for registering purposes and is valid together with an appropriate personal identity document owned by all citizens of the Republic of Serbia, so as to facilitate the observance of pertaining rights by internally displaced persons outside of their place of residence. The internally displaced persons have been involved in the education system of the Republic of Serbia as of the day of leaving the AP of Kosovo and Metohija, and have been provided access to health care and social welfare (social assistance through child benefits, income support for families, caregiver benefits). The most underprivileged persons are accommodated in collected centres, financed from the budget of the Republic of Serbia (97% of the Commissariat's budget is allocated for these purposes), where internally displaced persons account for a majority compared to refugees.

267. The Republic of Serbia has been implementing a set of housing and employment programmes since 2007 aimed at enhancing the living conditions of internally displaced persons. A problem of a number of internally displaced persons, in particular of Roma nationality, is the acquirement of documents, which is an obstacle to exercising their rights. In order to facilitate access to documents, the Republic of Serbia reduced administrative fees for issuing documents by 70% for internally displaced persons and refugees. Favourable effects of the new Law on Registers are also foreseen.

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268. The Law on Registers, which was adopted in March 2009 and has been implemented since December 28, 2009, *inter alia*, significantly improves the observance of the right to entering the facts on birth into the Registry of Births and/or enables a comprehensive entry of facts on the birth of the child irrespective of whether the child's parents are known or unknown, if the child is without parental care or if the child is adopted. Therefore, the provisions of the Law thereof may be considered a further implementation of the rights guaranteed by the Convention on the Rights of the Child, in particular the provisions which enable the entry of facts on the birth of the child registered after the legally foreseen deadline (subsequent entry of facts on birth).

269. The Ministry for Public Administration and Local Government established a working group for the implementation the Strategy for Improving the Status of the Roma in the Republic of Serbia, tasked with establishing the status and, primarily, the number of persons not entered into the Register of Birth and propose and implement measures and activities relating to the established Plan of Action on the implementation of the Strategy thereof in the segment relating to subsequent entry of facts relating to birth into the Register of Births. A number of registers maintained for the AP of Kosovo and Metohija was destroyed or disappeared, wherefore the procedure of renewed entry of facts on birth, marriage and death into registers has been under way since 1999 before the bodies maintaining the registers for the local government units from this region pursuant to the law. The Law on Registers and pertaining by-laws regulate the procedure of renewed entry into registers. Thus all internally displaced persons from the territory of the AP of Kosovo and Metohija are enabled, *inter alia*, to renew the entry of facts on birth into the Registry of Births where they had been registered through appropriated procedures.

Asylum-Seekers

270. Pursuant to the Law on Asylum no person may be exiled or returned contrary to their will to the territory wherein their life or freedom had been jeopardized due to their race, sex, language, religion, nationality, affiliation to a certain social group or because of political beliefs. However, the Government adopted the Decision on Establishing the List of Safe Countries of Origin and Safe Third Countries.

271. The Asylum Office of the Ministry of Internal Affairs, as the first instance body deciding on asylum applications, has received applications for asylum from some 50 persons since the Law on Asylum came into force on April 1, 2008, these being the citizens of the Republic of Iraq, the Islamic Republic of Afghanistan, the People's Republic of Bangladesh, the Republic of Georgia, as well as the citizens of some African countries. The applications are being processed and some of them have already entered the second instance procedure before the Asylum Commission.

272. In the course of 2008, according to the data of the Ministry of Internal Affairs, 52 persons submitted applications for asylum in the Republic of Serbia, being the citizens of the following countries: the Federal Republic of Nigeria – two persons, the Republic of

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Chad – two persons, the Federal Democratic Republic of Ethiopia – three persons, the Republic of Armenia – five persons, the Republic of Georgia – 11 persons, the Republic of France – one person, the Republic of the Ivory Coast – 19 persons, the Republic of Iraq – one person, the Democratic Socialist Republic of Sri Lanka – two persons, the State of Palestine – two persons, the Democratic Republic of Somaliland – two persons, the Republic of Angola – one person, the Republic of Albania – one person and one stateless person.

273. Asylum-seekers are entitled to being accommodated in the Asylum Centre. The Government adopted the Decision on the Establishment of the Asylum Centre in December 2008, which has been operational under the Commissariat for Refugees. Asylum-seekers residing in the Centre are provided with accommodation, food, clothes and footwear. Asylum-seekers also have the right to get some pecuniary aid through the Social Work Centre if they have no accommodation at the Asylum Centre. Asylum-seekers have no right to employment until the procedure has been finalised.

(e) Returnees Pursuant to the Readmission Agreements

274. The Republic of Serbia has so far entered 17 bilateral readmission agreements within the international cooperation framework. The Readmission Agreement between the European Union and the Republic of Serbia entered into force on January 1, 2008. Bilateral agreements and the Readmission Agreement regulate the conditions and instruments for return of people whose legal term of residence has expired, upon the request of one of the agreement parties. In 2003, the Council of Europe estimated that between 50,000 and 100,000 citizens of the Republic of Serbia were to be returned. International organizations active in the Republic of Serbia and the civil sector find that this number reaches even 150,000 persons because, for example, there are some 100,000 citizens of the Republic of Serbia illegally settled according to the data of the Government of Federal Republic of Germany out of the total number of 600,000 persons residing in that country alone. The Ministry of Internal Affairs estimates that 18,000 citizens of our country have returned thus far.

275. The countries that Serbia has entered readmission agreements with in most cases refused to undertake the obligation to participate in their financial and social reintegration. On the other hand, the few countries that accepted a provisional obligation to participate in reintegration reduced their assistance to funding certain minor projects, granting no direct and specific assistance to returnees. Nevertheless, the readmission agreements with the European Union and the Swiss Confederation envisage financial support of the European Union and the Swiss Confederation on account of the reintegration of returnees.

276. The involvement of countries in the social and economic reintegration of the returning illegally settled persons to the Republic of Serbia is necessary since persons of Roma nationality account for the majority of returnees, whose socio-economic status is marginalized, who are discriminated against on multiple grounds and whose position is extremely difficult and complex. Furthermore, the Republic of Serbia is a country in

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transition, facing a number of economic difficulties inherited from the past, whose social and other funds and resources are not sufficient. The lack of an adequate database on returnees pursuant to readmission agreements represents a specific problem.

277. The Strategy on the Reintegration of Returnees Pursuant to Readmission Agreements was adopted in February 2009. The goal of the strategy is a sustainable integration of returnees in the community under full respect for social and cultural diversities, whereas its specific objective is to establish an institutional framework and coordinate the relating activities.

278. The Ministry of Human and Minority Rights established the Readmission Office at the Nikola Tesla Airport in Belgrade. The activities of the office are to: identify deported persons and voluntary returnees and inform them about readmission in the Republic of Serbia, identify the basic issues they face upon readmission, provide basic legal assistance and council on regulating their personal status, social welfare, health care and employment, collect data and provide information to the Ministry of Human and Minority Rights about the status of human and minority rights of persons upon readmission and collect other data relevant to the reintegration of returnees.

279. The Handbook for Returnees upon Readmission has been developed in Serbian, Roma, German, Dutch and English, as well as the Guidebook on Actions within the Integration of Returnees upon Readmission intended for the representatives of local level institutions.

(f) National Minorities

280. Pursuant to the Law on the Protection of the Rights and Freedoms of National Minorities, a national minority is any group of citizens of the Republic of Serbia which is sufficiently representative in number and which has a long-term and firm bond with the territory of the state although representing a minority in the territory of the state, and which possesses characteristics such as language, culture, national or ethnic affiliation, origin or religious affiliation, differentiating them from the majority of the population and whose members are distinguished by care to collectively nurture their common identity, including their culture, tradition, language or religion. All groups of citizens who are called or distinguished as peoples, national and ethnic communities, national and ethnic groups or nationalities and who meet all the abovementioned criteria shall be considered national minorities.

281. Persons belonging to national minorities of the Republic of Serbia may elect their national councils in order to exercise the right to self-governance in the field of culture, education, information and official use of their language and script. National council represents a national minority in the fields of education, culture, informing in the language of the national minority and official use of language and script, and participates in decision-making or decides on issues belonging to the referred to fields and establishes institutions, companies and other organisations within these fields.

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282. The Law on National Councils of National Minorities prescribes the election rules for the members of national councils of national minorities who have not yet established their national councils, as well as the rules for re-election of the already established national councils. The elections for national councils may be direct or through electoral assemblies. The national minorities shall decide to which of these two methods they are going to give priority. Direct elections for national councils are held if more than 50% of the total number of the members of a national minority, according to the latest population census is registered in a special electoral list of a national minority before the date of announcement of elections, which figure is to be decreased by 20%. The elections for national councils are based on the principles of freedom of elections, equality of electoral right, periodicity of elections and secret ballot. Voluntarism, proportionality and democracy of elections are special principles of elections.¹⁸⁶

283. The elections for national councils of national minorities were held on June 6, 2010 in the Republic of Serbia, namely: direct elections for sixteen national councils of national minorities (Albanian, Ashkali, Bosniak, Bulgarian, Bunjevac, Vlach, Greek, Egyptian, Hungarian, German, Roma, Romanian, Ruthenian, Slovak, Ukrainian and Czech minorities), whereas the representatives of three national minorities (Macedonian, Slovenian and Croat minorities) elected the national councils of national minorities through electoral assemblies. The Council of Jewish Communities of Serbia are entitled to the rights and obligations equal to the national councils of national minorities.

284. The Law on the Protection of the Rights and Freedoms of National Minorities stipulates that the authorities may, pursuant to the Constitution and law, adopt regulations, individual legal instruments and undertake measures to ensure full and effective equality among persons belonging to the national minorities and persons belonging to the majority of the population. The authorities shall adopt legal instruments and undertake the measures with the aim to improve the status of persons belonging to the Roma national minority. The regulations, individual legal instruments and measures referred to shall not be deemed acts of discrimination.¹⁸⁷

285. Measures are undertaken in the field of economy to improve equality in the regions of the Republic of Serbia which are inhabited by the members of national minorities, and which are underdeveloped in comparison to other regions in the country. The Government adopted the Strategy of Long-Term Economic Development of the South of Serbia – Preševo, Bujanovac and Medveđa Municipalities in January 2007, as a first strategic document of the Government relating to the three municipalities inhabited by Serbs, Albanians and the Roma. The Development Fund of the Republic of Serbia involved the municipalities of Preševo, Bujanovac and Medveđa in the Programme of Distribution and Utilization of Funds for the Development of Enterprises and Entrepreneurship in the Most Underdeveloped Municipalities of the Republic of Serbia. The Republic Agency for the Development of Small and Medium-Sized Enterprises has ensured start-up loans amounting to EUR 5,000 - 15,000 for the development of

¹⁸⁶ Articles 29 to 112

¹⁸⁷ Article 4

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entrepreneurship in the municipalities of the Southern Serbia. The state takes over almost the entire risk in order to stimulate people to start their own businesses.

286. The Ministry of Agriculture, Forestry and Water Management gave the municipality of Preševo the status of a devastated municipality within its program for 2007, as well as special conditions and terms for the programme of use of rural development subsidies through investments into agricultural equipment and appliances, the programme of use of rural development subsidies through investments into rural tourism and the programme of use of rural development subsidies through investments into base herds and fodder. The Municipality of Preševo was given the status of a devastated region by the Government's decision.

287. The Agreement of Cooperation in the Field of Local Economic Development was signed in November 2008 by the Coordination Body, the United States Agency for International Development (USAID) and the Municipalities of Preševo, Bujanovac and Medveđa. For the first time the Coordination Body envisaged resources in the 2009 budget for activities targeting youth of all ethnic communities totalling RSD 21.5 million, which shall be used to implement youth and civil society projects.

288. The Ministry of Internal Affairs has been undertaking a series of activities related to the development of communications and trust between the police and the community, education of the police, the representatives of the community, citizens and specific categories of population, establishment and development of partnership between the police and the community in resolving security issues. The activities are implemented with due care in the municipalities of Bujanovac, Preševo and Medveđa, wherein, among other things, the candidates from the local community were employed (the majority of them from the Albanian community) who were assigned to be policemen at the Preševo, Bujanovac and Medveđa police stations after attending adequate courses.

289. On the occasion of publishing announcements for the recruitment of personnel at the Basic Police Training Centre and employment with the police, there is an affirmative attitude towards all members of national communities, the representatives and members of minority groups are contacted and informed about the announcement conditions in their mother tongues and encouraged to apply for the job with the police.

290. Special provisional measures are also prescribed in by-laws adopted at various levels of public authority. The Conclusion on Measures to Increase the Share of Members of National Minorities in Public Administration Bodies adopted by the Government of the Republic of Serbia in May 2006 stipulates that public administration bodies, which are envisaged to have more than one third of the total number of systematized employees working in regional units established in their respective territory in which languages of one or more national minorities are in use pursuant to decisions of competent bodies of local government units, shall undertake measures to envisage a specific number of working positions in the Rules of Procedure on Internal Organization and Job Classification when the execution of tasks for specific jobs requires the knowledge of at

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least one of the languages and the script of the national minority which is in official use in the territory at which the local government unit has been established.

291. Furthermore, when the selection procedure in a public competition for filling in vacant positions in regional units envisages a written verification of professional capacities, knowledge and skills of candidates, the candidates shall be provided with tests or other forms of written examination in the appropriate language of the national minority. The most significant aspect of affirmative actions envisages that, when composing the selection list and the list of candidates in the conducted public competition, the competition committee and/or the head of the public authority body shall pay special attention to the representation of the members of national minorities in the total structure of employees in the body as the main criterion of selection among equal candidates within the application of the principle of professionalism, which envisages professional qualifications, knowledge and skills of candidates to perform the tasks of the public administration body.

292. By-laws containing special provisional measures have been adopted by local authorities. The statutes of local self-government units contain provisions stipulating that the municipal administration and public enterprises established by the municipality shall take due care of the national composition and/or specify the minimum number of employees belonging to the national minorities in their respective instruments on job classification.

293. The Instructions on Performing Jobs in A Manner Contributing to Easier Observance of the Rights of the Members of National Minorities, adopted by the Ministry of Internal Affairs in March 2003, envisage that the Ministry of Internal Affairs shall observe human and minority rights when performing tasks in their mandate and shall apply them directly and/or protect them in accordance with the Constitution, laws and other regulations of the Republic of Serbia. The Police Code of Ethics, adopted by the Government of the Republic of Serbia in October 2006, envisages that the members of the Ministry of Internal Affairs, as well as police officers, shall be governed by the principle of impartial enforcement of laws, irrespective of the national and ethnic origin, race, language or social status of the individual to whom the law applies.

294. The measures to achieve effective equality in the field of culture include primarily the co-financing of projects and activities maintaining and developing the culture of the members of national minorities and the preservation of their cultural identity. The Ministry of Culture has been introducing competitions as of 2002 as a means of providing financial assistance for cultural projects, a special competition on the culture of national minorities was introduced in 2007 and a separate field of creativity of persons with disabilities has been introduced in 2009. The tender for national minorities does not only relate to certain minorities, but also to the area of multi-cultural works.

295. In 2008, Financial Plan of the Provincial Secretariat for Culture earmarked the total funds on the account of culture of RSD 511,127,580.00 and/or RSD 135,215,298.00 on the account of the culture of national minorities in the AP of Vojvodina. The resources

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for the programmes of cultural and artistic creativity of national minorities account for 26.45% of the overall resources earmarked for the culture and arts in the AP of Vojvodina.

296. The Provincial Secretariat for Culture holds regular competitions for: protection of cultural heritage, co-funding of modern and national works of national minorities and ethnic groups, publishing of new books in the languages of national minorities and translating of books from Serbian into the languages of the national minorities, or from the languages of national minorities into Serbian, production of feature, documentary, documentary-feature, short and animated films, publishing of magazines in the field of culture and art in the languages of national minorities, cultural –artistic amateurism of the members of all national communities and ethnic groups. There are 420 cultural-artistic associations active in AP Vojvodina, 236 of these being associations of national minorities.

Roma Status

297. According to the results of the population census held in 2002, there were 108,193 citizens living in Serbia who declared to be the members of the Roma national minority. However, a number of researches indicate that the number is substantially higher, estimated between 250,000 and 500,000 Roma. The main issue of the Roma population is the high poverty rate, which is multiple to that of the rest of the population in Serbia. The causes thereof are, predominantly, linked to education, employment and housing conditions.

298. The Strategy for the Improvement of the Status of the Roma, adopted by Government of the Republic of Serbia in April 2009, presents policy trends in respect of the improvement of the status of the Roma. The strategic aim of the document is to improve the status of the Roma national minority in the Republic of Serbia and/or decrease disparities between the Roma population and the majority of the population. The document contains specific chapters dealing with the issues of education, housing conditions, employment, displaced persons, readmission issues, accessibility of personal documents, social insurance and social care, health care, the status of women, information, culture, political participation and presentation of the Roma, discrimination and other issues. The Strategy for the Improvement of the Status of the Roma is founded on the following main principles and values: the obligation of the state to take care of the observance, protection and achievement of the legal rights of the Roma, a full and efficient inclusion of the Roma in all social life spheres, respect for, recognition and promotion of differences, equal opportunities based on equal rights, gender equality, prevention and combat against all forms of discrimination, implementation of affirmative actions.

299. Considerable funds are allocated in the budget of the Republic of Serbia in order to improve the status of the Roma. For example, the Ministry of Labour and Social Policy allocated 150 million dinars in 2008, the Ministry of Health allocated 138 million dinars from 2006 to the beginning of 2009 and the Office of the Commissioner for Refugees

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allocated even 330 million dinars in 2008 and 2009. The Republic of Serbia specified one billion and two hundred million dinars in the budget for 2009 for the improvement of the status of the Roma in the field of medical care, education, employment and social status. Out of this 525,853,913.00 have been allocated after rebalance. In addition, the AP of Vojvodina and local self-governments also allocate funds for the Roma issues.

Measures Undertaken by Republic Authorities to Prevent the Discrimination of the Roma

300. In view of housing, the main activities related to resolving the housing problems of the Roma in the Republic of Serbia were defined by the adoption of the Action Plan for Housing of the Roma in 2005. The Guidelines for Promoting and Legalizing the Roma Informal Settlements 2007 provided professional instructions to local self-governments on how to approach this issue. However, the issue of relocation of non-hygienic settlements remains unresolved, which primarily lacks defined procedure and standards so that local self-government define the method of relocation at random.

301. In view of education, the Ministry of Education, the Ministry of Human and Minority Rights and the National Council of the Roma National Minority, carry out the measures of affirmative action for enrolment of pupils of the Roma nationality in secondary and higher schools and universities based on the Uniform Action Education Plan from 2005. The Ministry of Education, in cooperation with the OSCE Mission and under the support of the European Agency for Reconstruction, started the project of introducing teaching assistants in the education of the Roma in 2007. The total of 28 assistants has been engaged so far to work at primary schools. The project entitled “The Development of Capacities of School Administrations to Implement Local Action Plans for Promoting Roma Education” was also implemented, providing training for 16 education councillors from 16 school administrations to monitor the projects for the promotion of the education of the Roma. Non-government organizations, with support of the Roma Education Fund and in cooperation with the competent institutions, implement projects with the following objectives: to expand access to pre-school education, to provide functional primary education of adult Roma, to protect the Roma children against discrimination, to find systemic solutions for the introduction of Roma history, culture and tradition into the programmes of general education of teachers, to resolve problems of the Roma children of internally displaced persons and returnees, to create better conditions of secondary school attendance, to increase the capacity and motivation to continue education.

302. In view of employment, certain state and local initiatives for the employment of the Roma are being implemented on the grounds of the National Employment Strategy 2005 - 2010 and the National Employment Action Plan 2006 - 2008. Affirmative actions are implemented during the disbursement of resources of the National Employment Service on the account of self-employment and business start-up. The Roma are included in active employment policy measures – public works, job search clubs, training how to actively look for jobs and self-efficiency. The programmes of computer training and

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foreign language courses are also carried out for the registered unemployed Roma. Nevertheless, there have been only 21 self-employed Roma since 2006 and the accomplished results are poor. There are only 13,871 unemployed Roma registered with the National Employment Service, of whom only 6,100 have used some measure or services provided by the National Employment Service.

303. The Social Innovations Fund within the Ministry of Labour and Social Policy has supported a number of projects aiming to improve the position of the Roma since 2003. The funds have been allocated in the budget of the Republic of Serbia to engage coordinators for Roma issues in 40 municipal social work centres (some 4 million dinars until end 2008). The coordinators should, in co-operation with schools, medical institutions and self-government bodies, contribute to rendering better information to the Roma population about their rights and enable them to have better access to public services.

304. In view of health care, there are numerous initiatives in progress aimed at improving the health status of the Roma. There are 60 health care mediators who, between 2008 through May 2010, visited 33,985 Roma families and/or registered 118,842 Roma (36,511 women, 34,290 men and 48,041 children); paid 72,109 house visits; helped provide personal documents and health cards for 6,676 Roma; helped inoculate 6,160 children; facilitated health examinations for 3,933 women; health care control for 1,943 pregnant women and nursing mothers; 444 mammography examinations; helped enrol 1,054 children in school; 10,908 Roma selected their doctors, and 3,990 selected their gynaecologist. A software and 60 lap tops and cellular phones were provided for mediators in cooperation with UNICEF and Telenor, who send their reports by electronic mail; the total of RSD 61 million ((EUR 750,000) was spent from the budget line allocated for the implementation of the Plan of Action for Improving the Health of the Roma from 2006 through 2008, whereas the total of RSD 17,500,000 (EUR 188.172) was allocated in 2009 for 164 projects in 60 health centres, covering the total of 41,908 Roma; a software was designed establishing the indicators of the health status of the Roma and the status in Roma settlements.

305. Two projects were initiated between 2007 and 2009 with the support of the Global Fund. The first project was entitled the "Control of TBC in the Republic of Serbia by Implementing the Strategy of Directly Observed Therapy", which covered 122 Roma settlements in 14 towns, surveyed 14,815 Roma, trained 14,941 Roma and discovered 8 new cases of TBC; a specific target group is the children below 14 years of age from Roma settlements, 8,172 tests were conducted, the total of 4% is susceptible to tuberculosis infection as is the case in the overall population of children, which is an indication of an effective coverage by inoculation in the maternity ward, and only one case was discovered while the incidence rate is 13/100,000. The second project targets combating the HIV/AIDS and is financed by the Global Fund resources: the program covers 13,951 young Roma and/or the target is exceeded by 24%.

306. The Analysis of the Impact of Health Policy to the Accessibility of Healthcare for Roma Population in the Republic of Serbia was conducted in 2008 and the findings of the

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Institute for Economic Research indicated that the impact of health policies in the Republic of Serbia is positive by improving the access to health care, enabling a reduction in access inequality. More than 50% of the Roma is below the age of 25, wherefore the life expectancy of the total Roma population would be extended from 58 to 63 years of age if the implementation of projects improving the health status of children and youth continued over the next 10 years. The calculated effects for the period of 10 years account for 518 years obtained on account of extending the life expectancy of the program beneficiaries.

307. The Ministry of Internal Affairs undertakes activities to develop communication and cooperation with the members of the Roma community by working with marginalized, minority and socially vulnerable population. The conditions for gaining better insight into security requirements and issues of the Roma communities have been considerably developed through participation of the Roma and the representatives of the police at round tables, in activities of local security bodies and other forms providing opportunities to exchange opinions.

Measures Undertaken in the AP of Vojvodina to Prevent the Discrimination of the Roma

308. In view of education, the students of the Roma nationality were enrolled in secondary schools by means of affirmative measures in cooperation with the National Council of the Roma National Minority, the Council for the Integration of the Roma, the Central Roma Cultural and Publishing Society and the Roma student organizations.

309. In view of employment, 50 small companies founded by the Roma have been opened over the last two years through self-employment subsidies, in the Competition for Provision of Subsidies for Self-Employment of Unemployed Individuals of the Roma Nationality from the Municipalities in the Territory of AP Vojvodina.

310. In view of housing, the Roma settlement in the Municipality of Kula was dislocated by the purchase of houses in Sivac. Namely, the Municipal Assembly of Kula, the Executive Council of Vojvodina and the SPOLU Dutch Foundation purchased rural households in the populated area for all the Roma families from this settlement. At the request of the Roma Integration Office the Board of managers of the Fund for Capital Investments awarded RSD 300,000,000.00, which presents the most significant and the largest investment for the Roma population.

311. The Secretariat for Education of the AP of Vojvodina implements the four-year project entitled the Integration of the Roma Students in Secondary Schools in the Territory of the AP of Vojvodina. The project is supported financially by the Roma Education Fund and the project partners are the Council for the Integration of the Roma and the Association of the Roma Students. The project provides financial and mentorship support for students of regular secondary schools in the period from 2007 to 2011. The project shall include 855 students in total as direct beneficiaries, while indirect beneficiaries shall include their parents, the Roma families, the Roma community and the

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local and wider social community. The goal of the project is to increase the number of Roma students enrolled in and completing secondary schooling, improve their overall secondary school achievements by way of a mentorship support system, as well as continued scholarships for students.

Prohibition of Organizations and Activities Inciting Discrimination

312. According to the Constitution of Serbia, the activities of political parties aiming at forced overthrow of constitutional system, violation of guaranteed human or minority rights, inciting racial, national or religious hatred, are prohibited. The Constitutional Court may ban only such associations the activity of which is aimed at violent overthrow of constitutional order, violation of guaranteed human or minority rights, or inciting of racial, national and religious hatred.¹⁸⁸ The Constitutional Court shall decide on the prohibition of the work of a political party, labour organization, citizen association or religious community at the motion of the Government, the republic public prosecutor or the body competent to maintain the registry of political parties, labour organizations, citizen associations or religious communities¹⁸⁹. So far the Constitutional Court has not prohibited the activities of any organizations calling for violence.

313. The Law on the Association of Citizens envisages that the competent body shall temporarily ban the organization of a public gathering aiming to violently overthrow the Constitutional order, impair the territorial integrity and independence of the Republic of Serbia, infringe the Constitution-guaranteed individual and citizen freedoms and rights, incite and instigate national, racial and religious intolerance and hatred. The competent court shall decide on the temporary ban or a ban of a public gathering¹⁹⁰.

314. According to the Law on Political Parties the activities of a political party may not be aimed at forced destabilization of the constitutional system and destabilization of the territorial integrity of the Republic of Serbia, violation of guaranteed human or minority rights or inspiration and inspiration of racial, national or religious hatred¹⁹¹.

B) Effective Remedies

(a) Judicial Protection

315. The Constitution of the Republic of Serbia stipulates that every person is entitled to judicial protection when any of their human or minority rights guaranteed by the Constitution have been violated or denied, including remedy of the consequences arising from the violation.¹⁹² Every person has the right to compensation of pecuniary or non-pecuniary damage caused by illegal or improper act of a state body, a holder of public

¹⁸⁸ Articles 5 (3) and Article 55 (4)

¹⁸⁹ Law on the Constitutional Court, Article 80 (1)

¹⁹⁰ Articles 9 and 10

¹⁹¹ Article 4 (2)

¹⁹² Article 22

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power, a body of the autonomous province or a body of local self-government unit.¹⁹³ Furthermore, every person has the right to equal protection of their rights before the courts and other state bodies as well as to an appeal or other legal remedy against the decision on their right, obligation or interest based on law.¹⁹⁴

316 Pursuant to the Criminal Procedure Code, if the public prosecutor finds no grounds to initiate the prosecution for a criminal act prosecuted in the capacity of the office or that there are no grounds to undertake prosecution against some of the reported accomplices, the public prosecutor is obliged to inform the damaged person about it within eight days and to instruct the damaged person on undertaking prosecution on their own¹⁹⁵.

317. The Law on Administrative Disputes prescribes judicial protection of individual rights and legal interests and the legality of disputes with regard to administrative and other issues envisaged in the Constitution and the law. The administrative disputes shall be instituted so that the court may decide on the legality of legally binding administrative acts, excluding those that envisage another form of judicial protection, on the legality of legally effective administrative acts deciding on a right, obligation or a law-based interest, as well as other legally effective individual acts when envisaged by law. The right to institute an administrative dispute shall be vested in a natural person, legal entity or another person if they are of belief that a right or a law-based interest has been violated by an administrative act. Moreover, an administrative dispute may be initiated by a state body, a body of an autonomous province and local self-government units, an organization, a part of the company having powers in administrative affairs, a settlement, a group of persons, etc., which do not possess the capacity of a legal entity, if they may be the holders of rights and obligations decided on in administrative proceedings. If an administrative act violates the law to the detriment of public interest, a dispute may be instituted by the competent public prosecutor, or the competent public prosecution office if the property rights and interests of the Republic of Serbia, autonomous province or self-government unit have been violated.¹⁹⁶

318. The administrative dispute may be instituted against a legally effective administrative act, silence of the administration or the return of seized property and the compensation of damages. The administrative dispute shall be resolved by a decision validating or refusing the claim as unfounded. The claimant and the competent public prosecutor may file a claim against the legally binding decision of the administrative court to the Supreme Court of Cassation to reconsider the court decision and/or the claimant may request the repeating of the proceedings which has been finalized with a legally binding decision or ruling.¹⁹⁷

(b) Constitutional Complaint

¹⁹³ Article 35

¹⁹⁴ Article 36

¹⁹⁵ Article 61 (1)

¹⁹⁶ Official Gazette of the Republic of Serbia, No. 111/09, Article 1 (2), Article 3 (1), (2) and (3) and Article 11 (3)

¹⁹⁷ Articles 14, 15 and 40 (1), (2), Article 49 (1) and Article 56 (1)

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319. A constitutional complaint is a special legal remedy for the protection of human rights. The Constitution of the Republic of Serbia prescribes that a constitutional complaint may be filed against individual acts or actions of the state bodies or organizations entrusted with public powers, which violate or deny human or minority rights and freedoms guaranteed by the Constitution, provided that other legal remedies for their protection had been exhausted or had not been foreseen¹⁹⁸. In this way the centralization of decisions on violations of human rights has been provided and the Constitutional Court has been enabled to be the final instance to be exhausted before a referral to the international bodies.

320. The Law on the Constitutional Court regulates the procedure of constitutional complaint. According to the law, a constitutional complaint may be lodged within 30 days from the day of submission of the individual document and/or from the day of performance of the action violating or denying human or minority rights and freedoms guaranteed by the Constitution. The Constitutional Court will allow restitution to a person who on justified grounds failed to observe the time-limit for submitting a constitutional appeal if such person, within 15 days from the cessation of the reasons that caused the failure, files a proposal for restitution and simultaneously submits a constitutional appeal. Restitution cannot be requested after the expiry of a period of three months from the date of failure to observe the time limit. The Constitutional Court upholds or denies a constitutional appeal as unfounded.¹⁹⁹

321. The Constitutional Court started deciding on constitutional complaints after the Rules of Procedure on the Constitutional Court²⁰⁰ entered into force. The Constitutional Court reached its first decisions on the grounds of this legal remedy in 2008.

322. In the course of 2008, the Constitutional Court of Serbia maintained 1,927 cases in total concerning constitutional complaints (360 from previous years and 1,567 constitutional complaints filed in 2008). The total of 363 cases was resolved, 36 cases by rulings and by 327 cases decisions. In respect of grounded decisions on constitutional complaints, the Constitutional Court has adopted 8 decisions upholding constitutional complaints, including simultaneous decisions on the method of elimination of harmful consequences resulting from a violation of the right of the applicant of a constitutional complaint guaranteed by the Constitution and 28 decisions dismissing constitutional complaints.

(c) Protection against Human Rights Violations

323. The Law on Accountability for Human Rights Violations was adopted in the Republic of Serbia in June 2003. The law prescribes that accountability for human rights violations (lustration) implies the procedure of investigation and establishment of violations of human rights envisaged by the law (the rights prescribed by the International Treaty on Civil and Political Rights), the procedure of establishment of

¹⁹⁸ Article 170

¹⁹⁹ Articles 82 - 92, Article 84 and Article 89 (1)

²⁰⁰ Official Gazette of the Republic of Serbia, No. 24/08 and 27/08

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individual accountability for human rights violations and the measures for the established violations of human rights. The provisions of this law apply to all violations of human rights committed after March 23, 1976, when the International Treaty on Civil and Political Rights²⁰¹ entered into force. The Law on Accountability for Human Rights Violations has never been applied in case-law.

(d) The War Crimes Department of the High Court in Belgrade

324. The proceedings for war crimes are held before the War Crimes Department established as a special department of the District Court in Belgrade in October 2003, upon the adoption of the Law on the Organization and Competences of State Bodies in Proceedings against War Crimes Offenders in July 2003²⁰². The adoption of the law was followed by the establishment of the Office of the War Crimes Prosecutor. The Law on the Organisation and Competences of State Bodies in Proceedings against War Crimes Offenders is enforced to disclose and prosecute the offenders of criminal offences against humanity and international law, as well as to disclose and prosecute the offenders of criminal offences as prescribed in Article 5 of the Statute of the International Criminal Tribunal for the former Yugoslavia. The amendments to this Law as of November 2007, *inter alia*, expanded the competence of the Office of the War Crimes Prosecutor of the Republic of Serbia and the War Crimes Council of the District Court of Belgrade to the offenders of criminal acts, assistance to offenders after the committed criminal act, in case of criminal acts prescribed in Articles 370 through 386²⁰³ of the Criminal Code, as well as to severe violations of the international humanitarian law committed in the territory of the former Yugoslavia as of January 1, 1991, as stipulated by the Statute of the International Criminal Tribunal for the former Yugoslavia.

325. Following the judicial reform in the Republic of Serbia after January 1, 2010, the War Crimes Council became the War Crimes Department of the High Court in Belgrade. The Department has so far adopted four effective judgements convicting six persons to 73 years in prison in total. The first instance judgements have been adopted in five cases for 22 persons (10 persons were released), and the total number of prison sentences in years according to the first instance judgements totals 297. The total number of judgements is eleven including the judgements in the Sjeverin case (by which five persons were convicted to prison sentences of 95 years in total), the prison years totalling 465 and the number of persons totalling 33. Main inquest in 9 cases is under way before the War Crimes Department. There are 62 cases in total instituted against 291 persons, 32

²⁰¹ Articles 2 and 4

²⁰² Official Gazette of the Republic of Serbia, No. 67/03, 135/04, 61/05, 101/07 and 104/09

²⁰³ Genocide, crimes against humanity, war crimes against civilian population, war crimes against the wounded and the infirmed, war crimes against prisoners of war, organizing and incitement of genocide and war crimes, employment of prohibited means of warfare, unlawful production of forbidden weapons, unlawful killing and wounding of enemy, unlawful appropriation of objects from bodies, violation of protection granted to bearer of flag of truce, cruel treatment of the wounded, sick and prisoners of war, unjustified delay of repatriation of prisoners of war, destroying cultural heritage, failure to prevent crimes against humanity and other values protected under international law, abuse of international signs, war of aggression.

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cases against 132 persons being at the hearing stage. The total number of processed persons is 362 and/or 69 convicted persons in total. The total number of victims is 2,216.

(e) Special Department of the High Court in Belgrade

326. Following the adoption of the Law on the Organization and Competences of State Bodies in Combating Organized Crime, Corruption and Other Severe Criminal Offences²⁰⁴, the Special Department for Combating Organized Crime was established within the District Court of Belgrade, which became the Special Department of the High Court of Belgrade pursuant to the conducted judicial reform. The annual assignment plan of judges in 2008 assigned fifteen judges to this department, four of whom are investigation judges and eleven judges are presidents of court chambers and act in main hearings. Furthermore, the Special Department for Combating Organized Crime was established in the District Public Prosecutor's Office which was endowed with wider competencies following the judicial reform and became an independent body – Office of the Public Prosecutor for Organized Crime. The Service for Combating Organized Crime was established in the Ministry of Internal Affairs to conduct internal affairs tasks relating to criminal offences of organized crime. A special detention unit was established in the District Court of Belgrade for detention purposes established in the criminal procedure for criminal offences of organized crime.

328. The total number of initiated criminal proceedings at the Office of the Public Prosecutor for Organized Crime totalled 440 in 2007 and in 2008, of which 52 criminal proceedings were finalized.

ANNEX 1

²⁰⁴ Official Gazette of the Republic of Serbia, No. 42/02, 27/03, 39/03, 67/03, 29/04, 45/05, 61/05 and 72/09

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DEMOGRAPHIC INDICATORS

Table 1

Republic of Serbia		2004	2005	2006	2007	2008
Estimated number of the population						
	Total	7463157	7440769	7411569	7381579	7350222
	Male	3629194	3618040	3603698	3588957	3573814
	Female	3833963	3822729	3807871	3792622	3776408
Population density (Number of inhabitants per 1 km2)						
		96.3	96.0	95.7	95.3	94.9
Life expectancy						
	Total	72.61	72.69	73.19	73.40	73.65
	Male	69.91	70.02	70.56	70.70	71.06
	Female	75.39	75.43	75.88	76.16	76.28
Proportional number of inhabitants in urban and rural regions						
	Urban_total	4249544	4257878	4263386	4270400	4275245
	Rural_total	3213613	3182891	3148183	3111179	3074977
	Urban-male	2030310	2033178	2034616	2037012	2038642
	Rural_male	1598884	1584862	1569082	1551945	1535164
	Urban_female	2219234	2224700	2228770	2233388	2236603
	Rural_female	1614729	1598029	1579101	1559234	1539813
Population growth rate (in promille)						
			2004-2005	2005-2006	2006-2007	2007-2008
			-3.0	-3.9	-4.1	-4.3
Dependency index (functional population index)						
	Total	2004	2005	2006	2007	2008
		48.9	49.0	48.9	48.6	48.2
	Male	46.0	46.0	45.9	45.6	45.2
	Female	51.9	51.9	51.8	51.6	51.2

(The ratio between the population aged 0-14 and 65+ and the population aged 15-64, estimated at the middle of the observation year.)

Age-composition statistics

Republic of Serbia

AGE	SEX	2004	2005	2006
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	TOTAL	TOTAL	7463157	7440769	7411569	7
		MALE	3629194	3618040	3603698	3
		FEMALE	3833963	3822729	3807871	3
0	TOTAL		78234	74802	71088	
	MALE		40339	38502	36576	
	FEMALE		37895	36300	34512	
1-4	TOTAL		298728	307091	308702	
	MALE		153118	157661	158801	
	FEMALE		145610	149430	149901	
5-9	TOTAL		381960	371048	364588	
	MALE		196022	190221	186555	
	FEMALE		185938	180827	178033	
10-14	TOTAL		424974	420288	413917	
	MALE		217409	215324	212388	
	FEMALE		207565	204964	201529	
15 - 19	TOTAL		479215	466715	456643	
	MALE		245368	239082	233955	
	FEMALE		233847	227633	222688	
20 - 24	TOTAL		512529	511145	506330	
	MALE		261210	260274	257882	
	FEMALE		251319	250871	248448	
25 - 29	TOTAL		516881	517806	516101	
	MALE		261739	262670	262160	
	FEMALE		255142	255136	253941	
30 - 34	TOTAL		486113	493574	501731	
	MALE		243380	247399	251688	
	FEMALE		242733	246175	250043	
35 - 39	TOTAL		478810	477321	476137	
	MALE		237116	236690	236685	
	FEMALE		241694	240631	239452	
40 - 44	TOTAL		512857	501657	491068	
	MALE		253075	247605	242473	
	FEMALE		259782	254052	248595	
45 - 49	TOTAL		565741	545818	532242	
	MALE		280205	269471	262093	
	FEMALE		285536	276347	270149	
50 - 54	TOTAL		607262	609182	606834	
	MALE		300008	301181	299732	

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		FEMALE	307254	308001	307102
55 - 59	TOTAL	454853	498183	532607	
	MALE	218598	239896	256845	
	FEMALE	236255	258287	275762	
60 - 64	TOTAL	396589	372738	358714	
	MALE	185420	173780	166932	
	FEMALE	211169	198958	191782	
65 - 69	TOTAL	432526	419227	406429	
	MALE	196124	189673	183582	
	FEMALE	236402	229554	222847	
70 - 74	TOTAL	394490	391619	385892	
	MALE	171195	170151	167705	
	FEMALE	223295	221468	218187	
75 - 79	TOTAL	265755	273848	280438	
	MALE	105285	110221	114389	
	FEMALE	160470	163627	166049	
80 - 84	TOTAL	134014	140235	145423	
	MALE	48679	50930	53023	
	FEMALE	85335	89305	92400	
85+	TOTAL	41626	48472	56685	
	MALE	14904	17309	20234	
	FEMALE	26722	31163	36451	

Source: Statistical Office of the Republic of Serbia

Table 2

VITAL STATISTICS LIVE-BIRTHS, BY GENDER IN THE PERIOD 2004-2008

Territory	Gender	Live births					
		2003	2004	2005	2006	2007	2008
Republic of Serbia ¹⁾	Total	79025	78186	72180	70997	68102	69083
	Male	40804	40344	37158	36599	35223	35808
	Female	38221	37842	35022	34398	32879	33275

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¹⁾ Data on Kosovo and Metohija not included

DEATHS, BY GENDER IN THE PERIOD 2004-2008

Territory	Gender	Deaths					2008
		2003	2004	2005	2006	2007	
Republic of Serbia ¹⁾	Total	103946	104320	106771	102884	102805	102711
	Male	53104	53393	54336	52325	52257	51757
	Female	50842	50927	52435	50559	50548	50954

¹⁾ Data on Kosovo and Metohija not included

MEDIAN AGE OF THE POPULATION, AGE INDEX AND LIFE EXPECTANCY OF LIVEBORNS IN THE REPUBLIC OF SERBIA

Year	Median age of the population			Population ageing index			Life expectancy	
	Total	Male	Female	Total	Male	Female	Male children	Female children
2003	40.3	39	41.5	99.5	84.4	115.3	69.9	75.1
2004	40.4	39.1	41.7	100.4	84.9	116.6	69.9	75.4
2005	40.6	39.3	41.8	100.6	84.9	117.2	69.9	75.4
2006	40.7	39.4	42	101.4	85.4	118.2	70.6	75.9
2007	40.9	39.6	42.2	103.2	86.9	120.3	70.7	76.2

The data refer to the territory of the Republic of Serbia excluding Kosovo and Metohija

NATURAL POPULATION TRENDS IN THE REPUBLIC OF SERBIA¹⁾ IN THE PERIOD 2003 - 2008

Year	Population in the middle of the year	Live-borns	Deaths		Population growth	Live births	Deaths	Population growth
			Total	Infants				
2003	7480591	79025	103946	711	-24921	10,6	13,9	-3.3
2004	7463157	78186	104320	633	-26134	10,5	14.0	-3.5
2005	7440769	72180	106771	579	-34591	9,7	14,3	-4.6
2006	7411569	70997	102884	525	-31887	9,6	13,9	-4.3
2007	7381579	68102	102805	484	-34703	9,2	13,9	-4.7
2008	7350222	69083	102711	460	-33628	9,4	14.0	-4.6

¹⁾Data on Kosovo and Metohija not included

ADVANCED UNEDITED VERSION

GENERAL FERTILITY RATE IN THE REPUBLIC OF SERBIA IN THE PERIOD 2003-2007

2003	44.15
2004	44.16
2005	41.25
2006	40.94
2007	39.59

The data not listed in the tables for 2008 are under preparation.

Source: Statistical Office of the Republic of Serbia

Table 3

Literacy rate in the Republic of Serbia by gender, Census 2002 (population aged 10+)

	Literacy rate
Total	96.5
Male	98.9
Female	94.3

Households by the number of members in the Republic of Serbia, Census 2002

Households										
Total	With 1 member	2	3	4	5	6	7	8	9	10 and more members
2521190	504775	625301	480181	535963	205979	111689	36817	12180	4392	3

Households of a single parent with children account for **9.05%** of the total number of households.

Households where the head of the household is female account for **27%** of the total number of households.

Table 4

Children, body weight and mortality rate 2008	
Low body weight at birth (under 2500g)	5.8% children

ADVANCED UNEDITED VERSION

Infant mortality rate	6.7 deaths per 1000 liveborns
Mortality rate of children aged under 5	7.8 deaths per 1000 liveborns

Source: Ministry of Health

Table 5

Ten major causes of death by groups of diseases	
Circulatory system diseases	55.83%
Tumour	20.39%
Symptoms, signs and pathological clinical and laboratory results	4.65%
Respiratory system diseases	3.83%
Injury, poisoning and consequences of external factors	3.59%
Digestive system diseases	3.56%
Diseases relating to the endocrine system, nutrition and metabolism	3.12%
Diseases of the urinary-reproductive system	1.79%
Nervous system diseases	1.20%
Mental and behavioural disorders	0.81%

Source: Ministry of Health

Table 6

Ten main causes of death according to diagnoses	
Cardiac muscle diseases	12.71%
Cerebral infarction	6.93%
Acute myocardial infarction	6.17%
Apoplexy/stroke	4.96%
Chronic myocardial ischemia	4.90%
Cardiac insufficiency	4.87%
Malignant tracheal and lungs tumour	4.81%

ADVANCED UNEDITED VERSION

Other death, cause undetermined	3.14%
Cardiac arrest	1.73%
Brain aneurism	1.59%

Source: Ministry of Health

Table 7

Chronic non-contagious diseases
Cardiovascular diseases with the mortality rate of 780.2 per 100,000 inhabitants
Malignant tumours with the mortality rate of 163.9 per 100,000 inhabitants among men and 105.8 per 100,000 inhabitants among women
Diabetes with the mortality rate of 42.4 per 100,000 inhabitants, with the incidence rate for type 1 diabetes for persons aged up to 29 is 10.7 per 100,000 inhabitants and the incidence rate for type 2 diabetes is 209.6 per 100,000 inhabitants

Source: Ministry of Health

Table 8

Primary and secondary education in the Republic of Serbia 2008		
	Primary	Secondary
Net rate of enrolled children	95.7	81.58
Attendance rate	99.49	98.14
Drop-out rate	0.51	1.86
Teacher-student ratio in state schools	12.53	10.12

ADVANCED UNEDITED VERSION

SOCIAL, ECONOMIC AND CULTURAL INDICATORS

Table 9

GROSS DOMESTIC PRODUCT (GDP) OF THE REPUBLIC OF SERBIA 1997 – 2007

Statistical Office of the Republic of Serbia presents the data on Gross domestic product (GDP) at current and constant prices for the year 2007 as well as the series of data for the period 1997 - 2006.

The calculation of Gross domestic product (GDP) and compilation of macroeconomic accounts for the Republic of Serbia are carried out in accordance with the internationally accepted standards, the System of National Accounts 1993 (SNA93) and the European System of Accounts 1995 (ESA95), that represent the basic methodological framework in a sense of defining and valuation of main categories, applied classifications and calculation methods. The published data have been available from 1997. The System of National Accounts features the values assumed as **aggregates**, which are widely used in everyday practice. The best-known and the most frequently used aggregate of the System of National Accounts is **Gross domestic product (GDP)** that is calculated at current and constant prices. It presents the result of the production activities of all residential institutional units and equals the sum of value added at basic prices by activities and total taxes on products reduced by subsidies on products and FISIM (Financial Intermediation Services Indirectly Measured) on the level of total economy.

The revision in the System of National Accounts is growing into more customized procedure in the framework of international standards and recommendations. In relation to the previous revision when the FISIM (Financial Intermediation Services Indirectly Measured) was first calculated indicating the services of financial mediation – indirectly measured, and which is given on the level of total economy, a correction is now made in the financial sector by not measuring FISIM for the central bank. In our case this means that the output (value of production) for the NBS is calculated by cost method (as a sum of expenditures) and is calculated as a part of interim consumption of other financial institutions which led to a decrease in GDP.

The GDP calculations at constant prices aim to present the dynamic and structural changes, appearing due to the physical volume production changes, supposing that the level, structure and the parity of prices remained unchanged from the selected base year.

Gross national income (GNI) equals the sum of GDP and balance of primary incomes (from labour and capital) with the rest of the world.

	1997	1998	1999 ¹⁾	2000	2001	2002	2003
GDP, at current prices - total, mill. RSD	120881.3	162540.7	205623.8	384225.0	762178.4	972900.7	1133027.1
GDP - per capita, RSD	12071	16265	27270	51119	101577	129720	151462
Mid-year population in thousands	10014.0	9993.0	7540.4	7516.3	7503.4	7500.0	7480.6
GDP - total, mill. USD	21133.1	17443.5	18699.7	23429.8	11484.7	15107.6	19675.6
GDP - per capita, USD	2110.4	1745.6	2479.9	3117.2	1530.6	2014.3	2630.2
Average exchange rate,	5.7200	9.3181	10.9961	16.3990	66.3647	64.3983	57.5854

ADVANCED UNEDITED VERSION

USD							
GDP - total, mill. EUR	...	...	17522.3	25538.6	12820.9	16033.7	17416.4
GDP - per capita, EUR	...	...	2323.8	3397.7	1708.7	2137.8	2328.2
Average exchange rate, EUR	...	...	11.7350	15.0449	59.4482	60.6785	65.0553
GDP, at constant 2002 prices - total, mill. RSD	942405.1	948782.9	842774.4	887056.7	936543.7	972900.7	996714.0
Growth rate (%)	...	0.7	-11.2	5.3	5.6	3.9	2.4
GNI, at current prices - total, mill. RSD	121018.6	162633.9	205711.7	384208.6	762576.6	968199.6	1125195.5
GNI - total, mill. USD	21157.1	17453.5	18707.7	23428.8	11490.7	15034.6	19539.6
GNI - total, mill. EUR	...	...	17529.8	25537.5	12827.6	15956.2	17296.0

¹⁾ Without data on Kosovo and Metohija as of 2009.

Note: More detailed calculations and basic methodological explanations can be found in the publications of the Statistical Office of the Republic of Serbia, "1997-2006" (Belgrade, 2008), "Gross Domestic Product of the Republic of Serbia, 1999-2005 (at constant 2002 prices)" (Belgrade, 2007) and in the edition of the Federal Statistical Office - Methodological Papers no. 32, "Basic System of National Accounts of the Republic of Serbia" (Belgrade, 2007).

Table 10

%GDP

Consolidated public expenditures of state sectors – structure by functional classification, in the period 2005-2008	2005	2006	2007	2008
Public expenditures	41.9	45.1	45.2	43.5
General public services	4.2	5.3	4.2	4.1
Defence	2.4	2.4	2.5	2.4
Public order and safety	2.3	2.5	2.5	2.3
Economic activities	5.5	5.9	6.6	6.1
Environmental protection	0.2	0.3	0.3	0.3
Housing and community	1.5	2.0	1.8	1.5
Health care	5.7	5.9	6.2	5.7

ADVANCED UNEDITED VERSION

Recreation, sports, culture and religions	1.0	1.0	1.0	0.9
Education	3.5	3.8	3.8	3.8
Social welfare	15.6	16.1	16.3	16.4

Table 11

Consolidated public expenditures of state sectors – structure by functional classification, in the period 2005-2008	2005	2006	2007	2008
Public expenditures	100.0	100.0	100.0	100.0
General public services	10.0	11.8	9.3	9.4
Defence	5.7	5.3	5.5	5.5
Public order and safety	5.5	5.5	5.5	5.3
Economic activities	13.1	13.0	14.6	14.0
Environmental protection	0.5	0.7	0.7	0.7
Housing and community	3.6	4.4	4.0	3.4
Health care	13.6	13.1	13.7	13.1
Recreation, sports, culture and religions	2.4	2.1	2.2	2.1
Education	8.4	8.3	8.4	8.7
Social welfare	37.2	35.7	36.1	37.7

Public debt of the Republic of Serbia

An analysis of the debt status of the Republic of Serbia in the period between 2004 and May 31, 2009

Table 12

A. Direct liabilities

in EUR million

	31.12.2004	31.12.2005.	31.12.2006.	31.12.2007.	31.12.2008.	31.05.2009.
Internal debt	4,064.5	4,255.5	3,837.0	3,413.3	3,161.6	3,599.4
External debt	5,266.9	5,364.1	4,745.5	4,615.8	4,691.2	4,692.1
Total direct liabilities	9,331.4	9,619.6	8,582.6	8,029.1	7,852.7	8,291.5

B. Indirect liabilities

Total indirect liabilities	344.4	663.1	769.5	846.2	928.7	979.7
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Total A+ B	9,675.8	10,282.7	9,352.0	8,875.3	8,781.4	9,271.2
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ADVANCED UNEDITED VERSION

Total internal debt	4,064.5	4,255.5	3,837.0	3,413.3	3,161.6	3,599.4
Total external debt	5,611.3	6,027.2	5,515.0	5,462.0	5,619.8	5,671.8
Total internal and external debt	9,675.8	10,282.7	9,352.0	8,875.3	8,781.4	9,271.2

ANNEX 2

ADVANCED UNEDITED VERSION

INDICATORS ON CRIME AND THE ADMINISTRATION OF JUSTICE

1. Reported adult criminal offenders, Republic of Serbia, 2004 - 2008

	2004		2005		2006		2007	
	Number	%	Number	%	Number	%	Number	%
Total	88453	100.0	100536	100.0	105701	100.0	98702	100.0
Known	60641	68.6	62370	62.0	63970	60.5	61992	62.8
Women	6319	10.4	6499	10.4	7082	11.1	6431	10.3
Men	54322	89.6	55871	89.6	56888	88.9	55561	89.7

2. Reported adults, by criminal offense, Republic of Serbia, 2004-2008

	2004		2005		2006		2007	
	Number	%	Number	%	Number	%	Number	%
TOTAL	88453	100.0	100536	100.0	105701	100.0	98702	100.0
Light bodily injury	2534	2.9	2547	2.5	2407	2.3	2426	2.4
Serious bodily harm	1713	1.9	1635	1.6	1651	1.6	1520	1.5
Murder	330	0.4	291	0.3	303	0.3	390	0.4
Rape	154	0.2	114	0.1	127	0.1	164	0.2
Robbery and grand larceny	1924	2.2	2208	2.2	2467	2.3	3461	3.5

ADVANCED UNEDITED VERSION

Theft and compound larceny	29296	33.1	35655	35.5	38209	36.1	32027	32.1
Neglect and abuse of a minor	64	0.1	148	0.1	102	0.1	86	0.1
Failure to provide maintenance	1073	1.2	1009	1	1074	1	1234	1.2
Domestic violence	1009	1.1	1397	1.4	2191	2.1	2550	2.5
Human trafficking	69	-	68	-	50	-	51	0.1

3. Convicted adults by gender, Republic of Serbia, 2004-2008

	2004		2005		2006		2007	
	Number	%	Number	%	Number	%	Number	%
TOTAL	34239	100.0	36901	100.0	41422	100.0	38694	100.0
Women	2973	8.7	3293	8.9	3930	9.5	3661	9.5
Men	31266	91.3	33608	91.1	37492	90.5	35033	90.5

4. Convicted adults, by the type of criminal offence, Republic of Serbia, 2004-2008

	2004		2005		2006		2007	
	Number	%	Number	%	Number	%	Number	%
TOTAL	34239	100.0	36901	100.0	41422	100.0	38694	100.0
Light bodily injury	1950	5.7	2121	5.7	2287	5.5	1873	4.8
Serious bodily harm	941	2.7	1011	2.7	1168	2.8	1012	2.6
Murder	165	0.5	160	0.4	191	0.4	176	0.4
Rape	50	0.1	68	0.2	67	0.2	71	0.2
Robbery and grand larceny	492	1.4	584	1.6	573	1.4	641	1.7
Theft and compound larceny	5547	16.2	5215	14.1	5349	12.9	5006	12.9
Neglect and abuse of a minor	67	0.2	63	0.2	55	0.1	56	0.1
Failure to provide maintenance	655	1.9	741	2	651	1.6	863	2.2
Domestic violence	374	1.1	574	1.6	1059	2.6	1312	3.4
Human trafficking	2	-	10	-	13	-	14	0.04

Source: Statistical Office of the Republic of Serbia

ADVANCED UNEDITED VERSION

Table 5

Number of criminal offences with an element of violence per 100,000 inhabitants in the period between

Year	Total criminal offences with an element of violence per 100,000 inhabitants /*	Rate	Of which		
			Number of criminal offences against body and limb per 100,000 inhabitants	Rate	Number of criminal offences against sexual freedoms per 100,000 inhabitants
1	2	3	4	5	6
2004	143.5		66.4		6.3
2005	141.0	-1.8	67.8	2.2	6.3
2006	162.4	15.2	66.5	-2.0	5.9
2007	176.1	8.5	66.9	0.6	5.5
2008	184.2	4.6	64.6	-3.5	5.7
Annual average	161.4	6.6	66.4	-0.7	5.9

/* Apart from the criminal offences against body and limb and sexual freedoms, the total number of criminal offences with an element of violence includes the following criminal offences: grand larceny, robbery, abduction, coercion, abuse of power, violence, incest and violent behavior.

The number of police officers in operating forces is 362.8 per 100,000 inhabitants

Total funds envisaged for the work of the Ministry of Interior account for 5.7% of total budget funds of the

ADVANCED UNEDITED VERSION

Perpetrators of criminal offences with an element of violence by gender per 100,000 inhabitants in the period between 2004 and 2008

Year	Total number of perpetrators of criminal offences with an element of violence per 100,000 inhabitants /*		Of which		
			Against body and limb per 100,000 inhabitants		Against sexual freedoms per 100,000 inhabitants
	M	F	M	F	M
1	2	3	4	5	6
2004	128.7	5.7	70.9	4.0	8.2
2005	134.2	6.3	72.8	4.4	7.6
2006	149.2	8.7	75.0	6.2	6.0
2007	162.5	8.4	75.1	4.9	5.8
2008	156.0	8.6	68.0	4.6	5.2
Annual average	146.1	7.5	72.4	4.8	6.6

/* Apart from the criminal offences against body and limb and sexual freedoms, the total number of criminal offences with an element of violence includes the following criminal offences: grand larceny, robbery, abduction, coercion, abuse of authority, violence, incest and violent behavior.

Source: Ministry of Interior

ADVANCED UNEDITED VERSION

ANNEX 3

ADVANCED UNEDITED VERSION

INDICATORS ON THE POLITICAL SYSTEM

NATIONAL ASSEMBLY

LIST OF POLITICAL PARTIES

Назив	Скраћени назив
SERBIAN RADICAL PARTY	SRS
DEMOCRATIC PARTY	DS
G 17 PLUS	G17
DEMOCRATIC PARTY OF SERBIA	DSS
LIBERAL DEMOCRATIC PARTY	LDP
SOCIALIST PARTY OF SERBIA	SPS
NEW SERBIA	NS
SOCIAL DEMOCRATIC LEAGUE OF VOJVODINA	LSV
PARTY OF UNITED PENSIONERS OF SERBIA - PUPS	PUPS
SERBIAN RENEWAL MOVEMENT	SPO
ALLIANCE OF VOJVODINA HUNGARIANS	SVM
SANDZAK DEMOCRATIC PARTY	SDP
UNITED SERBIA	JS
TOGETHER FOR KRAGUJEVAC	ZZK

ADVANCED UNEDITED VERSION

DEMOCRATIC ALLIANCE OF VOJVODINA CROATS	DSHV
DEMO-CHRISTIAN PARTY OF SERBIA	DHSS
NO PARTY AFFILIATION	NL
DEMOCRATIC LEFT OF ROMA	DLR
MOVEMENT OF VETERANS OF SERBIA	PVS
SOCIAL LIBERAL PARTY OF SANDZAK	SLPS
PARTY OF DEMOCRATIC ACTION	PZDD
BOSNIAK DEMOCRATIC PARTY OF SANDZAK	BDSS
SOCIAL DEMOCRATIC UNION	SDU

Parliamentary elections on May 11, 2008

LIST OF DEPUTY GROUPS

Title

G 17 PLUS DEPUTY GROUP

DEMOCRATIC PARTY OF SERBIA - VOJISLAV KOSTUNICA DEPUTY GROUP

FOR EUROPEAN SERBIA DEPUTY GROUP

LIBERAL DEMOCRATIC PARTY DEPUTY GROUP

MINORITIES DEPUTY GROUP

FORWARD SERBIA DEPUTY GROUP

NEW SERBIA DEPUTY GROUP

PARTY OF UNITED PENSIONERS OF SERBIA – PUPS DEPUTY GROUP

SOCIALIST PARTY OF SERBIA - UNITED SERBIA DEPUTY GROUP

SERBIAN RADICAL PARTY DEPUTY GROUP

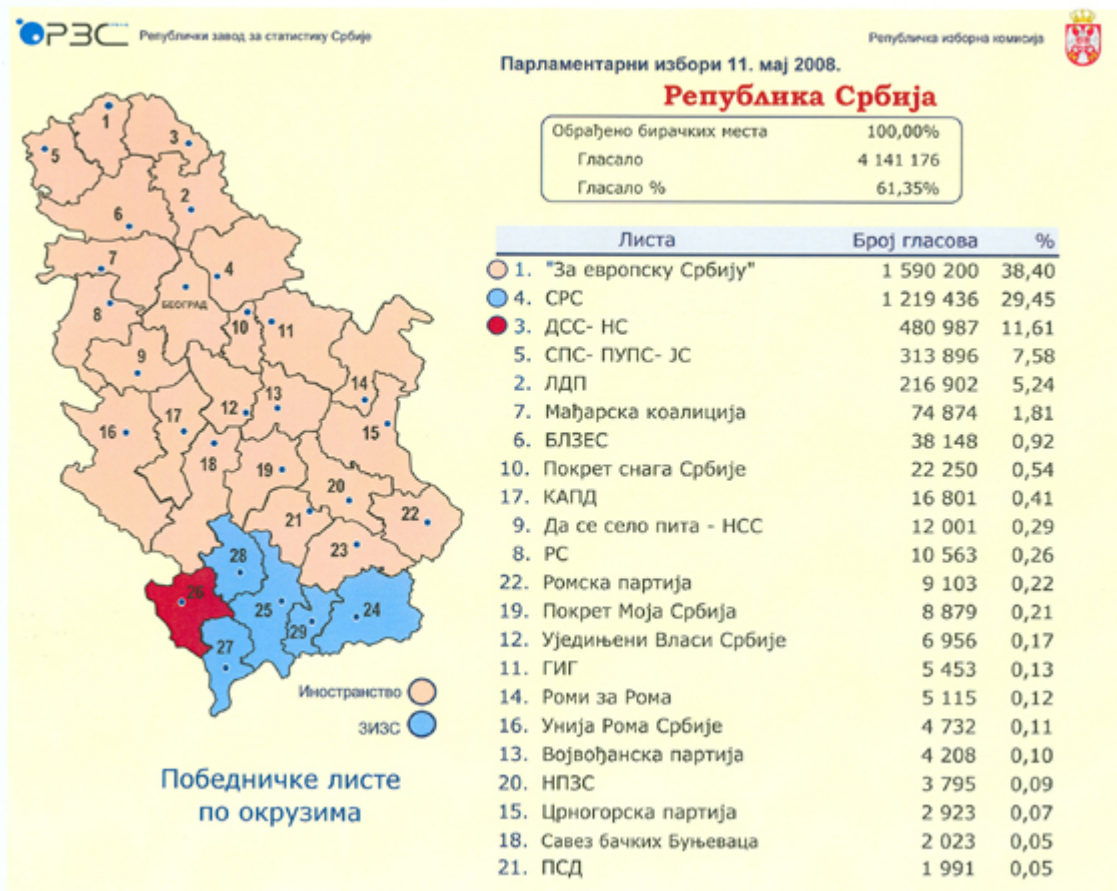
INDEPENDENT DEPUTY

Parliamentary elections on May 11, 2008

ADVANCED UNEDITED VERSION



ADVANCED UNEDITED VERSION



ADVANCED UNEDITED VERSION

PARTICIPATION OF WOMEN IN POLITICAL AND PUBLIC LIFE

Following the elections in 2000, there were 12.4% women among the deputies of the National Assembly of the Republic of Serbia. The share of women among deputies increased to 21.2% after the promulgation of the obligations on the less represented sex in the Law on the Election of Deputies in 2007. ***The share of women among deputies accounted for 22.42% in 2008.*** A woman is a speaker of the National Assembly, and women account for 50% of deputy speakers.

There were fewer than 7% women in the assemblies of local government units (towns and municipalities) after the elections in 2000. The share of women increased to 21.3% after the local elections held in 2004, following the introduction of the mandatory quota of 30% for the less represented sex into the Law on Local Elections.

The number of women ministers in the Government of the Republic of Serbia has varied from two to four ministers since 2001. There are five women ministers in the Government since 2008, accounting for 18.5% ministers. There are 22.7% women among state secretaries and/or 42.6% women among assistant ministers.

ADVANCED UNEDITED VERSION

**ANSWERS RELATED TO SPECIFIC RIGHTS GUARANTEED BY
THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS**

ADVANCED UNEDITED VERSION

A. Answers related to concluding observations of the Committee on Economic, Social and Cultural Rights adopted after consideration of the Initial Report on Implementation of the International Covenant on Economic, Social and Cultural Rights

Paragraph 39 of the Concluding Observations. The Committee calls on the State party to adopt specific anti-discrimination framework legislation and to increase awareness about international anti-discrimination standards among judges and other members of the legal profession. The State party should ensure wide participation of the civil society in the adoption of such legislation.

328. The Republic of Serbia has adopted the Law on Prohibition of Discrimination on August 31, 2009, thereby establishing an integral system of protection from discrimination within the country's legal system.

329. Formation of the Judiciary Academy²⁰⁵ in December 2009 resulted in creation of a clear institutional framework which regulates training related to implementation of international agreements on human rights, the practice of UN bodies, and anti-discrimination standards and judicial practice of the European Court of Human Rights.

Paragraph 40 of the Concluding Observations. The Committee urges the State party to investigate incidents of inter-ethnic violence and racially motivated acts against ethnic groups, to bring perpetrators to justice, and to take all necessary measures to raise awareness of the dimensions of ethnic discrimination and intolerance among local authorities and the general public.

330. In 2009, favorable conditions have been preserved in the territory of the Republic of Serbia with regard to inter-ethnic and inter-religious relations and the total number of incidents was reduced by 23.1% as compared to the year of 2008. In recent years, it was noted that the number of physical attacks on persons of different nationality, nationally-motivated fights, damages to religious objects, graffiti and drawing of various symbols, has been reduced.

331. The Ministry of Internal Affairs has intensified its operational work and achieved close cooperation between all operational lines regarding collection of information on possible forms of inter-ethnic provocations, together with more intensive preventative activities of members of the police force in the fields of patrol work (characterized by mixed national composition whenever possible), operational and other police activities. In each specific case, extensive operational-tactical and technical measures are being taken to ensure collection of relevant evidence about committed violations or crimes, to ensure presence and interview injured persons and witnesses, and to take any other required measures and acts with the aim to solve cases and establish motivation behind them.

²⁰⁵

Закон о правосудној академији („Службени гласник РС”, број 14/09)

ADVANCED UNEDITED VERSION

332. Activities of the Ministry of Internal Affairs aimed at prevention of discriminatory behaviour can be analyzed from the following three viewpoints: preventative and repressive measures for prevention, reduction and punishing of discriminatory behaviour; affirmative measures related to employment of members of national minorities; and education of police employees about protection of and respect for human rights.

333. Significant improvement of inter-ethnic relations is the result of intensified preventative work of the Ministry of Internal Affairs and activities coordinated with relevant state authorities and representative bodies, as well as cooperation with local self-government bodies. Incidents have been reduced to individual and sporadic cases, committed by individuals and in no way can be generalized and interpreted as the attitude of the majority towards national minorities in the Republic of Serbia.

334. The Ministry of Internal Affairs strives to employ more member of national minorities, especially in police administrations in areas with mixed national composition. Contests, promotional posters, brochures, and radio advertisements are being published in Serbia, Albanian, Bulgarian, Hungarian, Roma, Romanian, Ruthenian, Slovakian, Ukrainian and Croatian languages. Apart from this, public discussions have been organized in regions with significant national minorities with the aim to inform the candidates about the police profession, provisions of the contest, conditions offered by the Center for Basic Police Training to its students, as well as the entrance examination.

335. During the previous years, the Ministry of Internal Affairs has taken numerous measures and activities aimed at education of police employees about protection of and respect for human rights, including the rights of minorities in the Republic of Serbia. Numerous courses, seminars, workshops, round tables and conferences have been organized with topics related to modern standards of police work, human rights, the police as a part of the community, strategic management, analysis and problem-oriented police work, with the aim to raise awareness of police employees about modern standards of police work and cooperation with all participants within the community in order to improve security. Aside from this, various forms of education have been introduced within mandatory annual programs of professional advancement of police employees in the field of human rights.

336. As a part of the process of development of the police within the community, steps have been taken to improve communication and cooperation between the police and citizens; to educate the police, the representatives of the community, citizens, and special categories of population; to establish and develop the partnership between the police and the community and develop problem-oriented work aimed at solving security issues.

Paragraph 41 of the Concluding Observations. The Committee recommends that the State party ensure adequate participation of Roma representatives in the implementation of the plans of action adopted or envisaged by the Republic with regard to non-discrimination, gender equality, employment, social protection, housing, health and education of Roma, and to allocate sufficient funds to these and other relevant programs.

ADVANCED UNEDITED VERSION

337. One of the principles of implementation of the Decade of Roma Inclusion that Serbia has accepted as its obligation by the act of signing the Decade Declaration relates to active participation of members of the Roma community in all activities performed by the state.

338. Representatives of the National Council of the Roma national minority and Roma civil society have taken part in the process of preparation of the Strategy for Improvement of the Status of Roma in the Republic of Serbia and the Action Plan for Implementation of the Strategy, and have participated in working groups that have created them.

339. The Government of the Republic of Serbia has established the Council for Improvement of the Roma Position and Implementation of the Decade of Roma Inclusion that is headed by the Deputy Prime Minister for European Integration. An equal number of representatives of competent ministries and Roma civil sector and the National Council of the Roma Minority participate in its activities. Administrative and expert support to the Council is provided by the Ministry of Human and Minority Rights, in which the relevant assistant minister is a member of the Roma national minority. Within the Ministry there is the Office for Implementation of the Strategy for Improvement of the Status of Roma in which two of the three employees are members of the Roma minority. The Ministry of Human and Minority Rights has initiated the formation of working groups for implementation of the Strategy within 10 competent ministries and the Commissariat for Refugees and representatives of the Roma civil sector participate in their work. Coordinators for Roma issues have been hired in 54 units of local self-government, while the Ministry of Health and the Ministry of Education have hired 60 health mediators and 180 Roma teaching assistants, respectively.

340. Representatives of the National Council of the Roma Minority and the Roma civil sector, including the networks of Roma non-governmental organizations (League for the Roma Decade and Roma Women's Network), participate in all activities of the Ministry of Human and Minority Rights.

341. After the successfully implemented campaign of the Roma Women's Center 'Bibija', the Gender Equality Council of the Government of the Republic of Serbia has included one Roma woman in its activities.

Paragraph 42 of the Concluding Observations. The Committee calls on the State party to assist refugees, returnees and internally displaced persons by facilitating the procedures necessary to obtain personal documents, including birth certificates, identity cards and work booklets, to enable them to enjoy their economic, social and cultural rights.

342. In the Republic of Serbia refugees are able to exercise all their rights on the basis of the refugee identification card that is issued in accordance with the decision on recognition of the refugee status. In accordance with the Law on Citizenship of the

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Republic of Serbia, the procedure to acquire citizenship has been simplified and streamlined. The Commissariat for Refugees and UNHCR use international donations and their own budgets to fund programs for legal assistance related to issuance of documents from the country of origin necessary for naturalization and exercise of other rights. In 2009, the Commissariat for Refugees financed the project of issuance of documents from the country of origin to persons placed in old people's homes.

343. The same kind of legal assistance, including representations before courts and other institutions in the Autonomous Province of Kosovo and Metohija, is also being provided to internally displaced persons. The Law on Registries stipulates that maintaining of registries and deciding in first instance administrative proceedings related to registries in the area of the AP of Kosovo and Metohija is performed by city administrations of the cities of Nis, Kragujevac, Kraljevo, Krusevac, Jagodina, Vranje and Leskovac. Only in 2009 and the first half of 2010, 559,379 certificates have been issued on the basis of registries for local self-government units in this area. According to data from city administrations that maintain of the aforementioned registries, 112,594 entries in registries have been renewed. In 2005, the Republic of Serbia reduced by 70% the administrative fees for issuance of documents to refugees and internally displaced persons.

344. In accordance with the obligations resulting from the implementation of the Readmission Agreement with the EZ²⁰⁶ that has entered into force on January 1, 2008, the Government has adopted the Strategy for Reintegration of Returnees based on the Readmission Agreement. The Team has been formed and the national action plan for implementation of the Strategy has been prepared.

345. On the basis of the Readmission Agreement, the Ministry of Internal Affairs has adopted the obligation resulting from the Strategy for Reintegration of Returnees to provide assistance to returnees in solving their status issues: place of residence, issuance of personal identity documents, as necessary preconditions for issues related to social security, health insurance, enrollment of children at schools.

346. The Ministry of Internal Affairs has formed a special working group for implementation of the Strategy for Improvement of the Status of Roma which is tasked with proposing and implementation of high-priority measures and activities stipulated by the Action Plan. The Ministry of Human and Minority Rights has initiated the formation of working groups for implementation of the Strategy for Improvement of the Status of Roma. The access of Roma in the Republic of Serbia to personal documents relates to two separate issues: registration of residence for persons without legal basis for residence and entry in the birth registry.

Paragraph 43 of the Concluding Observations. The Committee recommends that, in addition to the establishment of a Council on Gender Equality in Serbia, the State party expedite the adoption of a law on gender equality with a view to ensuring

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greater access for women to positions of responsibility in the Government and public employment sectors.

347. According to the Law on Gender Equality that entered into force on December 24, 2009, gender equality entails equal participation of women and men in all areas of public and private sectors in accordance with generally accepted rules of international law, confirmed by international agreements, the Constitution of the Republic of Serbia and laws. The public authorities develop an active policy of equal opportunities in all areas of public life, which includes equal participation of both genders in all phases of planning, decision-making and implementation of decisions relevant to the position of women and men.

Paragraph 44 of the Concluding Observations. The Committee requests the State party to intensify its efforts to reduce the unemployment rate, including through the implementation of its National Strategy on Employment, to promote employment of persons belonging to vulnerable groups through special measures, e.g. special training, the removal of physical barriers limiting workplace access by persons with disabilities, and wage subsidies or other incentives for employers, and to report on the results of these measures in its next report.

348. In the year of 2010, increased funding (3.7 billion dinars) within the budget of the Republic of Serbia was allocated for implementation of active employment policy measures as compared to the year of 2009 (3.5 billion dinars).

349. The total number of unemployed persons that were included in active employment policy measures implemented by the National Employment Service in 2009 totaled 135,784 participants. 57,316 participants have been employed, which amounts to 42% of the total number of the persons involved with active employment policy measures.

350. Unemployment in the Republic of Serbia has a long-term, structural and transitional character. Since the fourth quarter of 2008, as a consequence of the global economic crisis, the labor market indicators have worsened. The labor market still has the same characteristics like high unemployment, low participation of employment in the private sector, and low mobility of the workforce.

351. Unemployment of women in the Republic of Serbia is more pronounced than unemployment of men. In the year of 2008, the rate of activity of women amounted to around 54.5%, while the same rate for men amounted to 71.2%. Lowest rates of activity were noticed in the age group 15-24 (only 25.6%) because young women, more often than young men, take care of the family and the household, delaying their entry in the labor market. The main reasons for the women's inactivity (with the exception of students) are personal, related to family, or "other" reasons.

352. The difference between the unemployment rates of men and women in 2009 was reduced to 3.0 percentage points. The reduction of the differences in base indicators of employment of men and women was noted in the period 2006-2009 and proves that the

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active employment policy implemented by the Republic of Serbia and stimulation of employment of women have achieved positive results. One of the goals of the National Employment Action Plan in 2010 is equalize the position of women and men in the labor market using the following measures: creation of systemic preconditions for the policy of equal opportunities; gender-aware budgeting at the national level; promotion of flexible forms of work that allow reconciliation between work and family life, creation of preconditions for increased participation of women, and stimulation of women's entrepreneurship and self-employment.

353. Although there are no records of the number of disabled persons, it is estimated that more than 500,000 persons with various forms of disabilities live in the Republic of Serbia, but only 22,134 of them were registered with the National Employment Service as of February 2010.

354. According to the Survey of Standards of Living, the rate of unemployment of disabled persons was 13.6% in 2007 and amounted approximately the same as the average rate of unemployment according to this survey (13.9%). The main reason for such a low rate of unemployment of disabled persons is the high rate of inactivity (69%).

355. The Law on the Professional Rehabilitation and Employment of Persons with Disabilities²⁰⁷ has established a legal framework as a basis for more efficient and higher-quality inclusion of persons with disabilities in the open labor market by the means of: using quotas; estimation of working abilities, employment possibilities and setting of personal status; widening of the network of providers of measures and activities related to professional rehabilitation, strengthening of capacities, competence and roles of companies for professional rehabilitation and employment of disabled persons as a special form of employment. The National Employment Action Plan for 2010 includes programs and measures aimed at creation of conditions for inclusion of disabled persons in the labor market and their competitive performance.

356. In accordance with the Law on Planning and Construction,²⁰⁸ the Republic of Serbia has already in 2006 introduced the obligation that all buildings of public importance and all public areas have to be constructed in accordance with the accessibility standards. Since a large number of buildings constructed before 2006 is inaccessible to disabled persons, the Ministry of Labor and Social Policy has for several years organized public tenders aimed at improvement of the position of disabled persons, and has financially supported the projects of disabled persons' associations whose goal is to remove architectural obstacles and install access ramps at all significant cultural, educational, health care and other facilities in the territory of the Republic of Serbia.

357. Internally displaced persons comprise around 10% of the total number of unemployed persons. According to latest National Employment Service data, 7,572 internally displaced persons have been registered as unemployed, out of which

²⁰⁷ "The Official Gazette of the Republic of Serbia" no. 36/09

²⁰⁸ "The Official Gazette of the Republic of Serbia" no. 72/09

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unemployed women comprise 53%. The largest share of unemployed internally displaced persons are persons with educational levels IV and I.

358. With the aim to stimulate employment of refugees, displaced persons and returnees under the readmission agreement, the National Employment Action Plan entails continuation of activities initiated by the previous action plan, especially with regard to improvement of the database, as a basis for monitoring of effects of active employment policy measures.

Paragraph 45 of the Concluding Observations. The Committee recommends that the State party remove from its legislation any unjustified registration requirements and grounds for dissolving trade unions.

359. The Constitution of the Republic of Serbia stipulates that associations can be established without prior approval, and registered with the registry maintained by a state body in accordance with law. Registration of trade unions does not require fulfillment of strict conditions or an approval by the minister of internal affairs, and the minister is not authorized to close down trade unions.

360. In accordance with the Rulebook on Registration of Trade Unions, requests for registration are submitted to the Ministry of Labor and Social Policy not later than 15 days after the forming of a trade union. Together with the registration request, the following documents must be submitted: the founding act of the trade union; a statement on the level of the trade union's formation; a certificate, issued by the trade union that covers the territory of the Republic, of membership or joining of the trade union that has submitted the request to such trade union, if the requesting trade union is its member, or a certificate issued by the requesting trade union that it is not a member of the trade union that covers the territory of the Republic; a statement on the number of members of the trade union based on issued membership cards, if the number of members of the trade union is a required condition for founding in accordance with the trade union's founding act; the statute or other appropriate general acts of the trade union; authorization to submit the request for registration, if the request is not being submitted by a person authorized to represent the trade union.

361. At the moment, there are around 20,000 registered trade unions in the Republic of Serbia and a large number of employees are members of trade unions. Organization in the form of trade unions is insufficiently present in private companies.

Paragraph 46 of the Concluding Observations. The Committee requests the State party to limit the scope of its definition of "essential services" and to ensure that the exercise of the right to strike does not lead to the suspension of social security rights.

362. The Law on Strike²⁰⁹ stipulates that in the "activities of public importance" (electrical power systems, water resources management, traffic, informing, postal services, utilities, production of basic food products, health care and veterinary services,

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"The Official Gazette of the Federal Republic of Yugoslavia" no. 29/96

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education, social care of children, social protection) striking is not forbidden, provided that the minimum of essential services is ensured.

363. In accordance with the Law on Labor, salaries are paid for the work performed and the time spent on work, which is in accordance with the provision of the Law on Strike which stipulates that "employees who are participating in the strike have all the basic right resulting from their employment, except the right to salary, while the rights related to social insurance are exercised according to regulation on social insurance". Employees participating in the strike retain their social security-related rights.

Paragraph 47 of the Concluding Observations. The Committee recommends that the State party increase unemployment benefit coverage so as to ensure an adequate standard of living for unemployed workers and their families and to include in its next report detailed information on the extent of unemployment benefit coverage, disaggregated by age, gender, residence status and national or ethnic origin.

364. The financial unemployment benefit is realized as a right resulting from unemployment insurance, under conditions and in a manner prescribed by the Law on Employment and Insurance in Case of Unemployment.

365. The right to financial benefit is recognized to unemployed persons who has been ensured against unemployment for not less than 12 months continuously or 18 months non-continuously. A period of insurance shorter than 30 days is also considered to a continuous insurance.

366. The unemployed have the right to financial benefit in the case of termination of employment or termination of mandatory insurance, on the basis of the following: termination of employment due to dismissal by the employer; termination of employment for a definite period of time, temporary and occasional jobs, trial work; ending of the term in office of elected, appointed and assigned persons, unless the rights to temporary suspension of employment or compensation of salary have been used in accordance with the law; transfer of founding rights of a company's owner or a member; initiation of a bankruptcy proceedings, initiation of a liquidation procedure and in other cases of termination of employer's operations; relocation of the spouse, in accordance with special regulation; termination of employment abroad.

367. The National Employment Service maintains records of persons using the right to financial benefit. Records are kept for all Branches of the National Employment Service and disaggregated per gender and age. The data on national or ethnic origin of users of financial benefits is not recorded. The total number of persons that have received financial benefits in 2009 amounts to 211,219, out of which 96,403 were women. There are 81,912 persons who have received the financial benefit in April 2010 and who have fulfilled necessary legal conditions and acquired the right to financial benefit.

Paragraph 48 of the Concluding Observations. The Committee requests the State party to include in its next report detailed information on the number of persons

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who are not eligible for old-age or disability pensions under the Serbian Law on Pensions and Disability Insurance, disaggregated by gender, age and national or ethnic origin, as well as on the type and levels of social assistance received in lieu of such pensions.

368. The Law on Social Welfare and Social Security of Citizens stipulates the right to financial welfare, the right to allowance for support and care by other person, and the right to increased allowance for support and care by other person. These are the rights of general importance that are the responsibility of the Republic, while the right to non-recurring assistance is the obligation of municipalities or cities.

369. The right to financial welfare belongs to an individual or a family with income lower than the minimal level of social security stipulated by law and which in March 2010 amounted to: 5,445.00 dinars for an individual; 7,481.00 dinars for a family with two members; 9,526.00 dinars for a family with three members; 10,199.00 dinars for a family with four members; and 10,896.00 dinars for a family with five or more members. Aside from the income that is lower than the minimal level of social security, there are other conditions that an individual or a family have to fulfill in order to exercise this right.

370. Financial welfare is allowed without limitation to families in which most of the family members are incapable of work, while with regard to families in which there is an equal number of work-capable and work-incapable family members, and families in which most of the family members are capable of work, this right is recognized with limited duration – up to nine months a year. The financial welfare is not considered a revenue that is subject to taxation and is paid monthly. In February 2010 this right was realized by 68,232 families i.e. 173,467 persons.

Table 1

Region	Average number of families using the financial welfare during the year			2008
	2005	2006	2007	
Serbia in total	62,267	65,869	48,766	50,608
Index	129.0	136.5	101.1	104.9

Source: Analysis of the report on activities of social protection institutions in the Republic of Serbia in 2008, the Republic Institute for Social Protection in 2009

371. The allowance for support and care by other person relates to a person who due to the nature and seriousness of injury or sickness needs assistance and care in order to fulfill their basic needs for living, provided that this right cannot be realized on any other legal basis. The need for assistance and care is established by the designated expert body. This allowance does not depend on income. It is approved as a monthly amount which in March 2010 amounted to 6,808.00 dinars. In February 2010 this right was realized by 19,734 persons.

Table 2

Age group of recipients of the allowance for support and care	2007	2008

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Children and youth	5,481	5,676
Adults	11,152	11,414
Older persons	13,951	14,759
Total number of recipients	30,584	31,849

Source: Analysis of the report on activities of social protection institutions in the Republic of Serbia in 2008, the Republic Institute for Social Protection in 2009

372. The increased allowance for support and care by other person is paid to recipients of the allowance for support and care by other person who have acquired this right within any of the systems of social protection or retirement and disability insurance, and who have been diagnosed with a bodily disability of 100% on one basis. This allowance does not depend on income. It is approved as a monthly amount which in March 2010 amounted to 17,925.00 dinars; however, with regard to the persons who have acquired the right to allowance for support and care on the basis of the retirement and disability insurance regulations, this right is approved in the amount equal to the difference between the increased allowance for support and care by other person (established in accordance with the Law on Social Welfare and Social Security of Citizens) and the allowance for support and care by other person (established in accordance with retirement and disability insurance regulations). In February 2010 this right was realized by 29,860 persons. The total number of persons have acquired the right to receive the allowance for support and care by other person or the increased allowance for support and care by other person amounted to 49,594 in February 2010.

Табела 3.

Recipients of the increased allowance for support and care	2007	2008
Children and youth	2,677	3,321
Adults	7,755	9,977
Older persons	7,015	9,379
Total number of persons	17,447	22,677

Source: Analysis of the report on activities of social protection institutions in the Republic of Serbia in 2008, the Republic Institute for Social Protection in 2009

373. The non-recurring assistance is given to persons who suddenly or momentarily find themselves in a social need, and it can be given in a financial form or in kind. This right is the obligation of municipalities or cities, which regulate the detailed conditions, the manner of realization of this right, as well as the amount of the non-recurring assistance.

Paragraph 49 of the Concluding Observations. The Committee requests the State party to pursue its bilateral negotiations with Croatia regarding the payment of pensions to Krajina Serbs residing in Serbia and Montenegro and to alleviate documentation requirements for the payment of pensions to internally displaced persons whose work booklets were destroyed during the hostilities in Kosovo.

374. One of the biggest problems faced by refugees from the Republic of Croatia is the inability to exercise their acquired rights. Among these rights is the right to receive pension. The problem of pensions in the Republic of Croatia relates to two disputed issues: the validation of years of employment during the war years and payment of pensions in the same period. Legal preconditions for the solution of the first problem

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have been created in the Republic of Croatia and current problems are mostly related to the non-uniform implementation of law, but with the possibility of legal and judicial protection. The solution to the problem of unpaid pensions is not in sight, since the Croatian government considers that payment of pensions in this period by the pension para-fund in Krajina frees the Croatian pension fund (to which these persons were paying their pension contributions) from any obligations. What is not being taken into account is the fact that the pensions that were paid in this period had a character of social protection, not an acquired right.

375. The Republic of Serbia has initiated the Ministerial Conference "Durable Solutions for Refugees – Cooperation Between Countries in the Region" that took place in March 2010. Ministers of foreign affairs of the Republic of Serbia, the Republic of Croatia, Bosnia and Herzegovina and Montenegro participated in the Conference, with the support of the European Commission, UNHCR, the Council of Europe and OSCE, and the Conference is envisioned to reinvigorate the process of tackling unsolved issues in the region. It is expected that expert groups will be formed that should review all unsolved issues of refugees, including the issue of unpaid pensions.

Paragraph 50 of the Concluding Observations. The Committee urges the State party to take effective measures to combat domestic violence, to provide counseling to victims and perpetrators, including those suffering from traumatic disorders related to armed conflicts, and to include updated statistical data on the number of reported cases, disaggregated by age, gender, employment status and national or ethnic origin of the victims and/or perpetrators, in its next report.

376. The latest positive changes in the Criminal Code related to the crime of domestic violence deal with the widening of the definition of a "family member", as well as the increase in criminal sanctions for the crime of domestic violence.²¹⁰

377. 12,105 reported criminal acts of domestic violence were committed during the period 2006 – April 2010. Ten family members died as a result of these crimes. Organization of a large number of campaigns, conferences and public events against domestic violence, aimed at informing the public about its consequences and possibilities to eliminate it, has influenced the increasingly present trend of reporting the instances of domestic violence. It is certain that the number of crimes in this area has been reduced.

378. Women dominate the gender structure of victims – they make 82% of the victims, while men account for 18%. Considering the age, most endangered are the women in the age group 31-40, while in the case of men the same can be said of those older than 60. With regard to minors, who comprise around 9.3% of the victims, children (5.8%) are more endangered than underage youth (3.5%). However, there is an additional problem – children are indirect victims in a much larger number of cases (they witness the animosity between parents and continuous violence, which adversely affects their development).

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379. With regard to the employment status of victims, employed persons comprise the largest group – workers with secondary and lower level of education, persons who work in the handicraft industry and perform other services – 36.7%; housewives and persons without occupation – 29%; children and persons who are a part of the education system (pupils/students) – 15%; retirees – 4.4%; employed persons with high and higher education – 3%; agricultural producers – 2.8%; in more than 9.1% of the cases the occupation of victims was not known.

380. Perpetrators of criminal acts of domestic violence come from all social structures and what they have in common is that in a large percentage of cases they commit their acts under influence of alcohol. They are mostly men (94.3%) aged 31-50, and most frequent and most pronounced is the violence among partners.

381. With regard to the employment status of perpetrators, employed persons comprise the largest group – workers with a low level of education, persons who work in the handicraft industry and perform other services – 74%; agricultural producers – 8%; persons who are a part of the education system (pupils/students) – 5.3%; housewives and persons without occupation – 4.1%; retired persons – 3.2%; employed persons with high and higher education – 2.2%; in 2.7% of the cases the occupation of perpetrators was not known.

382. During the reporting period, most of the perpetrators of criminal acts were the citizens of the Republic of Serbia (11,423) and in a negligible number of cases they were the citizens of Bosnia and Herzegovina (25), Croatia (9), China (7), Italy (6), Macedonia, Romania and Bulgaria (5 each) etc. The Law on Gender Equality stipulates special measures and programs for victims of domestic violence which provide care and social, legal and other forms of assistance and compensation, and with regard to perpetrators of domestic violence with the aim to prevent further violence. Public authorities are obliged to plan, organize, perform and finance measures to raise awareness of the public about the need to prevent domestic violence.

383. In all cases when they are aware of instances of domestic violence, police employees are obliged: to submit a report on performed acts and measures, as well as on the facts of the case, to the competent prosecutor's office and the center for social work; to inform in written form the centers for social work about all submitted criminal charges related to criminal acts against marriage and family; to check whether the perpetrators of criminal acts of domestic violence legally own firearms and to execute the administrative procedure to assess further eligibility for such possession; to perform operative activities necessary to establish whether the person that has committed violence has any illegal firearms; to keep records of all acts performed by police employees in the cases of domestic violence against family members and to periodically gather additional information necessary to establish whether there are elements of a crime or misdemeanor; to provide help to victims, within their authority, in order to protect them from immediate danger; in the case of parents committing the criminal act of domestic violence against his/her child, to perform measures of immediate intervention and to ensure presence of an expert from a caretaking institution that would be present during the interview instead of parents, take appropriate measures, and appoint a temporary caretaker for the child.

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384. At the moment, there are nine safe houses in the Republic of Serbia within the network of local services in the community, whose services are offered to women and children who are victims of violence. Aside from them, within Centers for Social Work there are Counseling Offices for Marriage and Family which provide help and assistance to families aimed at solving family problems.

Paragraph 51 of the Concluding Observations. The Committee urges the State party to take effective measures to ensure the immediate protection and long-term rehabilitation of abused children and to include in its next report detailed information on these measures as well as on the number of reported cases of child abuse.

385. The main achievements in this area are the improved legislation and significantly developed national public policies for protection of children from abuse, neglect, exploitation and violence. In relation to this, the National Millenium Development Goals and the National Strategy for the Prevention and Protection of Children against Violence, together with the Action Plan, have been adopted.

386. The Law on Juvenile Perpetrators of Criminal Acts and Protection of Juveniles Under Criminal Law, which regulates the status of juvenile perpetrators of criminal acts, as well as the position of juvenile victims of criminal acts, was adopted in 2005. The Law stipulates a range of measures aimed at protection of, as well as a timely and appropriate reaction towards, juvenile victims.

387. In the period 2004-2008, 21 Local Action Plans for Children were adopted in the Republic of Serbia.²¹¹ The Local Action Plans for Children were adopted with the aim to harmonize the strategic goals and priorities from the National Action Plan for Children with local needs. In accordance with this, trained interdepartmental teams for protection of children have been formed, while funds have been allocated within annual municipal budgets.

388. Multi-sector work on implementation of child's right to protection from all forms of abuse and neglect is being performed at both national and local levels. During the previous years, the Ministry of Internal Affairs, in cooperation with other institutions and organizations, has performed intensive activities related to training and professional advancement of police employees who work with children and minors. The aim of the training is not only to improve the competence of all professionals, but also to support implementation of new legal solutions. In accordance with the provisions of the Law on Juvenile Perpetrators of Criminal Acts and Protection of Juveniles Under Criminal Law, 1347 police employees have been trained since 2005 in treatment of minors, and they have received appropriate certificates. The training in accordance with this Law is mandatory and in the next period it will include new trainees.

²¹¹ In Kragujevac, Sjenica, Pirot, Senta, Kanjiza, Becej, Valjevo, Osecina, Ljubovija, Priboj, Prijepolje, Nova Varos, Krusevac, Prokuplje, Bela Palanka, Vladicin Han, Bojnik, Lebane, Vranje, Kraljevo and Novi Pazar.

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389. In cases when life and health of a child are under direct danger, or if there is a reasonable cause to believe that failure to take urgent protective measures would put the child in a serious danger, an immediate intervention is performed (within a period of 24 hours). Its aim is to immediately ensure safety of the child. The immediate intervention can be necessary after the first reporting of abuse or neglect, or in a later phase of the process of protection of the child and family. If the circumstances of the case require that parents be urgently deprived of their right to take care of the child, the caretaking institution (the center for social work) appoints a temporary caretaker for the child until court decision on the case.

Paragraph 52 of the Concluding Observations. The Committee urges the State party, in addition to the recent legislative measures to combat trafficking in persons, to prosecute and punish perpetrators and corrupted law enforcement officials involved in trafficking, to provide medical, psychological and legal support to victims, to raise awareness about the dimension of the crime among law enforcement officials, and to include updated statistical data on the number of victims, perpetrators, convictions and the type of sanctions imposed in its next report. The Committee also encourages the State party to proceed with the adoption of a national plan of action on trafficking in Serbia.

390. The Republic of Serbia is a member of the United Nations Convention against Transnational Organized Crime and its supplemental protocols²¹², the Police Cooperation Convention for Southeast Europe²¹³ and the Council of Europe Convention on Action against Trafficking.²¹⁴

391. The National Plan of Action against Human Trafficking in the period 2009-2011 was adopted in April 2009. The Plan includes realization of high-priority activities and allocation of the funds necessary to execute these activities.

392. Solved criminal acts of human trafficking in the territory of the Republic of Serbia in the period 2006 – April 2010 indicate the appearance of the so-called internal trafficking, since it mostly involves human trafficking victims who are citizens of the Republic of Serbia.

393. In 2006, 37 criminal charges were brought for the crime of human trafficking, 34 in 2007 and 32 in 2008.

394. In 2009, 51 criminal charges were brought against 94 perpetrators for the crime of human trafficking. Among them, citizens of the Republic of Serbia were the most numerous group (79 persons or 84%). There were 85 persons injured by these criminal acts (comprising of 66 female and 19 male victims), out of which 48 were minors. Human trafficking was predominantly committed for the purpose of sexual exploitation

²¹² "The Official Gazette of the Federal Republic of Yugoslavia – International Agreements" no. 6/01

²¹³ "The Official Gazette of the Federal Republic of Yugoslavia – International Agreements" no. 70/07

²¹⁴ "The Official Gazette of the Federal Republic of Yugoslavia – International Agreements" no. 19/09

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of victims (53), begging (14), labor exploitation (12), forced marriage (6) and forced committing of criminal acts (3).

395. In the first quarter of 2010, 15 criminal charges were brought for the crime of human trafficking, encompassing 43 perpetrators. Among them, citizens of the Republic of Serbia were the most numerous group (42). There were 26 persons injured by these criminal acts (comprising of 24 female and 2 male victims), out of which 14 were minors. Human trafficking was predominantly committed for the purpose of sexual exploitation of victims (22), labor exploitation (5) and begging (3).

396. In the period 2006-2009, 285 victims in total were found, out of which 241 (85%) were citizens of the Republic of Serbia (93% in 2006; 72% in 2007; 85% in 2008; 93% in 2009). This trend has become more pronounced during the first four months of 2010, since 25 persons out of 26 victims of trafficking are citizens of the Republic of Serbia. Women comprise the majority of victims of human trafficking²¹⁵, for the purpose of sexual exploitation, and this trend has been evident in each year except 2007, when men were more numerous among the victims of this crime, for the purpose of labor exploitation.

397. In the same period, police officers in the Ministry of Internal Affairs brought 153 criminal charges for the criminal act of human trafficking (37 in 2006; 34 in 2007; 32 in 2008; 51 in 2009), while in the first quarter of 2010 15 criminal charges were brought for the same crime.

398. It is alarming that the number of children and minors among the victims of these criminal acts has increased. In each year except the year of 2007, the number of injured minors and children was larger than the number of injured adults (52% in 2006; 58% in 2008; 56% in 2009).

399. Human trafficking of children for the purpose of adoption is a special form of human trafficking. In the period 2006-2010, 10 criminal charges were brought against 36 persons for 11 criminal acts of human trafficking of children for the purpose of adoption²¹⁶ (3 in 2006; 4 in 2007; 3 in 2008). In 2009 and the first quarter of 2010, no criminal charges have been brought for this crime. These criminal acts of trafficking for the purpose of adoption have had 12 victims, out of which 11 were under the age of five (nine girls and two boys), while one child (a boy) belonged to the age group 6-10. The perpetrators of human trafficking of children for the purpose of adoption are predominantly citizens of the Republic of Serbia (34), while two of them are citizens of the Republic of Croatia.

400. Protection of the victims of human trafficking in the Republic of Serbia and their social rehabilitation and integration, performed by the Office for Coordination of Protection of Human Trafficking Victims, is being carried out in accordance with the

²¹⁵ In the period 2006-2009, there were 181 female victims among the 285 victims of human trafficking. During the first four months of 2010, there were 24 female victims among the 26 victims.

²¹⁶ Article 389 of the Criminal Code.

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program that includes the following activities of the Office: identification of victims, immediate assistance, translation, communication, primary care, integration, solving of civil and legal status issues, medical help, legal assistance, psychological and social assistance, education and acquisition of skills, workshops and training, and support aimed at sustainable integration – using funds for independent living. Aiming to advance the efforts in the fight against human trafficking, the minister of internal affairs, the ministers and representatives of several competent ministries, and the Commissariat for Refugees, have signed the Agreement on Cooperation in the Fight against Human Trafficking. The Agreement insists on coordination of activities of state institutions with the aim to ensure sustainability of protection programs and reintegration of victims of human trafficking, especially on the basis of the program that provides housing. Long-term programs of protection and reintegration of victims of human trafficking include the possibility to continue their education and professional advancement.

401. The Ministry of Internal Affairs is taking measures and performing activities to increase the awareness of police employees and citizens about the problem of human trafficking as a form of modern-day slavery. With this aim, since 2007 the month of October has been traditionally marked as a month of the fight against human trafficking, during which campaigns, seminars and educational events take place. In 2007, a public art contest was organized with the subject of "Modern Slavery". Participants in the contest were the primary and high school students in the Republic of Serbia. The contest, as well as a range of other activities realized in October, were aimed to raise the awareness of children and youth about the existence of this complex and multidimensional social phenomenon, and to select the best work that would be printed on a postage stamp. The sales of the postage stamp with the human trafficking theme in the period January 21-27, 2008 have achieved a revenue of around 60,000 euros. This money is managed by the Office for Coordination of Protection of Human Trafficking Victims and directed to victims.

402. In 2010, police employees in the Ministry of Internal Affairs, in cooperation with the National Employment Service, have initiated and achieved that the October issue of the magazine "*Poslovi*" ("*Jobs*"), published by the Service, pay special attention to the problem of human trafficking: thematic posters were published that have covered various forms of exploitation of real and potential victims of human trafficking – labor exploitation, sexual exploitation, and abuse of the internet for the purpose of finding new victims of trafficking.

403. Education of police employees in regional police administrations has been continuously performed in the form of block classes which, aside from other police activities, deal with increased awareness about the scope of this crime and include regular evaluation of police employees with regard to the problem of human trafficking.

Paragraph 53 of the Concluding Observations. The Committee recommends to the State party to ensure the protection of minors against economic and social exploitation and to take all necessary measures to combat and punish employment of children below the age of 15.

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404. In accordance with the Law on Labor, persons under the age of 15 cannot be employed. The Law on Occupational Safety and Health²¹⁷ stipulates that persons under the age of 18 cannot be employed in work positions with increased risk of injury and occupational and other diseases. If a person under the age of 18, but not younger than 15, has been employed without parents' written approval, labor inspectors will warn the employer of the obligation to provide a written approval of parents; at the same time, the labor inspector may inform the parents in written form about the fact that their child has been employed without their consent, in which case, if they do not wish to give their consent, they can submit a request to employer to terminate the employment of such person. If the employer fails to subsequently provide parents' consent and a competent health care institutions' finding, the labor inspector will submit a request for initiation of legal proceedings. Fines for the employer range between 600,000 and 1,000,000 dinars for employers that constitute legal persons. Fines range between 300,000 and 500,000 dinars for sole traders. Fines for responsible persons within legal persons range between 30,000 and 50,000 dinars.

405. With regard to employment of persons under the age of 15, during the previous two years the Labor Inspectorate has not received any requests for inspection. Labor inspectors have not found any employed person under the age of 15 in this period.

Paragraph 54 of the Concluding Observations. The Committee recommends that the State party ensure the full integration of economic, social and cultural rights into its Poverty Reduction Strategy and allocate sufficient funds for the implementation of the Strategy. In this regard, the State party is referred to the Committee's statement "Poverty and the International Covenant on Economic, Social and Cultural Rights" (E/C.12/2001/10).

406. The Republic of Serbia has defined as one of the significant goals in the process of joining the EU the active participation in the European process of social inclusion and reduction of poverty. As a first step in the creation of an institutional framework for development and implementation of the policy of social inclusion and reduction of poverty, in July 2009, the Government has formed the Team for Social Inclusion and Poverty Reduction. The Team is tasked with strengthening the Government's capacity to develop and implement the policy of social inclusion based on examples of best practice in Europe. The Team assists the Deputy Prime Minister for European Integration to coordinate, supervise and report on the activities of the Government of Serbia related to social inclusion.

407. In the beginning of 2010, the Government has formed the Working Group for Social Inclusion. The Working Group includes representatives of the Government's institutions that have crucial responsibilities in defining, implementing and monitoring of the policy of social inclusion. The Working Group's task is to make proposals for active participation of the Republic of Serbia in the process of social inclusion within the

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European integrations and to propose measures for preparation and implementation of the policy of social inclusion.

408. At the same time, the Working Group prepares the text of the annual report on social inclusion until the completion of the Joint Memorandum on Social Inclusion, and the text of the Joint Memorandum on Social Inclusion, after the acquisition of the candidate status for membership in the European Union.

409. In April 2010, the Team for Social Inclusion and Poverty Reduction and the Statistical Office of the Republic of Serbia have prepared a report entitled Monitoring of Social Inclusion in Serbia that is a step towards creation of a system for monitoring of indicators and the process of social inclusion and poverty reduction in the Republic of Serbia. The report offers a good basis for monitoring and adoption of better policy of social inclusion and poverty reduction with the aim to further improve the quality of life of all citizens of Serbia.

410. The Government and the Statistical Office of the Republic of Serbia are actively working to begin the Survey of Income and Standards of Living that would improve the quality of data, achieve better harmonization of monitoring of social inclusion indicators with EU countries, and provide the basis for preparation of the Joint Memorandum on Social Inclusion. It is expected that before the end of 2012 the Government of Serbia will establish the system of monitoring of social inclusion, prepare the Memorandum on Social Inclusion, strengthen and develop the capacity of state administration to implement the process of social inclusion and report on it, and form a sustainable unit that would coordinate the realization of measures and reporting on the progress of the process of social inclusion in the Republic of Serbia.

Paragraph 55 of the Concluding Observations. The Committee recommends that, in applying its Poverty Reduction Strategy, the State party take special measures to alleviate the extent of poverty among older persons and that priority be given to home care rather than institutionalization of older persons in need of care. The State party should allocate sufficient funds to that effect and strengthen the role of non-profit organizations in the provision of home care and other social services.

411. Analysis of poverty per age groups shows that children not older than 14 and persons older than 60 are most severely affected by poverty in the Republic of Serbia. The rate of poverty in the 65 year-old population of old persons amounted to 7.5%. The rate of poverty in the total population in 2009 amounted to 6.9%. This rate has increased as compared to 2008, when it amount to 6.1%.

412. In accordance with the Law on Social Welfare and Social Security of Citizens, old people's homes are public services intended to satisfy special needs of old persons who cannot live in their homes or family environment due to sickness, old age or other reasons. Currently there are 38 homes for old people with available free capacity in the Republic of Serbia. Accommodation in state homes is realized via centers for social work. In the Republic of Serbia there are also private homes for old people that have been issued a license to perform this activity by the Ministry of Labor and Social Policy and

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the Provincial Secretariat for Health Care and Social Policy. The state guarantees the quality of service in these private homes.

413. Functioning of homes is controlled by the ministry, social protection inspectorate and social protection institutes.

414. In a certain number of local communities, assistance at home is offered, which is financed from the budgets of local self-governments in accordance with set conditions for usage of this service. In 2009, this service was used by 8,548 old persons in the Republic of Serbia, which is a significant increase as compared to 2001 (with only 1,653 users). This service is performed by trained gerontological nurses who have attended a special accredited training.

415. It is important to note that a trend of increased utilization of day care for old persons has been evident since 2005, when 623 old persons were the users of this service. In 2009, the service was used by 1,798 (which is a three-fold increase).

Paragraph 56 of the Concluding Observations. The Committee recommends that, in applying its Poverty Reduction Strategy and national plans of action for the implementation of the Decade of Roma Inclusion, the State party take special measures to alleviate the extent of poverty among Roma.

416. With the aim to improve the position of Roma and alleviate their poverty in the Republic of Serbia, the competent state bodies are implementing the Strategy of Poverty Reduction and the Strategy for Improvement of the Status of Roma with its Action Plan, thereby performing numerous activities in the areas of employment, housing, education and health.

417. Promotion of social inclusion and equal opportunities in the labor market is one of the priorities in 2010, and within this priority one of the goals is the creation of conditions for social inclusion and employment of Roma, as well as refugees and displaced persons, returnees under the readmission agreement, among whom there are many members of the Roma national group.

418. The Ministry of Economy and Regional Development has been applying the principle of affirmative action in the process of allocation of funds to be used for active employment measures, and has characterized Roma as one of the hard-to-employ categories; in 2010, special public contests with lower criteria have been organized. Within the 2010 budget of the Republic of Serbia, the amount of 3,700,000,000.00 dinars was allocated for programs and measures of the active employment policy.

419. The Ministry competent for the issues of housing has accepted the Guidelines for Legalization and Advancement of Informal Roma Settlements, which provide expert instructions for local self-government units dealing with this problem.

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420. Aside from provision of funds for health insurance of the Roma population within the Ministry of Health, the project "Implementation of the Plan of Health Care for Roma" is being realized since 2006. Separate funds have been provided for this project and it is completely in accordance with the adopted Action Plan for Improvement of Health of the Roma within the Roma Decade. Since 2008, the Ministry of Health has been implementing the project of introduction of Roma health mediators in the health care system of the Republic of Serbia. 75 mediators have been employed in 59 health centers, and they have visited and registered 120,708 Roma so far; provided health insurance cards and personal documents for 7,347 of them, vaccination for 7,366 children and a choice of a personal doctor for 12,370 Roma nationals. An electronic database has been created with information about health status of the Roma, their education, employment and living conditions in Roma settlements.

421. A rulebook is being prepared by the Ministry of Human and Minority Rights and the Ministry of Education that would more closely define the criteria for identification of forms of discrimination in educational institutions. The Law on the Fundamentals of the Education and Instruction System has created conditions for employment of Roma teaching assistants and for changes in the enrollment policy. Aside from the budget, the Ministry of Education has provided donors' funds for the purpose of implementation of the Law. The Ministry of Human and Minority Rights, in cooperation with the Ministry of Education and a team lead by an organization of Roma civil society, has initiated changes in the curriculum aimed at introduction of content that promote Roma culture and tradition.

Paragraph 57 of the Concluding Observations. The Committee urges the State party to ensure, by legalizing and improving the infrastructure of existing settlements or through social housing programmes, that Roma have access to adequate and affordable housing with legal security of tenure, safe drinking water, adequate sanitation, electricity and other essential services.

422. The number of extremely poor refugees, without sufficient income and adequate housing, is estimated at around 20,000²¹⁸. Insufficient funding is the main obstacle to efforts to solve this problem. In cooperation first with UNHCR, and now with the European Union, as well as other international donors, and using funds from national and local budgets, 4,427 housing units have been provided. Aside from this, more than 4,000 packages with construction material have been provided to allow completion of construction of individual housing units and to create adequate living conditions in them.

423. In the Republic of Serbia, a special program of social housing under protected conditions has been developed, as an extended right of social protection, to provide special forms of support to most vulnerable categories of refugees and internally displaced persons which include non-payment of rent and the costs of electrical power and utilities for as long as these persons are in the situation of social need. Users of these apartments who do not have even a minimal income are also given monthly financial

²¹⁸ "Position and Needs of the Refugee Population in the Republic of Serbia" ("Стање и потребе избегличке популације у Републици Србији"), 2008

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support. The right to benefit from this form of social protection is approved by the center for social work and continually reviewed by the same center. 422 such apartments have been constructed so far. At the same time, implementation began of a 10 million euro loan taken from the Council of Europe Development Bank for the purpose of building social apartments for refugees in Belgrade.

424. Amendments to the Law on Refugees²¹⁹ regulate the use, renting and acquisition of ownership of apartments and houses for refugees that have been constructed using funds from the budget or donations.

425. One of the state's priorities is to solve the issue of housing of refugees in collective centers. Since the beginning of planned closure of collective centers, the number of refugees in them has been reduced from around 14,500 to around 1,000, while the number of internally displaced persons in these centers has been reduced from 9,000 to 3,700. Planned closure of collective centers is executed only if adequate housing programs have been provided with regard to their closure. A major problem are closures of collective centers regardless of prepared plans (in cases when the contract is terminated by the owner or due to force majeure), when the only available solution is to perform relocation to another collective center. On average, in the last five years, there has been one unplanned closure of collective centers each year.

426. The Commissariat for Refugees has not executed nor demanded any forced evictions from collective centers. Regarding the forced evictions from unofficial collective centers or illegal settlements outside the authority of the Commissariat, the Commissariat provides accommodation in collective centers for all persons facing forced evictions, if they wish to accept it.

Paragraph 58 of the Concluding Observations. The Committee urges the State party to ensure that adequate alternative housing is provided whenever forced evictions take place, in line with the Committee's general comment No. 7 (1997)²²⁰, and to include updated statistical data on an annual basis on the number of forced evictions, arrangements for alternative housing and the extent of homelessness in its next report.

427. In 2006, the Ministry competent for housing prepared a Draft Study of the Housing Sector of Serbia, creating the basis for preparation of the "National Housing Policy". In the document, the issue of informal Roma settlements was recognized as one of the major problems whose solving should be considered a priority in the future national housing policy. In the general plan of the city of Belgrade until 2021, social and affordable housing is highlighted as a special form of housing, while destitute Roma are specified as one of the groups within the category of socially vulnerable persons who need special assistance to provide adequate housing conditions. The city of Belgrade has adopted

²¹⁹ "The Official Gazette" no. 30/2010

²²⁰ CESCR, General Comment 7 (1997). The right to adequate housing: forced evictions (3.11, par. 1 of the pact), in the paragraph 16.

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action plans for informal Roma settlements and preparation of operational plans is underway.

428. At the initiative of the Ministry for Human and Minority Rights, the Government of the Republic of Serbia has established the Working Group for Preparation of the Plan for Social Inclusion of Roma Temporarily Settled in Informal Settlements. At the same time, the Ministry of Human and Minority Rights has allocated special budget and donor funds within its three-year plan of activities that are intended to provide support to local self-government units and allow them to implement an adequate approach to improvement of housing conditions for the Roma, including funds for specific investments.

Paragraph 59 of the Concluding Observations. The Committee recalls the State party's obligation to ensure access to safe drinking water within, or in the immediate vicinity of each household. It invites the State party to identify disaggregated indicators and appropriate national benchmarks in relation to the right to water, in line with the Committee's general comment No. 15 (2002), and to include information on the process of identifying such indicators and benchmarks in its next report.

429. The Law on Public Utilities²²¹ stipulates that public utilities or other companies or sole traders who perform the public service of providing water, with approval of competent bodies of local self-government, decide on the price of products and services paid by end-users. The Directive on the Procedure for Temporary Suspension of Payment of Transfer Funds from the Budget of the Republic of Serbia to Local Self-Government Units or Payment of the Appropriate Share of Income Tax and Corporate Tax to Autonomous Provinces²²² limits the allowed increase in the prices of public utilities, including the Public Utility Companies founded by local self-governments, limiting it up to the projected increase in prices set by the Government in its Memorandum on the Budget and Economic and Fiscal Policy each year; the Directive closely regulates the procedure of temporary suspension of payment of transfer funds from the Budget of the Republic of Serbia to local self-government units.

430. Within the Survey of Standards of Living conducted by the Statistical Office of the Republic of Serbia, a section on Water Supply had a sample of 2,744 households. The results of the research show that 99% of population has access to advanced sources of drinking water – 100% in Belgrade and other cities and 97.6% in rural areas. The main source of drinking water are local water systems. Still, a significant percentage (17.4%) of rural households use closed water wells or hydrants, while additional 2.3% use open sources of water, including lakes and streams. A large number of rural households (26%) has access to urban water systems thanks to their proximity to cities, while 40% of rural communities have their own water system.

Paragraph 60 of the Concluding Observations. The Committee recommends that the State party ensure universal access to affordable primary health care, i.e. by

²²¹ "Official Gazette of the Republic of Serbia" no. 16/97 and 42/98

²²² "Official Gazette of the Republic of Serbia" no. 6/06 and 108/08

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increasing the number of family doctors and community health centres, and include all members of society, including refugees, internally displaced persons and Roma, in the compulsory health insurance scheme.

431. In the territory of the Republic of Serbia, 158 health centers have been formed that provide health care to all age groups of citizens at the primary level of health care. Health centers provide urgent medical assistance, general practice, health care of women and children, visiting nurse services, laboratory analyses, X-ray imaging and other forms of diagnostics, as well as dental prevention and treatment.

432. Residents of the Republic of Serbia exercise their rights within the compulsory health insurance scheme, including both the insured persons and members of the families who have their own basis for health insurance. For these persons, compulsory health insurance is provided on the basis of payment of contributions for compulsory health insurance. Insured persons also include persons belonging to population groups that are exposed to increased risk of becoming ill; persons whose health care is necessary to ensure prevention, elimination, early identification and treatment of illnesses with significant effect on the community; as well as persons who belong to the category of socially vulnerable population. For these persons, contributions for compulsory health insurance are provided from the budget of the Republic of Serbia. Availability of health care to all the aforementioned categories is exactly identical as the availability of health care to all other residents of the Republic of Serbia. As of December 31, 2009, there were 6,786,333 persons with compulsory health insurance.

433. All refugees are included in the health insurance scheme. The procedure of issuance of health insurance cards to members of Roma nationality has been simplified i.e. they are issued on the bases of a personal statement and registration of residence or a personal statement about the place of temporary residence.

Paragraph 61 of the Concluding Observations. The Committee recommends that the State party intensify its anti-smoking and healthy diet campaigns with a view to combating the causes of cardiovascular diseases.

434. The Republic of Serbia has adopted the Tobacco Control Strategy and one of its main goals is to reduce smoking as the most important public health measure that is necessary to improve health of the population of the Republic of Serbia. At the same time, the Law on the Protection of Population from Tobacco Smoke²²³ has been adopted that stipulates measures aimed at limiting the usage of tobacco products, and forbids smoking in all closed working and public areas, and for activities of health care, education and upbringing, social protection, social care of children including courtyard areas, as well as in open spaces used for theatrical, cinema and other performances. Implementation of the Law began on November 11, 2010. During the last four years, nine campaigns have been organized in the Republic of Serbia aimed at raising the awareness about negative effects of tobacco consumption and exposure to tobacco smoke; a national campaign entitled "Quit Smoking and Win" ("Ostavi i pobedi") was also organized.

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National Program for Prevention, Treatment and Control of Cardiovascular Disease in the Republic of Serbia until 2010 was adopted in 2010 and its main goal is defined as a significant reduction in frequency and mortality of cardiovascular disease, improvement of the quality of life of citizens and reduction of the health inequality.

Paragraph 62 of the Concluding Observations. The Committee invites the State party to identify disaggregated indicators and appropriate national benchmarks in relation to priority health concerns, including HIV/AIDS, in line with the Committee's general comment No. 14 (2000), and to include information on the process of identifying such indicators and benchmarks in its next report.

435. With the aim to inform the professional and general public, the Public Health Institute of Serbia publishes an annual publication in Serbian and English languages entitled "Health and Statistics Yearbook of the Republic of Serbia" which systematically presents fundamental data about the population, births, illnesses and deaths; numerous indicators of the health of the population; the influence of environmental factors on health; the usage of health care services; health care institutions and health workers; organization and activities of the health service. All the available data that has not been made available in the yearbook's published tables can be acquired from the relevant department of the Public Health Institute of Serbia.

436. The Government regularly monitors and reports on the progress in achieving the Millenium Development Goals, of which the following are related to health care: reduction of mortality of children (the following indicators are monitored: mortality of infants; perinatal mortality; neonatal mortality; mortality of children under the age of 5; coverage of women by antenatal and postnatal health care; mortality of children under the age of 19 caused by external factors; coverage of children by exclusive breastfeeding between birth and the age of 6 months; coverage of children by the compulsory vaccination program), improvement of women's health during the reproductive period (the following indicators are monitored: maternal mortality; fertility rate; the rate of abortions; the percentage of women using modern methods of contraception; mortality of women of fertile age), fight against HIV/AIDS, tuberculosis and other diseases (the following indicators are monitored: reduction of the HIV infection rate; advancement of the tuberculosis control using the DOTS strategy and the achieved coverage of successfully treated patients; standardized rates of mortality caused by leading causes of death; life expectancy and the percentage of population that views their health as bad or extremely bad; presence of high-risk lifestyles like smoking, alcohol consumption, improper diet, lack of physical activity), formation of centers for preventative health services within health centers in the Republic of Serbia and introduction of mechanisms for monitoring of health of children with developmental disabilities and disabled adults.

437. In 2005, the Government adopted the National Strategy for Fight against HIV/AIDS in Serbia, whose general goal is to prevent infection with HIV and sexually transmitted diseases, and to provide treatment and support to persons living with HIV/AIDS. The main components of the National Strategy are the following: prevention of HIV/AIDS in the general population, among young people and vulnerable population groups; care,

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treatment and support to persons living with HIV/AIDS; epidemiological supervision of HIV/AIDS, monitoring and reporting. For the purpose of monitoring and analysis of achieved progress in implementation of the strategy, specific indicators have been defined: 16 indicators of effect/result in the areas of prevention of AIDS and care, treatment and support to persons living with HIV/AIDS, as well as numerous indicators of coverage related to strategically planned areas of offered services.

Paragraph 63 of the Concluding Observations. The Committee requests the State party to ensure the provision of adequate counselling and other assistance to victims of physical and sexual violence and other traumatizing experiences related to armed conflict, in particular women and children, and to include information on these and other mental health services, as well as on the number of victims of such violence, in its next report.

438. In 2007, the Government adopted the Strategy of Development of Mental Health Protection together with the Action Plan. The reform in the field of protection of mental health promotes services within the community that are not discriminating, are easily available, and whose activities (treatment and prevention) are based on proofs and values, while the conventional approach based on treatment of disease should be widened to include a comprehensive, multidimensional approach to mental health and mental illness.

439. Centers for social work provide services of protection and care to all adults and children in their territory who are in any kind of social need. This includes help and assistance to victims of all forms of violence and traumatic experiences (including experiences related to armed conflicts). Procedures used by centers for social work are clearly defined and rely on the method of opening and closing of cases, using a plan of services and measures, in order to define the services and offer them to victims in cooperation with relevant systems within the community.

Paragraph 64 of the Concluding Observations. The Committee urges the State party to take effective measures to promote school attendance by Roma children and children belonging to other minority groups, as well as refugee and internally displaced children, by increasing subsidies, scholarships and the number of teachers instructing in minority languages. It also urges the State party to eradicate ethnically discriminatory attitudes by taking effective measures in the fields of teaching, education, culture and information, in order to promote understanding, tolerance and mutual respect among all ethnic groups living on its territory.

440. The Law on the Fundamentals of the Education and Instruction System, the Law on Prohibition of Discrimination and the Law on National Councils of National Minorities²²⁴ provide fundamental legal framework for advancement of protection of rights of national minorities and a form of promotion of national characteristics like language, tradition and culture.

²²⁴

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441. Strategic documents that affect improvement and advancement of education and upbringing of members of national minorities and migrants in the Republic of Serbia are the following: the National Strategy of Serbia for the Accession to the EU, the Strategy of the Ministry of Education and Sport for the Period 2005-2010, the Poverty Reduction Strategy, the Strategy for Reintegration of Returnees on the Basis of the Readmission Agreement, the Strategy for Improvement of the Status of Roma in the Republic of Serbia, the Government of the Republic of Serbia's National Action Plan for Children, the General and Special Protocol for Protection of Children and Students from Violence, Abuse and Neglect, the Guide Book for Implementation of the Special Protocol for Protection of Children and Students from Violence, Abuse and Neglect.

442. All refugee children are included in the preschool and primary education. Inclusion of internally displaced children in the education system is also satisfactory. However, the situation is different with regard to internally displaced Roma. Inclusion of children in primary schools is not satisfactory.

443. The situation is quite different when it comes to internally displaced Roma. The coverage of children by the primary education system is unsatisfactory. In 2009 and 2010, the sums of around 500 and 400 million dinars, respectively, were allocated for realization of priority measures of the Action Plan for Implementation of the Strategy for Improvement of the Status of Roma in the Republic of Serbia.

444. The Law on the Fundamentals of the Education and Instruction System has created the basis for inclusive education and an equal approach to education for children from vulnerable social groups. The Law stipulates that educational institutions are obliged to enrol children regardless of whether they have complete documentation or not; at the same time, categorization and placement of children in special schools are no longer allowed and all children undergo the same process of enrollment followed by testing to establish individual needs. The manner of financing has also been changed, introducing financing per child.

445. The educational reform implemented by the Ministry of Education includes, among other things, advancement of education of refugees, internally displaced persons and returnees from Western European countries, especially the Roma, as the most vulnerable national minority in the Republic of Serbia.

446. The Ministry of Education is implementing various international and national projects and programs intended for students, educational workers, local communities, and/or other competent ministries, aimed to create safer and more stimulative environment for children of migrants and to inform the majority population about their problems.

447. The Ministry of Education has implemented various measures to protect national minorities, especially the Roma and migrants within the system of education in the Republic of Serbia: free PPP has been introduced for all children; the Integral Action Plan for Improvement of Roma Education in Serbia has been revised and implemented; activities related to introduction of teaching assistants for Roma pupils are still

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continuing; affirmative action measures aimed at the Roma are being implemented, in cooperation with the Ministry of Human and Minority Rights and the National Council of the Roma National Minority; experts from the Ministry of Education have been engaged in activities of working groups for returnees; donors' funds have been provided for interventions; program activities of the Ministry of Education and Local Self-Governments have been joined thanks to local Roma mediators; free school textbooks have been provided for pupils in the first and second grades of primary school; enrollment in primary school without documents has been allowed. At the same time, a guide book entitled "Protection of Roma Children from Discrimination in Education" has been prepared and distributed to all primary schools. The Ministry of Education, in cooperation with the Ministry of Human and Minority Rights, is preparing a Rulebook on Monitoring and Reduction of Discrimination of Children in Education.

448. The Ministry of Education is implementing various international and national projects and programs intended for students, educational workers, local communities and/or other relevant ministries, aimed at creation of safer and more stimulative environment for children belonging to marginalized groups and children of migrants, and raising of awareness of the majority population about their problems. The project "Education for Everyone" is designed to ensure wider inclusion and higher quality of education of children from marginalized groups at the preschool and primary school levels, by the way of working with teaching assistants within educational institutions and better cooperation with local communities. Within the project, it has been planned to hire teaching assistants in 48 preschool institutions and 80 primary schools. The second part of the project is dedicated to professional advancement of pedagogues and teachers so that they can achieve effective results with children who need an inclusive approach. After the planned completion of the project in 2012, it is expected that proposed solutions will be introduced in all parts of the education system, since the Law on the Fundamentals of the Education and Instruction System defines the possibility of individual work with children and preparation of an individual educational plans for students who need support.

449. The Ministry of Culture organizes annual invitations for co-financing of programs/projects in the areas of public informing, since 2004, and culture, since 2002, which advance projects that improve understanding, tolerance and mutual respect between all ethnic groups living in the territory of the Republic of Serbia. At the same time, the Ministry of Education has realized a range of activities within the Roma Decade whose goal was to utilize the media, as well as various cultural content, to remove obstacles and prejudices related to the sensitive and vulnerable Roma population.

Paragraph 65 of the Concluding Observations. The Committee recommends that the State party intensify its efforts to promote respect for the cultural values of ethnic communities in order to enhance mutual tolerance and understanding. The Committee requests the State party to include information in its next report about the measures taken to implement recommendations made by the National Councils of the Roma and other minorities in Serbia.

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450. The Ministry of Culture supports projects of the National Council of the Roma National Minority and civil society organizations in the fields of culture, the media and public informing, by the way of public contests. The Ministry of Culture organizes training of members of national minorities aimed at teaching skills necessary to prepare project proposals. In 2007, the "Guide to the Procedure of Public Contests for National Minorities" was published and a training course was organized in 10 citizens of the Republic of Serbia. The training was organized by the Ministry of Culture in cooperation with national councils of national minorities and local partners in the cities where the courses were held.

Paragraph 66 of the Concluding Observations. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society and to inform the Committee on all steps taken to implement them in its next periodic report. It also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

451. Within the reform of the system of reporting that has been implemented by the Ministry of Human and Minority since 2008, the associations are actively included in preparation of all state reports about implementation of international agreements in the area of human rights.

B. Information about individual articles of the International Covenant on Economic, Social, and Cultural Rights

Article 1. The right to self-determination

452. The Republic of Serbia is the state of Serbian people and all citizens living in it, based on rule of law and social justice, principles of civil democracy, human and minority rights and freedoms, and association with European principles and values. Sovereignty originates from citizens who realized it by the way of referendum, popular initiatives and via their freely elected representatives. No state body, political organization, group or individual can take away this sovereignty from citizens nor create a rule contrary to the freely expressed will of the citizens.²²⁵

Article 3. Gender Equality

453. The National Strategy for Improvement of the Status of Women and Advancement of Gender Equality is an integral part of the total changes in the society and is coordinated with other strategic documents, especially the Strategy for Poverty Reduction in Serbia and Millenium Development Goals of the UN. The gender aspect is also present in other national strategic documents: the Strategy of Sustainable Development, the National Strategy on Ageing, the Strategy for Improvement of the Status of Disabled Persons and the Strategy for Improvement of the Status of Roma. An Action Plan has been prepared for implementation of the National Strategy for Improvement of the Status of Women and Advancement of Gender Equality.

454. Presidents of the Parliament, the Constitutional Court and the Supreme Court of Cassation are women. Among the representatives in the National Parliament, 51 (20.4%) are women. In the Government, out of 24 ministries, five are headed by women. At the local level, women comprise 27% of councilors. There are seven women among the 159 presidents of municipalities. In the lists of elected judges, 1.703 out of 2.399 judges are women.

455. In Serbian Armed Forces, there are 1,291 female employees: 18 officers (0.4%), 27 non-commissioned officers (0.37%), 355 professional soldiers (5.62%) and 891 civilian employees (27.14%). Out of the total number of women employed in the defense system, 7% are military professionals (professional soldier, non-commissioned officers and officers). One female officer, two female non-commissioned officers and nine female civilian employees occupy operational positions in Serbian Armed Forces.

456. The Republic of Serbia has 10 female ambassadors and four female consuls general. According to the Law on Gender Equality, at least 30% of members of elected or appointed delegations representing the Republic of Serbia have to belong to the less represented gender.

²²⁵

The Constitution of the Republic of Serbi, articles 1 and 2.

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457. During implementation of the National Employment Action Plan for 2009 and the Program of Active Employment Policy, employment of women was realized through the following activities of the National Employment Service involving the indicated percentage of female participants: realization of individual plans (51.9%); job fairs (56.03%), the job-seeking club (72.85%); completed training for active seeking of employment (61.56%); self-efficiency training (76.25%); the program for additional training and education (56.89%); subsidies for self-employment (41.07%); through employers' subsidies (47.25%); public works (35.95%).

458. The largest number of women is employed in the following sectors of economy: agricultural production, forestry and water management – 24.5%; wholesale and retail trade and repairs – 17.7%; processing industry – 15.3%; health care and social work – 11.4%.

Article 6. The right to work

459. In the Republic of Serbia, employment is established by the way of employment contracts concluded in written form, while rights and obligations are realized through employees' labor. The employment relationship has both a contractual and status-related character.

460. The Labor Inspectorate, as an administrative body within the Ministry of Labor and Social Policy, performs supervisory inspection activities in the areas of occupational health and safety and labor relations regarding the enforcement of the Law on Labor, the Law on Occupational Health and Safety²²⁶, the Law on Sole Proprietorship²²⁷, the Law on Companies²²⁸, the General Collective Contract, collective contracts, general acts and employment contracts regulating the rights, obligations and responsibilities of employees in organizations, legal entities and other forms of organization, including institutions. Inspections are performed at employers registered with the Business Registers Agency.

461. The strategy for reduction of illegal employment is a high-priority task for the Inspectorate in 2009, the same as in previous years, and is one of the indirect goals in the process of implementation of the National Employment Strategy.

462. The issue of illegal employment is still present, but is not as widespread as in previous years. Illegal employment is more frequent in the private sector and is especially related to trading, catering and handicraft industries. Most often, the hired persons belong to the categories of the unemployed, refugees, displaced persons, retirees, pupils and students, as well as persons whose employees have ceased their operations i.e. who have not been paid any salaries for a long time.

²²⁶ "Official Gazette of the Republic of Serbia" no. 101/05.

²²⁷ "Official Gazette of the SRS" no. 54/89 and 9/90 and "Official Gazette of the Republic of Serbia" no. 46/91, 53/95 and 35/02.

²²⁸ "Official Gazette of the Republic of Serbia" no. 125/04.

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463. Comparative analysis of the data regarding the number of illegally employed persons and the number of persons who have obtained employment after the inspection show that in 2005 there were 28,735 persons who were found at work, out of which 21,563 consequently obtained employment. In 2006, there were 16,205 persons who were found at work, out of which 11,324 consequently obtained employment; in 2007, there were 10,448 persons who were found at work, out of which 7,517 consequently obtained employment; in 2008, there were 9,054 persons who were found at work, out of which 6,394 consequently obtained employment. In 2009, there were 5,734 persons who were found at work, out of which 4,178 consequently obtained employment.

464. In 2009, the preventative role of labor inspectors was very significant: on one side, it was suggested to accountants hired by employers/entrepreneurs that employment contracts should be concluded, while, on the other side, the employers who were inspected were ordered to conclude contracts in written form with their employees regarding the missing contractual elements related to employment.

Article 7. The right to fair conditions of employment

465. The Law on Labor regulates the minimum wage. All employees in the Republic of Serbia have the right to minimum wage for standard performance and full-time working hours or time at work that is equivalent to full-time working hours. Employers are allowed to agree on the minimum wage with employees. The minimum wage is set in accordance with decisions made by the Social and Economic Council. If the Council fails to make decision no later than 10 days after the beginning of negotiations, the decision on the amount of the minimum wage is made by the Government. The amount of the minimum wage is established as a net amount per hour of work for the period of at least six months and in the subsequent period cannot be set to a lower amount as compared to the previously established amount. The minimum wage amounts to around 45% of the average "net" salary, and allows purchase of 1.44 minimum consumer goods baskets.

466. The Law on Labor regulates areas that ensure harmonization of the professional, family and personal lives, like working hours, limitation of overtime work, annual leaves and days off work, including the right to maternity leave. In each calendar year, employees have the right to annual leave as defined by the general act and employment contracts, which cannot be shorter than 20 workdays; the legal minimum of 20 workdays is increased on the basis of work performance, conditions at work, work experience, level of education and other criteria defined by the general act or employment contracts.

467. The Law on Labor stipulates the cases when employees have the right to salary compensation, while general acts (collective contracts or labor rulebooks) may specify other cases of a paid leave. According to the Labor Law, employees have the right to salary compensation during: days of public holidays that are not workdays; the annual leave; military exercises and appearances summoned by state bodies; absence from work due to temporary inability to work for up to 30 days; suspension of work or reduction of the volume of work that has occurred without any fault of the employee, for up to 45 workdays in a calendar year; suspension of work ordered by a competent state body or a

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competent employer's body because of the failure to ensure occupational safety and health which are a necessary precondition for further operations without endangering lives and health of employees or other persons.

468. Employees also have the right to paid absence from work of up to seven workdays in a calendar year in the following cases: entering into marriage; childbirth; serious illness of a close family member; as well as five workdays in the case of death of a close family member and two days for each instance of donation of blood, including the day when the donation was performed. During the absence, employee have the right to salary compensation in the amount of the average salary in the previous three months, in accordance with the general act and employment contracts.

469. The cases in which employers may approve unpaid leave, as well as the duration of the unpaid leave, are not regulated by law. Employers may regulate this issue by the general act or employment contracts. During the unpaid leave, employees' rights and obligations related to employment are temporarily suspended, unless stipulated differently by law, the general act and employment contracts with regard to certain rights and obligations.

470. Employees who are absent from work because of the following: military service or subsequent military service; transfer to a work position abroad ordered by the employer or within international-technical or educational-cultural cooperation programs, in diplomatic, consular or other representative offices; temporary transfer to a work position within other employers; election or appointment to a position within a state body, trade union, political organization or other public positions that requires temporary suspension of work with the employer; serving of a prison sentence or a compulsory safety, correctional or protective measure, for up to six months; have the right to temporary suspension of rights and obligations acquired at work and on the basis of employment. These rights are also recognized to spouses of employees who have been transferred to work positions abroad within international-technical or educational-cultural cooperation programs, in diplomatic, consular or other representative offices.

Article 8. The right to establish and join trade unions

471. Employees are guaranteed the freedom to organize and operate trade unions without required approval of registration. In accordance with the Law on Labor, trade unions are autonomous, democratic and independent organizations of employees which employees are free to join voluntarily in order to represent, improve and protect their professional, labor, economic, social, cultural and other individual and collective interests. Trade unions are registered in accordance with law and other regulations. The procedure of registration with the Register is stipulated by the Rulebook on Registration of Trade Unions.

472. The Law on Police stipulates that police employees' right to organizations and activities related to trade unions and other professional and other areas must be exercised

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in accordance with the law. At the same time, in accordance with the Law on the Army of Serbia,²²⁹ professional members of Serbian Armed Forces have the right to organize trade unions, in accordance with Government's regulations.

473. Trade unions are formed in accordance with their general acts that regulate goals, organization, election of trade union's bodies, membership in alliances and international trade union organization, as well as all other issues of significance for activities and actions of trade unions. Employees have the right to directly, or through their representatives, create associations, participate in negotiations about collective contracts, amicably solve collective and individual labor disputes, have consultations, receive information and express their opinions about significant labor-related issues.

474. Collective contracts are acts that regulate rights, obligations and responsibilities related to or based on employment. The law does not stipulate the procedure and manner in which negotiations about conclusion of collective contracts take place, except that the law requires that collective contracts must be concluded no later than 60 days after the day of inception of negotiations.

475. During the negotiating procedure aimed at conclusion of a collective contract with the employer, the representative trade union is required to cooperate with the trade union whose members comprise at least 10% of the employer's workforce, for the purpose of articulating the interest of employees who are the members of such trade union. If it is not possible to reach agreement on conclusion of a collective contract during a period of 45 days after the commencement of negotiation, participants may form arbitration in order to solve disputed issues. Composition, procedures and implementation of the arbitration decision are agreed upon by the participants in the process of conclusion of the collective contract. The period necessary to reach verdict cannot be longer than 15 days after the day of beginning of arbitration.

476. The Law on Amicable Settlement of Labor Disputes²³⁰ stipulates that in order to achieve agreement it is possible to hire a mediator during negotiation. Aside from this, participants in the process of concluding collective contracts are allowed, in the case of disputes related to negotiation of collective contracts or their implementation, to approach the Republic Agency for Peaceful Settlement of Labor Disputes. If the collective contract is being concluded in sectors of public interest, and if there exists a dispute related to conclusion, modification, amending or implementation of the collective agreement, participants are obliged to initiate peaceful settlement proceedings in order to solve the dispute.

477. Depending on their level, there are general collective contracts, special collective contracts and collective contracts with the employer. The general and the special collective contract, including their modifications and amendments, are registered with the ministry competent for labor relations. These collective contracts are then published in

²²⁹ "Official Gazette of the Republic of Serbia" no. 116/07 and 88/09, article 14

²³⁰ "Official Gazette of the Republic of Serbia" no. 125/04 and 104/09

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the "Official Gazette of the Republic of Serbia". Collective contracts can be concluded for a period of up to three years.

478. The minister may decide that the collective contract or some of its provisions can be applied to employers who are not members of the employers' associations that participate in the collective contract. The minister may make such a decision if there are justified reasons, and especially in two cases: in order to implement the economic and social policy in the Republic of Serbia, with the aim to ensure equal working conditions that constitute a minimum of employees' rights related to or based on employment; and in order to reduce differences in salaries within certain branches of economy, groups, subgroups or activities, which differences have a significant influence on the social and economic position of employees, resulting in unfair competition, provided that the collective contract whose scope is being extended would bind employers who employ not less than 30% of employees in a certain branch of economy, group, subgroup or business activity.

The right to strike

479. The Constitution of the Republic of Serbia stipulates that employees have the right to strike, in accordance with the law and collective contracts. The right to strike may be limited only in accordance with law, taking into account the form and type or activity. According to the Law on Police, police employees are not allowed to strike in the case of: war or immediate risk of war or state of emergency; armed rebellion, uprising or other forms of threatening democracy and constitutional order of the Republic of Serbia or the fundamental freedoms and rights; a natural disaster or immediate risk of natural disaster in the area of two or more regional police administrations of the Ministry or in the whole territory of the Republic of Serbia; other disasters and accidents that hinder normal everyday activities and threaten safety of people and property; risk of large-scale violations of public order. In accordance with the Law on the Army of Serbia,²³¹ professional employees of the Serbian Army are not allowed to strike.

Article 9. The right to social security

Financial support to family and children

480. Rights related to social security, which are covered by the activities of the Ministry of Labor and Social Policy, include the financial support to family and children. The rights stipulated by the Law on Financial Support to Families with Children²³² are as follows: compensation of salary during maternity leave, absence from work due to care of child, and absence from work due to special care of child; parental allowance; children's allowance; compensation for costs of preschool services for children without parental care; compensation for costs of preschool services for children with developmental problems; subsidy for costs of preschool services for children from destitute families. Exercise of these rights is administered by the Republic, except for the subsidy for costs

²³¹ Article 14.

²³² "Official Gazette of the Republic of Serbia" no.16/02 , 115/05, 107/09

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of preschool services for children from destitute families which is administered by local self-government, in accordance with law. Aside from this, if local self-governments can provide appropriate funds, they may define other rights, extend the coverage of the existing rights, or create more favorable conditions for their realization.

Children without parental care

481. Children without parental care are specifically protected by the Family Law. According to the Analysis of Reports on Activities of Institutions of Social Protection in the Republic of Serbia for 2008, prepared by the Republic Institute for Social Protection, among the users of services of centers for social work, within the group 'children and youth' (172,381 users), there were 5.7% or 9,790 children and youth without parental care, while the same number in 2007 amounted to 9,572 children and youth. Also, it was noted that children with disabilities and children with developmental problems (12,004 children) include a certain number of children without parental care. In December 2008 there were 1,516 children at risk from the lack of parental care, comprising 12.6% of the total number of registered children and youth with developmental problems. Using as the basis the analysis of data about active cases of children at the end of 2008 (8,664 children without parental care) disaggregated by age and gender, it was noted that the most numerous group consists of children aged 8-17 and that male children are slightly more numerous than female children and youth.

482. Services of social and family legal protection are funded by the budget of the Republic in the case of children without parental care and children with disabilities. With regard to children without parental care, it is evident that there is an increased number of measures, forms and services in the domain of public authority: adoption, care, temporary care, and professional training. The most significant increase of measures and services related to these children was noted with regard to services of placement in foster families and financial welfare. Reduction of services related to these children was noted with regard to services of placement in a social protection institution, allowance for care by other person, and increased allowance.

483. In 2008, children with disabilities have used an increasing number of measures and services financed by the budget of the Republic of Serbia, except for the service of placement in a social protection institution. According to data collected by the Republic Institute for Social Protection during preparation of the report on activities of centers for social work in the Republic of Serbia in 2009, there were 9,790 (out of the total number of 164,772) children and youth without parental care in 2008, while in 2009 there were 11,252 children and youth without parental care (out of the total number of 186,592).

484. Social and family legal protection to non-citizen families and children in the Republic of Serbia is provided in cases of social need i.e. in a situation when it is necessary to provide non-recurring assistance in the field of social and family legal protection (non-recurring financial aid, temporary housing in an institution or a housing center, temporary care and protection); at the same time, their consular representative office is informed about these activities. Communication with other countries is

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performed by the Ministry of Labor and Social Protection, in accordance with administrative procedure regulations.

Pension and disability insurance

485. The Law on Old Age Pension and Disability Insurance²³³ stipulates the right to the minimum pension. This right is exercised by insured persons whose pensions are lower than the lowest legal amount (guaranteed minimum). Prescribed conditions for acquisition of the right to old age pension are as follows: at the age of 65 (men) or 60 (women) and with a minimum of 15 years of insurance; after 40 (men) or 35 (women) years of insurance and at minimal age of 53; after 45 years of insurance (same for both insured men and insured women).

Article 10. The right to protection of family

Maternity leave

486. In 2008, the Government of Serbia adopted the Birth Incentive Strategy. The Strategy includes activities aimed at direct financial support to families, active measures for employment of young unemployed parents, more favorable conditions for housing of parents with children, development of various programs and services in preschool institutions and schools, development of various services offered to families, strengthening of parental competence, maintaining and advancement of parents' and children's health.

487. Employed women have the right to maternity leave, absence from work due to care of child, and absence from work due to special care of child. Employed women have the right to begin maternity leave on the basis of finding issued by appropriate health institution at the earliest 45 days and not later than 28 days before the term for delivery. Maternity leave and absence from work due to care for child cannot last longer than 365 days after the beginning of maternity leave for the first and second child.

488. Employed women have the right to a total of two years of maternity leave and absence from work due to care of child: for the third, fourth and each subsequent child; the same right is granted to first-time mothers who gave birth to three or more children, and to women who have given birth to one, two or three children in previous deliveries, while subsequently giving birth to two or more children in a single delivery.

489. After the expiry of maternity leave and absence from work due to care of child, parents of children who need special care because of health problems have the right to be absent from work or to work half-time until not later than the child's age of five.

490. The right to maternity leave and absence from work due to care of child can also be exercised by father, provided that he can prove that the mother is unable to take care of

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"Official Gazette of the Republic of Serbia" no. 34/03, 85/05

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the child. The right to maternity leave can be granted to child's father. The father may begin using the absence from work due to care of child three months after his wife's delivery. The same right is granted to the father even if mother is unemployed.

Article 11. The right to appropriate standard of living

The poverty threshold

491. The Poverty Reduction Strategy defines poverty as a multidimensional phenomenon, with absolute and relative thresholds of poverty used to measure poverty in the Republic of Serbia.

492. The main source of data for monitoring of poverty is the Survey of Standards of Living conducted in 2003 and 2007. Data taken from the 2007 Survey of Standards of Living show that poverty in this period amounted to 6.6% and that the percentage of people under the poverty threshold was reduced by half as compared to 2003.

493. Aside from the Survey of Standards of Living, poverty in the Republic of Serbia is currently being measured using the Household Consumption Poll. The absolute threshold of poverty, as well as the nationally specific indicator of the relative threshold of poverty, are being measured on the basis of aggregate consumption. The relative threshold of poverty is calculated in accordance with EU indicators on the basis of income. The Household Consumption Poll is regularly conducted by the Statistical Office of the Republic of Serbia on the basis of recommendations by Eurostat and the International Labor Organization. According to the Household Consumption Poll, after the period of decrease and stagnation of the number of people below the poverty threshold (6.1% in 2008), during 2009 the number of people below the absolute threshold of poverty has increase (6.9% in 2009).

Article 12. The right to health

494. Citizens of the Republic of Serbia, as well as other persons who reside or live in the Republic, have the right to health protection in accordance with the Law on Health Care, and the duty to maintain and improve their own and other persons' health, as well as the living and working environment. The care of population's health is being implemented at the level of the Republic, autonomous provinces, municipalities, cities, employers and individuals. Within the social care of health, health care is provided that includes the following: maintaining and advancement of health; diagnosis and reduction of disease risk factors; knowledge and habits regarding healthy lifestyle; prevention, reduction and early diagnosis of illness; timely diagnosis, treatment and rehabilitation of the ill and injured; information that citizens and individuals need to be able to act responsibly to exercise their right to health.

495. The rights from the compulsory health insurance scheme are as follows: the right to health protection; the right to compensation of salary to insured persons during temporary

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inability to work; the right to compensation of transportation costs related to health care services. The right to health protection provided by the compulsory health insurance scheme includes: measures of prevention and early diagnosis of illness; examination and treatment of women related to planning of family size and during pregnancy, childbirth and maternity for up to 12 months after delivery; examinations and treatment in case of illness or injury; stomatological examinations and treatment; medical rehabilitation in case of illness or injury; medicines and medical means; prosthetics, orthoses and other orthopaedic devices to facilitate movement, standing and sitting; speech, sight and hearing aids, stomatological and other devices.

Article 13. The right to education

Main goals of education

496. The right to education is regulated by the Constitution of the Republic of Serbia²³⁴, the Law on the Fundamentals of the Education and Instruction System²³⁵ and the Law on Higher Education.²³⁶ The adopted strategic documents in the area of education are the following: the Strategy of Development of Vocational Education and the Action Plan for Development of Secondary Vocational Education, as well as the Strategy for Development of Education of Adults in the Republic of Serbia.

497. Primary goals of education and upbringing in the Republic of Serbia are the following: complete intellectual, emotional, social, moral and physical development of each child and pupil, in accordance with their age, developmental needs and interests; acquisition of high-quality knowledge and skills, formation of values and linguistic, mathematical, scientific, artistic, cultural, technical and computer literacy necessary for life and work in today's society; development of ability to communicate, achieve dialog, feel solidarity, realize high-quality and efficient cooperation with others, work as a part of a team, and maintain friendships and acquaintanceships; development of awareness about the significance of sustainable development, protection and preservation of natural environment, ecological ethics and protection of animals; formation of attitudes, opinions and values; development of personal and national identity; development of awareness and a sense of belonging to Serbia; respect for and cultivation of Serbian language and own language, tradition and culture of Serbian people, national minorities and ethnic communities, and other nations; development of multiculturalism, respect for and preservation of national and global cultural heritage; development of and respect for racial, national, cultural, linguistic, religious, gender and age equality; tolerance and respect for differences.

498. Preparatory preschool program is compulsory for at least nine months and four hours a day; it is financed for the period of 12 months before enrollment at school. Primary education and upbringing from the first to eight grade is compulsory and free. Secondary education is free in state schools for full-time and part-time students, under

²³⁴ Article 71.

²³⁵ Article 6.

²³⁶ Article 8.

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equal conditions for all. Passing of the entrance examination is a required precondition for four-year schooling. Persons who have acquired secondary education and want retraining or additional training, or wish to acquire special or vocational training, are required to pay school fee whose amount is set by the Ministry of Education depending on the type of education. In order to achieve full equality in education, certain attendees or groups of attendees may be freed from the obligation to pay school fee. All citizens have access to higher education under the same conditions.

Educational profiles

499. In the school year 2009/2010, there were 62 active, modernized educational profiles within 13 fields of work. School directors are trained to manage educational institutions in accordance with today's standards; teachers, who teach up-to-date educational profiles, have completed extensive training in the ability to convey their knowledge which has been harmonized with aims and results, as well as training in ability to cooperate with the local community and social partners, including training in new specific methods of teaching school curricula. Schools are equipped with up-to-date equipment necessary to teach school programs. The structure of modules allows acquisition of knowledge, skills and abilities (competences) and interdisciplinary and inter-subject linking. Curricula of vocational schools are being constantly updated. At the moment, in the school year 2009/2010, there were 43 trial educational profiles in four-year vocational secondary schools, and 18 trial educational profiles in three-year vocational secondary schools (in 178 secondary vocational schools); trial computer course is being taught in 17 grammar schools, while trial mathematical course is being taught in 3 grammar schools (for gifted pupils of 7th and 8th grades of primary schools). As of school year 2010/2011, curricula and teaching programs of 9 educational profiles will be substituted and modernized (7 in the area of agricultural production, manufacturing and processing of food; 1 in the area of electrical engineering; and 1 in the area of geodesy and civil engineering). Within the Program of Reform of Vocational Secondary Education as a part of innovations in the system of education, trials have been introduced in 9 areas: agricultural production, manufacturing and processing of food; mechanical engineering and metalwork; geodesy and civil engineering; electrical engineering; forestry and wood processing; chemistry, nonmetals and graphics; economy, law and administration; health care, social protection and traffic.

Members of national minorities

500. Members of national minorities, directly or via their representatives, within their collective rights, participate or make their own decisions on individual issues related to their culture, education, informing and official use of language and writing system. When education and instructing activities are realized in Serbian language, members of national minorities are given the possibility to study their own history, tradition and culture during the course Native Language with Elements of National Culture (realized for members of Croatian, Bosniak, Bunjevac, Macedonian, Bulgarian and Roma national minorities). Classes can be held in a national minority language (teaching is realized in Hungarian, Romanian, Ruthenian, Slovakian, Turkish, Croatian and Albanian languages) or in two

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languages, if there are at least 15 interested students²³⁷, or after approval by the minister in case of smaller groups (realized for members of the Bulgarian, Hungarian, Slovakian and Romanian national minorities). Apart from the subject 'Native Language with Elements of National Culture', the subject 'Civic Education' also offers a wide range of opportunities for intercultural upbringing and education.

501. The autonomous province of Vojvodina was tasked with the adoption of education programs for primary and secondary education and upbringing for members of national minorities, at the proposal of National Councils of National Minorities and on the basis of the opinion of the National Education Council²³⁸, while the duties of the Institute for Advancement of Education and Upbringing related to educational work performed in languages of national minorities have been given to the Pedagogical Institute of Vojvodina. Primary schools may also teach individual education programs in a national minority language intended for pupils who do not speak the language in which lessons are given.

502. In accordance with the Law on Higher Education, institutions of higher education are allowed to teach education programs in languages of national minorities if such programs have been accredited. Adoption of education programs and deciding on their content is within the scope of activities of autonomous institutions of higher education (universities, colleges, vocational academies, and vocational colleges), in accordance with the principle of autonomy. All regulations that have been adopted as a part of the educational reform are harmonized with the recommendations of the Council of Europe.

Article 15. The right to culture

503. The Law on Culture²³⁹ specifies the principles of cultural development in the Republic of Serbia, which are the following: freedom of expression in the fields of cultural and artistic creative work; autonomy of cultural subjects; openness and availability of cultural content to the public and citizens; respect for cultural and democratic values belonging to the European and national traditions and for the diversity of cultural expression; integration of cultural development into the social, economic and political long-term development of the democratic society; democracy of cultural policy; equal position of all subjects regarding formation of institutions and other legal entities in the field of culture; decentralization in decision-making, organizing and financing of cultural activities; stimulation of cultural and artistic creative work and preservation of the cultural and historical heritage; promotion of sustainable development of the cultural environment as an integral part of the living environment. The Law, aside from the existing practice of giving awards for most significant contributions to national culture, also stipulates introduction of an award for stimulation of cultural creativity. In accordance with the Law, the cultural policy is realized through the National Cultural Council.

²³⁷ The Law on Primary Schools, article 5.

²³⁸ "Службени гласник РС", бр. 6/02, 101/07, 51/09

²³⁹ "Official Gazette of the Republic of Serbia" no. 72/09

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504. Public contests for financing of projects and programs are a part of regular procedures of the Ministry of Culture that are being constantly improved. The year of 2007 saw the introduction of the public contest related to creative work of national minorities and ethnic groups. In 2008, a public contest was introduced that is intended for Serbs living abroad – children, youth, disabled persons – and related to scientific and research works, as well as translation of Serbian literature to other languages.

505. As a special measure aimed at decentralization of culture in 2009, a project entitled 'Serbia in Serbia' ('Srbija u Srbiji') that includes guest tours of programs of national institutions and renowned artists in provincial and lesser developed regions of the Republic of Serbia.

506. In 2007, the system of national pensions was introduced in a form of permanent monthly allowance, independently from any existing pensions, for significant individual contribution to culture.

507. The Ministry of Culture organizes annual public contest for co-financing of projects/programs in the field of public informing whose contents contribute to realization of the right to objective public informing of all categories of the society, especially using specific information technologies and programs intended for children and youth.

Protection from abuse of scientific and technical progress

508. The latest legislative changes related to protection of human dignity and children's rights from the abuse of scientific and technical progress introduce a criminal act (within the chapter XVIII of the Criminal Code as the article 185-b) that is defined in the following way: "Usage of computer networks or other technical means of communication to commit criminal acts against gender freedom of juveniles". In 2009, as a part of the campaign "Protection of Children on the Internet", the Ministry of Telecommunications and Information Society has organized numerous round tables and discussions in more than 120 cities in Serbia. Brochures for children and parents were published, and a TV advertisement and a web site with detailed information were created. On February 10, 2009, the Ministry declared the year of 2009 to be the year of protection of children on the internet.

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ANNEX 1

ANNEX 1

*IMPLEMENTATION OF THE INTERNATIONAL PACT
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN
KOSOVO*

Introduction

1. The Committee on Economic, Social and Cultural Rights at its 34th session, in the eleventh, twelfth and thirteenth meeting held on May 2 and 3, 2005, discussed the Initial Report on Implementation of the International Covenant on Economic, Social and Cultural Rights in the state union of Serbia and Montenegro in the period between 1990 and 2002²⁴⁰.
2. Having taken into consideration the explanation offered by the national delegation of Serbia and Montenegro²⁴¹ at the time, about the inability to submit report on performance of their duties related to the state of human rights in Kosovo on the ground, in its Concluding Observations²⁴², the Committee on Economic, Social and Cultural Rights specified the following:

“The Committee takes note of the State party’s explanation about its inability to report on measures adopted and progress made in achieving the observance of the rights recognized in the Covenant with regard to the province of Kosovo and Metohija, where civil authority is exercised by the United Nations Interim Administration Mission in Kosovo under Security Council resolution 1244 (1999) of 10 June 1999. The State party suggested that the Committee should invite the Mission to submit to the Committee a supplementary report on the implementation of the Covenant in Kosovo. The Committee, however, calls upon the State party to request the Secretary-General to provide it with information collected by the Mission, in accordance with paragraph 11 (j) of Security Council resolution 1244 (1999), on the enjoyment in Kosovo since 1999 of the rights recognized in the Covenant and, without prejudice to the legal status of Kosovo, on the

²⁴⁰ E/1990/5/Add.61

²⁴¹ On February 4, 2003, Federal Republic of Yugoslavia changed its name into Serbia and Montenegro.

²⁴² E/C.12/1/Add108

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basis of such information to supplement its initial report to the Committee. In this regard, the Committee requests the State party, in cooperation with and with assistance from the Mission and local civil authorities in Kosovo, to submit the additional information with regard to the implementation of the Covenant in Kosovo by 30 June 2006.”

3. In accordance with the recommendations by the Committee, the Republic of Serbia on June 1, 2005, sent a letter to H.E. Mr. Kofi Annan, the then Secretary- General of the United Nations, drawing attention to the conclusion of the Committee regarding the submission of the Report on the Implementation of the ICESCR (hereinafter: The Covenant) in Kosovo and Metohija.

4. In his reply of 23, September 2005, the Secretary-General wrote that UNMIK had initiated the process of preparing a report on situation of human rights in Kosovo since June, 1999. He also said that “[w]hile ... it is not legally bound by the reporting obligations (under the Covenant), UNMIK is nonetheless ready to submit a report directly to the Committee on Economic, Social and Cultural Rights on the implementation of the Covenant in Kosovo. In doing so, UNMIK will be acting in recognition of its responsibilities under Security Council Resolution 1244 (1999) to protect and promote human rights in Kosovo.”

5. Acting in recognition of its responsibilities under the UN Security Council Resolution 1244 to protect and promote human rights in Kosovo and Metohija and its obligation under the Constitutional Framework to ensure the observance of internationally recognized human rights and fundamental freedoms, in October 2007, UNMIK submitted to the Committee on Economic, Social and Cultural Rights the Document on the Implementation of the International Covenant on Economic, Social and Cultural Rights in Kosovo since 1999²⁴³.

6. The comments and remarks of the Republic of Serbia on the UNMIK Report are the following:

7. The competent authorities of the Republic of Serbia carefully examined the UNMIK Document on the implementation of the Covenant in Kosovo. The Report is extensive and focused primarily on the description of the legislation and partly the activities UNMIK carried out in that regard. In fact, the Report did not reflect the actual situation on the ground. It did not rely on the relevant statistical data nor did it describe measures carried out to promote the state of human rights there.

8. While referring to a number of laws and regulations regarding human rights, UNMIK attempted to draw attention to the efforts it invested in creating the legal system. As also confirmed by numerous expert reports, the legal system in Kosovo and Metohija is characterized by sloppiness and general confusion, overlapping or lack of competence, fields regulated by more than one legal regulation, a great many outdated or anachronistic laws and by-laws and vague and inapplicable rules on mandatory legislation. In legal practice in Kosovo and Metohija, even though a provision is drafted and adopted in

²⁴³ UN/doc. E/C.12/UNK/1

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cooperation with UNMIK, its implementation is often delayed for various reasons. In fact, majority of laws passed by the Kosovo Parliament require adoption of by-laws, hiring or training experts and the administrative staff who will apply or oversee their implementation and create material and technical conditions for their practical implementation.

9. In view of the above, the general level of human rights in Kosovo and Metohija is still below minimum of international standards. Serious analysis shows there are many problems especially in the fields of discrimination and property rights.

10. The lack of firmer security guarantees still affects mostly members of minority groups whose freedom of movement is restricted, thus limiting their access to health, education and other public services. Ethnic tensions, based on negative experiences with violence, contribute to persisting feeling of insecurity among Serbs and members of other non-Albanian communities. Such atmosphere contributes greatly to extremely slow process of reintegration of internally displaced persons to Kosovo and Metohija.

Effective availability of UNMIK document

11. The Republic of Serbia expresses serious concern over delayed publication of UNMIK document or UNMIK documents in official languages used in the territory of Kosovo and Metohija – Serbian and Albanian.

12. Additional concern in this sense is caused by bad quality of submitted translation into Serbian language, which inevitably implies that this issue of significant importance for minority communities was approached with obviously insufficiently serious and unprofessional manner. All the abovementioned causes reasonable doubt in the sincerity of intentions of UNMIK to include in the process of the Document's consideration the external, constructive criticism by the non-government sector and broader public. The obviously delayed publication of the Report in the language of minorities contravenes the generally recognized right to use one's own language and runs contrary to the spirit of the Covenant²⁴⁴.

Applicability of the Covenant in Kosovo and Metohija

13. One of the main problems regarding implementation of provisions of the Covenant and the rights it guarantees in Kosovo and Metohija is the fact that the obligation of its direct implementation by the public officials has not been explicitly included in any of the relevant legislation so far.

²⁴⁴ See articles 77 and 76 of the Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights (Limburg Principles) (2-6 June, 1986).

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14. The UN Security Council Resolution 1244 established as one of the main responsibilities of UNMIK “protection and promotion of human rights.”²⁴⁵ Within its mandate, through Regulation 1999/24²⁴⁶ UNMIK defined that international human rights standards, including the ones contained in the Covenant that are an integral part of comprehensive legal corpus applicable in Kosovo, are mandatory to all persons undertaking public duties or holding public office in Kosovo and Metohija.²⁴⁷

15. While enumerating applicable international human rights instruments, UNMIK Regulation No. 2001/9 on the Constitutional Framework for Provisional Self-Government in Kosovo²⁴⁸ did not explicitly impose the equivalent obligation upon the Provisional Institutions of Self-Government the equivalent obligation to implement the Covenant. In this context, it should be noted that, even despite the omission in the list, the Covenant is still directly applicable in Kosovo and Metohija. Apart from the abovementioned Regulation 1999/24, from the pure terminological perspective, the principles contained in the Covenant are not *excluded* from the direct implementation in Kosovo and Metohija, they are just not explicitly *mentioned*. Namely, the text of the Article 3.2 of Regulation 2001/9 provides that the “Provisional Institutions of Self-Government shall observe and ensure internationally recognized human rights and fundamental freedoms, *including* those rights and freedoms set forth in... [emphasis added]”. In accordance with that, despite the seemingly limiting provisions of Articles 3.2 and 3.3²⁴⁹, the list of applicable standards and protected human rights is virtually open.

16. Apart from that, one should not forget that the relevant domestic legislation, recognized as applicable in Kosovo and Metohija in accordance with UNMIK’s Regulation 1999/24²⁵⁰, includes this Covenant, on the ground of its ratification on 2 June 1971 by the former Socialist Federal Republic of Yugoslavia. Article 210 of the 1974 Constitution of SFR Yugoslavia established direct justiciability of ratified and published international agreements.

17. Regardless of the issue of legality and legitimacy of any transfer of responsibility to other authorities, pursuant to the existing legal framework, UNMIK is obliged to respect and promote the rights guaranteed by the Covenant. The observed trend towards gradual exclusion of the Covenant from the corpus of directly applicable legal instruments in Kosovo and Metohija causes reasonable suspicion in the readiness or existence of political will on the part of the existing authorities in Kosovo and Metohija to provide consistent protection of social, economic and cultural rights. Such approach

²⁴⁵ Article 11 (j) of the UN Security Council Resolution 1244 (10 June 1999).

²⁴⁶ UNMIK Regulation 1999/24 (12 December 1999) on the Law Applicable in Kosovo, amended by the UNMIK Regulation 2000/59 (27 October 2000).

²⁴⁷ Article 1.3 (d) of Regulation 1999/24 (12 December 1999) on the Law Applicable in Kosovo. *See* articles 17 and 19 of the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights from science gathering in Maastricht 22-26 January 1997 (hereinafter: Maastricht Guidelines).

²⁴⁸ UNMIK Regulation 2001/9 (15 May 2001)

²⁴⁹ Article 3.3 of Regulation 2001/9: “The provisions on rights and freedoms set forth in these instruments shall be directly applicable in Kosovo as part of this Constitutional Framework.”

²⁵⁰ Article 1.1. of UNMIK Regulation 1999/24.

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requires precise declaration of reasons and explanation of such behavior, as well as a resolute action aimed at establishing legal security.

18. One of the obstacles to full protection of rights guaranteed by the Covenant is also the lack of structural impartiality by the Human Rights Advisory Panel, as well as the fact that the decisions of this body are not legally binding. Human Rights Advisory Panel had the duty of publishing “conclusions” on possible violations of human rights (including the ones guaranteed by the Pact²⁵¹) committed by the UNMIK²⁵² (which appoints members of Human Rights Advisory Panel) that had occurred in the period after 23 April 2005²⁵³, and, “where necessary, makes recommendations“. Such conclusions and recommendations are then submitted to SRSG, who, pursuant to Article 17.3 of the Regulation, has “exclusive authority and discretion“ to decide whether to act on those findings. Thus, the institution initially based on idea of independence and impartiality²⁵⁴ is completely devoid of the “necessary authority and independence” from UNMIK in carrying out its mandate“²⁵⁵.

19. Although Section 10 of Regulation 2006/12, which regulates the possibility that the affected party submit complaints to Human Rights Advisory Panel, took effect on 23 April 2006, Human Rights Advisory Panel was practically not functional until October 2007. The formal legal establishment of Human Rights Advisory Panel was not accompanied by the practical measures which would make submitting of complaints possible. This is due to, among other things, lack of organized information management, which would allow the interested party to learn about the existence and mandate of this mechanism. As a result of the belated and sporadic media campaign, for the first 18 months of its existence, Human Rights Advisory Panel received only 14 complaints.²⁵⁶ Members of the Human Rights Advisory Panel were appointed only in October 2007; they held their first session in November, while the Work Rule Book was adopted on 4 February 2008.²⁵⁷ Unjustified delay of establishing full functionality of Human Rights Advisory Panel, together with the already existing problem of its decision not being legally binding, additionally questioned the possibility of effective protection of economic, social and cultural rights in Kosovo and Metohija.

20. Another problem regarding availability of Human Rights Advisory Panel to the victims of human rights violations is the six-month deadline defined by Article 3.1 of

²⁵¹ *Ibid*, Article 1.2.

²⁵² *Ibid*, Article 1.1.

²⁵³ *Ibid*, Article 2.

²⁵⁴ See European Commission for democracy Through Law (Venice Commission), “Opinion on Human Rights in Kosovo: Possible Establishment of Review Mechanisms“, Opinion No. 280/2004 (11 October 2004), CDL-AD (2004) 033, Section VI B (b), emphasis on paragraph 106.

²⁵⁵ Human Rights Watch, “World Report for 2007“, page 419.

²⁵⁶ The media campaign started in February/March 2008. It was conducted through just a couple of local TV stations broadcasting their programmes almost exclusively in the Albanian language and having no audience among the non-Albanian speaking communities. Statement of Mr John J. Ryan, HRAP Executive Officer given at a meeting with legal experts of the International Organization for Migration (IOM, Project of Institutional Support to the Government of the Republic of Serbia in the Refugee/IDP Sector) on 23 July 2008.

²⁵⁷ Statement of Mr John J. Ryan, *Ibid*

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Regulation 2006/12 after the final decision (by UNMIK institutions) for addressing the Human Rights Advisory Panel, as a temporal admissibility criterion for submitting a complaint. If the contested decisions of competent bodies were made at the early period of formal existence of Human Rights Advisory Panel, during which there was no practical possibility for submitting complaints or an adequate public information campaign, the interested parties were, due to expired deadline, objectively prevented from addressing the institution in search of legal remedy.

21. During the period when Human Rights Advisory Panel practically did not function, the affected parties did not have the opportunity to refer to the Ombudsperson Institution in Kosovo for an equivalent protection either. The reason is the fact that, by UNMIK Regulation 2006/6²⁵⁸ taking effect on 16 February 2006, the jurisdiction of the Ombudsperson Institution in Kosovo to determine alleged violations of human rights committed by UNMIK was fully eliminated, leaving it in charge of only determining human rights violations committed by the Provisional Institution of Self-Government.

22. In such context, between Regulation 2006/6 taking effect on 16 February 2006 and the actual functionality of Human Rights Advisory Panel, October 2007 at the earliest, potentially interested parties were absolutely devoid of any protection in cases of violation of by UNMIK of, among others, their economic, social and cultural rights in Kosovo and Metohija.

23. After Human Rights Advisory Panel stopped working, EULEX founded its own independent mechanism for the protection of human rights under the name Human Rights Review Panel. The Panel was founded by the decisions of the European Union on 20 November 2009. Human Rights Advisory Panel has a restricted mandate and can receive complaints only from those who believe to be victims of human rights violation by the EULEX mission while carrying out its mandate.

24. According to the news published on the internet presentation of Human Rights Advisory Panel, the Panel started working on May 2010. The then acting chief of the mission Roy Reeve appointed three elected members of the Panel for the period of a year. At the first meeting, the Panel discussed organizational and working aspects and appointed Antonio Balsamo as the chairman. It was scheduled that the first regular session of the Human Rights Advisory Panel be held between 9 and 11 June 2010, and then to regularly meet in the offices it was supposed to get. The further work of this Panel is impossible to follow because their internet presentation is not active.

Prohibition of Discrimination

25. On 30 July 2004, the Assembly of Kosovo adopted the Anti-Discrimination Law, that was promulgated on 20 August of the same year by means of UNMIK Regulation

²⁵⁸ UNMIK Regulation 2006/6 (February 16, 2006) on the Institution of Ombudsman in Kosovo.

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2004/32.²⁵⁹ This law was passed in accordance with the highest standards of protection of equality²⁶⁰. The Anti-Discrimination Law prohibits all forms of discrimination²⁶¹ and protects individuals not only from the discriminatory practice of public authorities, but also from discriminatory practices of natural and legal persons (vertical and horizontal effects)²⁶². Pursuant to its *ratione materiae*, the Anti-Discrimination Law prohibits discrimination in access to and exercise of any right defined by applicable legal regulation in the Province²⁶³, provides special protection to minority communities²⁶⁴, lays down legal grounds for affirmative action²⁶⁵ and, most importantly, establishes a rather elaborate system of sanctions against any violations of its provisions²⁶⁶. Unfortunately, neither UNMIK nor the Provisional Institutions of Self-Government have undertaken measures necessary for the implementation and application of this otherwise high-quality legal text.

26. Legal protection envisaged by the Anti-Discrimination Law aimed at preventing even the most subtle forms of discrimination remains in stark contrast with everyday examples of direct discrimination which prevents individuals in Kosovo from exercising their rights guaranteed by the Covenant²⁶⁷. In fact, it is difficult even to begin an analysis of the Anti-Discrimination Act concerning the realization of economic, cultural and social rights in a situation when not even fundamental preconditions for effectiveness of its provisions have been met. The level of lack of carrying out and implementation of this Law is such that one may reasonably argue the law has not yet taken root in the Kosovo judicial system at all²⁶⁸.

27. Before analyzing the above mentioned obstacles for its implementation, we should point out the incomprehensibility of the text of laws and by-laws for its

²⁵⁹ Anti-Discrimination Law No. 2004/32 promulgated by UNMIK Regulation 2004/32 on Promulgation of the Anti-Discrimination Law, 20 August 2004.

²⁶⁰ Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (published in OJ L 180 of 19 July 2000) and Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (published in OJ L303 of 2 December 2000)

²⁶¹ Section 2 of the Anti-Discrimination Law No. 2004/32.

²⁶² *Ibid.*, Article 4.

²⁶³ *Ibid.*

²⁶⁴ Anti-Discrimination Law envisages special protection to minority communities through an explicit prohibition of discrimination in those fields which are of special significance for the survival and equal treatment of these communities. *See* Section 4, paragraph (h), (i), (k), (l), (m) Section 4 of the Anti-Discrimination Law No. 2004/32.

²⁶⁵ Section 6 of the Anti-Discrimination Law No. 2004/32.

²⁶⁶ *Ibid.*, Article 9.

²⁶⁷ “All reports on the human rights situation in Kosovo, particularly those concerning the so-called ‘vulnerable’ groups such as minority communities, persons with disabilities, women, children etc., talk about the huge marginalization of these categories of people, thereby confirming the presence of discriminatory practices in all spheres of public life.” Hilmi Jashari, *Kosovo Anti-Discrimination Law and the Role of Ombudsperson in it*, see: OMIK, *Implementing the Law on Anti-Discrimination – Challenge for Kosovo*, Pristina, 2007, p. 22

²⁶⁸ See similar conclusion of the Minority Rights Group International in its report on minority rights in Kosovo. Clive Baldwin, *Minority Rights in Kosovo under International Rule*, Minority Rights Group International, London, 2006.

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implementation. A mere glance at the Serbian version of the text of the Anti-Discrimination Law indicates a violation of the very principle on which it was founded – the prohibition of language discrimination.

28. Namely, the text of the Anti-Discrimination Law in Serbian does not respect the rules of Serbian language and replaces certain letters by their equivalents in English, while the translation itself into Serbia is of a very poor quality.²⁶⁹ The whole situation becomes much worse with the basic by-law for implementation of the Anti-Discrimination Law. There are so many grammatical and terminological errors in the Serbian version of the Administrative Instruction No. 04/2006 on Implementation of the Anti-Discrimination Law²⁷⁰ (hereinafter: “Administrative Instruction No. 04/2006”) that every attempt to grasp the meaning of provisions of this legal text remains futile²⁷¹.

29. The confusion created by the text of Administrative Instruction No. 04/2006 reaches its momentum once we notice that the length of the provision from Section 6 significantly varies depending on whether we read the article in Albanian, English or Serbian. While the English text of the Instruction contains a single paragraph, Albanian and Serbian versions of Section 6 have two paragraphs. At the same time, Serbian and Albanian versions of Paragraph 1 in this section are different.

30. When comparing all three language versions of Administrative Instruction No. 04/2006, we conclude that the text in Serbian language is of the poorest quality²⁷². This not only harshly violates the right of citizens of Kosovo who speak Serbian to acquaint themselves with their rights and obligations in a timely fashion, but it also violates the fundamental prohibition of the Anti-Discrimination Law whose implementation this administrative instructions is supposed to facilitate – the prohibition of discrimination on the grounds of language.

31. Not even the long-awaited Administrative Instruction No. 04/2006 did remove confusion about what institutions and bodies should be implementing the Anti-Discrimination Law, although that was its purpose in the first place: “*The objective of this Administrative Instruction is to set the practical rules, structural and physical facilities to apply the Anti-Discrimination Law.*”²⁷³ On the contrary, Administrative Instruction No. 04/2006 introduces additional confusion when Section 3 regulates this issue in a completely new way, by establishing the Office for Good Governance and Human Rights

²⁶⁹ For example, the entire Law contains wrong lettering for ‘ć’, ‘č’ and ‘đ’.

²⁷⁰ Administrative Instruction No. 04/2006 on implementation of the Anti-Discrimination Law, of 25 May 2006. This legal act has been unavailable to public for a long period of time. For instance, NGO Youth Initiative for Human Rights managed to get hold of its text only after it demanded from the Office of the Prime Minister a request for access to information of public importance. See: Youth Initiative for Human Rights, *Report on implementation of the Anti-Discrimination Law*, Pristina, 2007, p. 70.

²⁷¹ Milica V. Matijević, An Outline on the Implementation of the Kosovo Anti-Discrimination Law – the Serbian Perspective, see: OMIK, *Implementing the Law on Anti-Discrimination – Challenge for Kosovo*, Priština, 2007, p. 34.; OMIK, *Спровођење Закона против дискриминације – изазов за Косово*, Приштина, 2007, стр. 34.

²⁷² Youth Initiative for Human Rights, *Report on implementation of the Anti-Discrimination Law*, Pristina, 2007, p. 72.

²⁷³ Section 1 of the Administrative Instruction No. 04/2006.

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Unit within competent ministries as "bodies responsible for promotion of equal treatment in the Provisional Institutions of Self-Government in Kosovo". What we could conclude by broader interpretation of provisions of this by-law is that the said bodies have jurisdiction only for the actions of Provisional Institutions of Self-Government which they are a part of.

32. Despite legal solutions which significantly make the position of the victims of discrimination in the process easier²⁷⁴, the Anti-Discrimination Law has not come to legal life yet, which is further supported by the fact that so far there has not been a single court decision quoting its provisions²⁷⁵. This may be seen as the consequence of inactivity by the international administration in Kosovo when it comes to implementation of the Anti-Discrimination Law.

33. The special fund, intended to finance legal counselling to the victims of discrimination of Kosovo and Metohija, has not been established to date, although Section 9, Paragraph 4 proscribes that "All monies collected through the imposition of the penalties mentioned in paragraph 9.2.(b) shall be placed in a fund which will be established for the purposes of supplying free legal assistance to natural or legal persons who claim violations of the right to equal treatment under this Law." This way the lack of legal aid system intended for the victims of discrimination has become at the same time both a cause and effect of the failure to implement the Anti-Discrimination Act.

34. Failure to implement the Anti-Discrimination Law is also a result of the fact that the public is not aware of the content and scope of its provisions. Not only did the shortage of information affect the segment of population which is most frequently exposed to discriminatory acts of public and private entities, such as minority communities, women, disabled persons, etc., but the content of its provisions remains unfamiliar even to most of judges and lawyers in Kosovo and Metohija²⁷⁶. Non-government organizations are not acquainted with it any better either. The provisions of the Law which allow organizations of civil society to "institute or support legal actions either on behalf of a claimant or claimants, with their consent" remains only potentially powerful but unused tool at the disposal of the civilian sector²⁷⁷. Insufficient number of superficially carried out campaigns on protection against discrimination, as well as the lack of educational programs on the fight against discrimination intended for judges, lawyers and employees of state-owned companies, considerably contributed to this Law not taking root.

²⁷⁴ In its Section 8, the ADL transfers the burden of proof to the plaintiff once the discriminatory practice was established *prima facie*.

²⁷⁵ The only claim with claimant invoking provisions of the Anti-Discrimination Law was filed by the Gorani community because of administrative silence, namely, because of lack of response on the part of the Ministry of Education, Science and Technology in the administrative proceedings. The Supreme Court rejected this claim by its decision of October 2007.

²⁷⁶ Hilmi Jashari, *Kosovo Anti-Discrimination Law and the Role of Ombudsperson in it*, see: OMIK, *Implementing the Law on Anti-Discrimination – Challenge for Kosovo*, Pristina, 2007, p. 25

²⁷⁷ Section 7, paragraph 6 of the Anti-Discrimination Law.

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35. One of the more progressive features of the Anti-Discrimination Law is the obligation of ensuring not only equal opportunity, but also the equal opportunity for all people who live in Kosovo and Metohija to realize those opportunities. Thus in Section 6, Paragraph 2, the legislator stipulates that all persons exercising a public function shall ensure that that legal or natural persons awarded a public contract, loan, grant or other benefit, “will execute a document which states that they will act in compliance with this Law and will respect and promote a non-discrimination policy, as they carry out their obligations related to such a public contract, loan, grant, or other benefit.” Also, the following paragraph of the same Section stipulates that “If the party, which obtains a public contract, loan, grant or other benefit as referred to in paragraph 6.2, violates any of the provisions of this law, such as public contract, loan, grant or other benefit, shall be declared null and void by the body that awarded it.”²⁷⁸

36. Implemented together with the prohibition of indirect discrimination (Section 3.6) and prohibition of discrimination in employment (Section 4.a), the said provisions become a powerful tool for preventing segregation. However, there is no record about a single case of awarding a public contract or other benefits where the relevant legal person committed to ensure measures for prevention of discrimination. This applies equally for tenders organized by international administration, as well as to those organized by the Provisional Institutions of Self-Government. This why discrimination is still dominant in Kosovo and Metohija in the closing of public tenders, in public companies and in access to employment, and minority communities and especially endangered groups remain “disproportionately affected” by high level of unemployment and poverty.²⁷⁹

37. “The principle of fair representation of all persons and all the members of communities to employment in the frame of public bodies of all levels” is one of the three fundamental principles of this Law.²⁸⁰ Its realization is practically prevented by the lack of reliable statistic data. As the international administrator himself admits, “[b]ecause of lack of data it is difficult to assess, both at the central and the local level, the degree of discrimination against women, children, minority communities, disabled persons and other vulnerable groups”.²⁸¹ On the other hand, without reliable statistic data, every strategy for the fight against inequality which exists in Kosovo and Metohija is only an illusion of work on the fight against discrimination. As an illustration of this claim there is the “Strategy for Establishing Proportional Representation of Communities” from 2006 which has not been implemented to this very day.²⁸² Moreover, the misconception of affirmative action and attempts to use them as indicators that the “Standards for Kosovo”²⁸³ have been met, leads to perceiving the issue of employing the members of

²⁷⁸ Section 6, Paragraph 3 of the Anti-Discrimination Law.

²⁷⁹ Annex to the Letter of 7 October 2005 from the Secretary-General addressed to the President of the Security Council - A comprehensive review of the situation in Kosovo, p. 11

²⁸⁰ Article 2 (b) of the Anti-Discrimination Law.

²⁸¹ United Nations Interim Administration Mission in Kosovo, *Report on Situation of Human Rights in Kosovo since June 1999, submitted to the UN Committee for Human Rights*, February 2006, p. 41.

²⁸² *Ibid*, pages 43-44.

²⁸³ Standards for Kosovo.

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communities in public services in Kosovo has "too often been seen as a question of filling a quota rather than one of providing meaningful participation".²⁸⁴ The lack of reliable statistical data undermines the likelihood of success of potential anti-discrimination litigations, thus shedding light on provision contained in Section 8, Paragraph 2, which prescribes that "a complainant may establish or defend their case of discrimination by any means, including on the basis of statistical evidence."

Work and work relations

38. In its essence, the privatisation is a political issue and can be defined as transfer of property or public sector's production into a private ownership, which is, in majority of democratic systems, subject of fierce debates among politicians, general and expert public. In Kosovo, UNMIK opted as soon as in autumn 1999 for privatisation as the main approach to resolving problems in reviving Kosovo's economy, without consulting founders of public companies and titular owners of state-owned property, and without thorough political, social or economic discussion on the best strategy for concrete situation. There has not been, then nor later, an extensive analysis of economic and social consequences of privatisation. When it comes to protection of the right to work and within work, property rights of owners of privatized property, poverty, education and economy in general, we can say that the Kosovo model of privatization implemented by the international community through Kosovo Trust Agency has no legitimacy in the sense of broader consensus of politicians and expert and general public, has no legitimacy when it comes to protection of property rights of owners of privatized property, it violates or at least does not protect but mostly endangers rights of workers in privatized companies on an ethnic basis and finally, does not have the estimation of effect on socio-economical situation, or any conclusion on the added value of its effect whatsoever.

39. Section 6 of the UNMIK Regulation 1999/01 explicitly puts state-owned enterprises under UNMIK administration and "property of, or registered in the name of the Federal Republic of Yugoslavia or the Republic of Serbia or any of its organs" (monies, bank accounts, and other property). In addition, pursuant to the relevant UNMIK regulations, Special Representative of the Secretary-General (SRSG) retains full and exclusive rights (reserved powers) and responsibility to administer publicly-, state- and socially-owned property in accordance with the relevant UNMIK legislation in force, in cooperation with the Provisional Institutions of Self-Government.²⁸⁵ In this regard we should also point out that this regulation does not envisage UNMIK authority to expropriate publicly-, state- or socially-owned property. The second international mission which exists in Kosovo, the European Union Rule of Rights Mission²⁸⁶, has no mandate to deal with property issues except in case they are subject of a criminal act.

²⁸⁴ Annex to the Letter of 7 October 2005 from the Secretary-General addressed to the President of the Security Council - A comprehensive review of the situation in Kosovo, p. 10.

²⁸⁵ UNMIK Regulation 2001/9 on Constitutional Framework for Provisional Institution of Self-Government in Kosovo, from May 15, 2001.

²⁸⁶ EULEX

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40. The privatisation in Kosovo is carried out by the Kosovo Trust Agency, pursuant to the mandate it received under UNMIK Regulation 2002/12 to administer public and socially-owned enterprises in Kosovo.²⁸⁷ For a better understanding of circumstances under which the Kosovo Trust Agency works, we must take into consideration the corpus of the so-called *applicable law*, which sets 22 March 1989 as the cut-off date regarding the former legislation of the SFRY, the Socialist Republic of Serbia, and the Autonomous Province of Kosovo and Metohija. However, the first privatizations in the Republic of Serbia (including the Province of Kosovo and Metohija) began only in early 1990s, pursuant to the laws enacted only *after* 1989, meaning that those laws did not *ipso facto* entered the corpus of currently applicable laws.

41. Section 5.3 of Regulation 2002/12 stipulates that a “subsequent transformation of an Enterprise into a different business organization form shall affect its status as a Socially-owned Enterprise only if such transformation either occurred before 22 March 1989 or, if it occurred thereafter, was: (a) Based on Applicable Law; and (b) Implemented in a non-discriminatory manner.” Unfortunately, the Regulation does not specify clearly criteria which determine what makes a discrimination and what not, nor the organ in charge of such decisions, which practically paves way for arbitrary action. That is why Kosovo Trust Agency carried out privatisation of already privatised enterprises, which even had a clear sign in their company abbreviations DOO (in English: ltd.) or AD (in English: JSC), declaring them companies with limited liability or joint stock companies, respectively. Kosovo Trust Agency did not perform due diligence, nor did it establish who is the legal owner of the property, which is unusual and inadmissible in the field of legal transactions.²⁸⁸

42. Such linear application of Regulation 2002/12 represents factual discrimination of the ownership rights, which the OSCE Mission in Kosovo writes about in its Report on Privatization in Kosovo: “The OSCE is concerned by the complexity of the Regulations and Administrative Directions related to the privatization process.”²⁸⁹ “The legislative rules governing the privatization process stipulate that the Trust Agency may sell property owned by third parties and only must pay compensation to the owners from the sales proceeds”, which “may violate international human rights standards”.²⁹⁰ In other words, a privatization as designed by UNMIK and performed by Kosovo Trust Agency may lead to expropriation without reason and without necessary measures of protection of the owner in the sense of just compensation for expropriated property. We remind you

²⁸⁷ The Kosovo Trust Agency was established by UNMIK Regulation 2002/12. The other acts which regulate the business of the Kosovo Trust Agency are: Regulation 2002/13 on founding and competences of the Special Chamber of the Kosovo Supreme Court for resolving issues from the competences of Kosovo Trust Agency; Regulation 2003/13 on the procedure for privatization, Regulation 2005/48 on reorganization and liquidation of company and their asset under administrative authority of Kosovo Trust Agency.

²⁸⁸ Kosovo Trust Agency itself admits that it does not possess sufficient data by publicly declaring that it does not guarantee that any data it publicly announces is full or authentic.

²⁸⁹ OSCE Report, *Privatization in Kosovo: Judicial Review of Kosovo Trust Agency Matters by the Special Chamber of the Supreme Court of Kosovo* (May 2008)

²⁹⁰ Concrete reference to Article 1 of the Protocol 1 of the European Convention on Human Rights.

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that the Supreme Court of Kosovo in its decision in 2008 found that certain provisions on privatisation violate Article 1 of the Protocol 1 and Article 6 of the ECHR and abolished them.²⁹¹

43. In addition to the discrimination of owners and their ownership rights, the privatisation in Kosovo and Metohija is also discriminatory against employees of privatised enterprises who are entitled to a 20 per share of the proceeds²⁹² received from the sale.²⁹³

44. The process of privatization of socially-owned enterprises in Kosovo and Metohija, as designed, violates the right to work and represents a major and insurmountable obstacle to sustainable repatriation of internally displaced persons, coming from any of the non-Albanian communities, and their subsequent integration in Kosovo and Metohija. This conclusion is based on the fact that repatriates or internally displaced persons were not given opportunity to participate in the process of privatization because of the following restrictions: lack of information²⁹⁴, lack of legal counselling and aid²⁹⁵, difficulties in obtaining necessary documentation²⁹⁶, language barriers²⁹⁷, high expenses which all former employees who try to exercise their right to participation in the

²⁹¹ This Supreme Court's decision instituted direct application of Article 1 of the Protocol 1 to, and Article 6 of, the European Convention on Human Rights.

²⁹² UNMIK Regulation 2003/13 in Section 10.1 establishes that employees shall be entitled to a share of the proceeds from the privatisation on a priority basis. This share shall be 20 per cent of the proceeds from the sale of shares of a subsidiary corporation of a Socially-owned Enterprise that is privatised pursuant to section 8 of Regulation No. 2002/12.

²⁹³ UNMIK Regulation 2003/13 establishes procedure for privatization, as well as bases, conditions and procedure for participation of employees in the process of privatization.

²⁹⁴ Pursuant to Section 10.3 of Regulation 2003/13: "The official list of eligible employees issued by the Agency shall be published, together with a notice of the right of complaint pursuant to 10.6, on two consecutive workdays and the following weekend in major Albanian language publications of general circulation in Kosovo and major Serbian language publications." The subsequent complaint then must be filed with the Special Chamber within 20 days after the final publication in the media (Section 10.6a). However, many displaced persons cannot afford to regularly buy a newspaper, and there are no newspapers of general circulation in Serbian language in Kosovo.

²⁹⁵ Majority of internally displaced persons and repatriates who can submit claims to title, ownership or interest related to property which currently is or was under administrative management of the Kosovo Trust Agency is not aware of their own rights or does not have enough knowledge about complex legal procedures pursuant to which they can exercise and protect their rights. At the same time, at the time when majority of privatization was carried out, there was almost no free legal aid in Kosovo and majority of internally displaced people and repatriates cannot afford a lawyer.

²⁹⁶ Internally displaced persons and repatriates face serious problems when attempting to obtain documents which they have to submit with their requests. Many documents, such as employment record and other relevant proof of their earlier employment in enterprises that are being privatized, were destroyed during the conflict, or are otherwise unavailable. Acquiring necessary documents demands a lot of time and financial resources.

²⁹⁷ Beside UNMIK Regulation 2005/48 which prescribes that all written materials prepared by the Kosovo Trust Agency should be published in three official languages (Section 50), all other UNMIK regulations which regulate participation of employees in the process of privatisation explicitly lack an obligation that Kosovo Trust Agency publish all forms and information in three official languages in Kosovo. There are cases when Kosovo Trust Agency was sending forms to workers who speak Serbian only in Albanian.

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profit from sale of privatized enterprises are exposed to²⁹⁸. The privatisation plan, procedures and policies set by UNMIK and the Kosovo Trust Agency failed to secure adequate preparation of rules on non-discrimination in the transformed enterprises.

45. The same problem was observed by Mr. Kai Eide, the Special Envoy of the United Nations Secretary-General for Kosovo, who says: “[...] It is important to take into account the effects of this process on the different ethnic groups. The privatization process could lead to discrimination in employment along ethnic lines and affect the economic sustainability of minority communities. This process must move forward, but in a way which safeguards the interests of the minority population during and after privatization.”²⁹⁹

46. The process of privatization in Kosovo and Metohija was launched in 2003, namely, years after exodus of the non-Albanian communities from Kosovo which was a result of imminent danger, threats or ethnic violence they had been exposed to. The exodus and its consequences³⁰⁰ were not taken into consideration when the UNMIK Regulation 2003/13 was drafted. Section 10.4 of UNMIK Regulation 2003/13 stipulates that an employee is eligible to a 20 per cent share if registered as an employee with the Socially-owned Enterprise *at the time of privatisation* (emphasis added), therefore, in 2003³⁰¹, and is established to have been on the payroll of the enterprise for no less than three years. This provision has, therefore, effectively prevented the internally displaced persons to take part in the process of privatization of enterprises in which they worked before they were forced to go into displacement.

47. Section 10.4 of UNMIK Regulation 2003/13, changed and amended by Section 1.B of the UNMIK Regulation 2004/45, grants an opportunity to the employees who claim they would have been registered and employed by the given enterprise as eligible had they not been subject to discrimination, to submit a complaint to the Special Chamber of Supreme Court of Kosovo. Section 10.6 (b) of UNMIK Regulation 2003/13 stipulates that any complaint “filed with the Special Chamber on the grounds of discrimination as reason for being excluded from the list of eligible employees has to be accompanied by documentary evidence of the alleged discrimination.” The competent Special Chamber of the Supreme Court of Kosovo found that the said provision is in contravention contrary with the non-discrimination principle contained in Section 14. of

²⁹⁸ If the internally displaced persons who worked in socially-owned companies manage to take part in the process of privatization, they are exposed to additional financial expense. At the completion of the procedure, claimants are required to come to Kosovo in person to execute the financial transaction. Travel expenses are just one of many other expenses such as: high prices for personal photographs which can be obtained only in a specified bank (8 Euros per set of pictures), 10 Euros for a mandatory membership card in a trade union of Kosovo and expenses of accommodation during the procedure which lasts at least two days, etc. There are no provisions which explicitly regulate this issue.

²⁹⁹ Annex to the Letter of 7 October 2005 from the Secretary-General addressed to the President of the Security Council - A comprehensive review of the situation in Kosovo, p. 3.

³⁰⁰ Another setback was ethnically motivated violence of March, 2004.

³⁰¹ By 2003 the exodus of members of non-Albanian communities was already finished.

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the European Convention on Human Rights, Section 221.4 of the Law on Civil Procedure and Section 8 of the Anti-Discrimination Law, as applicable in Kosovo and Metohija.

48. Furthermore, there are few more procedural obstacles which make internally displaced persons difficult to address the Special Chamber. Complaints are to be filed to the Special Chamber within 20 days of final publication in the media [...] of official list of eligible employees to be paid by the Agency³⁰². It is next to impossible for the internally displaced people to do this within the given deadline since most often they are not informed through media in time, they have serious difficulties in obtaining the necessary documentation and they have to travel far from the place they have been displaced to in order to file a complaint in the first place. In addition, the lack of *pro bono* legal aid for potential claimants in the time of intensive privatisation and problems related to use of language in the privatisation process additionally limit the access of internally displaced persons to such legal remedy.³⁰²

49. It is important to emphasize that, pursuant to UNMIK Regulation 2003/13, employees have no right to see “the list of eligible employees” before it is published in media, and therefore don’t have the opportunity to lodge a complaint against the list prior to the court procedure before the Special Chamber of the Supreme Court of Kosovo. In addition, lists of eligible employees are compiled by unions which are mostly mono-ethnic and usually do not have a single member to represent minority communities and protect their interests. Due to this, internally displaced persons have small or no chances of establishing authenticity of the list and are usually forced to launch the court procedure in order to dispute the validity of those lists.

50. Another problem is the procedure for reorganisation or liquidation of socially-owned enterprises.³⁰³ Among the criteria for evaluation of the reorganisation plans from potential buyers, UNMIK Regulation 2005/48 in its Section 20.1 Paragraph (j) explicitly gives priority to “intention to retain or [...] employees and the approximate numbers and categories of employees to be retained by the Enterprise“. In other words, this section protects the rights of employees in the privatisation process. It also seems that, in addition to protecting employees in privatised enterprises, this provision was most likely aimed at preserving multiethnic make-up of labour force in privatised companies. However, Regulation 2003/13 does not take into consideration the unequal ethnic make-up of employees in socially-owned enterprises in Kosovo or the problem of mass displacement of workers from the ranks of ethnic minorities who used to work in these enterprises. Applied this way, this provision actually indirectly discriminates employees from minority communities, by neglecting the fact that the ethnic structure in those enterprises was changed completely and by forcibly.

³⁰² ICMPD Legal Team: *Report on Gaps and Needs Analysis of the Legislative Framework Including Recommendations for Revisions and Complementary Legislation*, Belgrade, July 2006. The Report identifies practical obstacles to the return of displaced persons and refugees, with special emphasis on property rights and indirect discrimination in Croatia and Kosovo.

³⁰³ Privatisation and liquidation are regulated in more detail by UNMIK Regulation 2005/48

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51. UNMIK's failure to establish legal mechanisms to remedy this act and its tacit permission to let socially-owned enterprises employ new workers without any attempt to reinstate former employees³⁰⁴ whose employment was forcibly discontinued (as proposed by Serbian Government on several occasions) represent an act of violation of the Covenant by failure to act as defined in Sections 11 and 15 of Maastricht Guidelines. **Noting that UNMIK did nothing in this matter, it obviously violated the duty to act and duty to achieve result from Section 7 of Maastricht Guidelines.**

52. There are no legal provisions in the legal framework applicable in Kosovo and Metohija which provide appropriate representation of the non-Albanian communities in public enterprises. The only exception is Section 2.3 of UNMIK Regulation 1999/12 on the Provision of Postal and Telecommunications Services in Kosovo³⁰⁵ which says that "[Post and Telecommunications of Kosovo] PTK shall apply non-discriminatory personnel policies, which shall ensure that the composition of PTK's personnel reflects the multi-ethnic character of communities in Kosovo."

53. Lack of relevant regulation is clearly reflected in the statistics on ethnic composition of labour in public enterprises. Ever present direct and indirect employment discrimination means that public companies do not reflect the ethnic breakdown of the population in the Province at all (see Table below). Further statistic data indicate lack of any measures of affirmative action, not even in publicly-owned companies, on improving the right of communities through organised and targeted employment of members of marginalised communities, such as ethnic minorities, women, disabled persons. Lately, it has been observed that certain advertisements for filling up certain jobs contain a clause that the employer is greeting applications sent in by women, disabled persons or members of minority communities, but the practice shows that such, so-called affirmative action ends with the advertisement's text.

54. In its 2007 report, Humanitarian Law Centre Kosovo³⁰⁶ assesses that the implementation of the Anti-Discrimination Law is not satisfactory when it comes to the employment of ethnic minorities. Members of ethnic minorities are not represented in

³⁰⁴ For example, Electric Power Industry of Serbia (which today works under the name of Kosovo Energy Corporation) has been employing around 8,000 people of Serb and other nationalities by 1999. After numerous killings of Serbs and other employees in their working places, the rest stopped coming to work and went to displacement. In 2000, Kosovo Energy Corporation publicly called on former employees solely in Albanian-language media to return to their jobs by June 30, 2000, at the latest, or otherwise their employment will be terminated. This practice is only seemingly in accordance with the law, since the displaced persons virtually had no opportunity to be informed of such invitation which was reported only by Albanian-language media; security situation in 2000 was very risky and demanded that KFOR has its checkpoints in front of every Serb-populated settlement and convoys with armed escort; in negotiations between Serbian Government and UNMIK on re-employment of these employees, KFOR offered to provide them with armed escort when going to and from work, but *could not guarantee them safety at the work*. Therefore, such invitation to former employees and termination of their employment which ensued bears all characteristics of discrimination.

³⁰⁵ UNMIK Regulation No. 1999/12, 14 October 1999.

³⁰⁶ Humanitarian Law Centre – Kosovo, "Implementation of the Anti-Discrimination Law and Law on Use of Language in public companies in Kosovo", December, 2007.

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Kosovo public companies according to their overall participation in the population of Kosovo. Humanitarian Law Centre Kosovo describes as progress the fact that the members of ethnic communities employed with the Kosovo Energy Corporation and the Post and Telecommunications of Kosovo started receiving their employment contracts in their own mother tongues³⁰⁷, with the exception of Roma.

55. The same report offers data on representation of ethnic communities in certain companies in percents: Post and Telecommunications of Kosovo 4.71 per cent, Pristina international airport 2.5 per cent, Kosovo Railways 12 per cent, Kosovatrans³⁰⁸ 5.8 per cent, Termokos³⁰⁹ and Remote Heating Djakovica³¹⁰ 3.5 per cent. We point out that after this extensive report there were no relevant and reliable reports or statistics on the number of employees among members of non-majority communities, whether in public or private sector.

Right to social security

56. The applicable legal system in Kosovo and Metohija establishes several forms of social assistance, such as basic pensions³¹¹, benefits for war invalids and next of kin of those who lost their life in armed conflict in Kosovo³¹², disability pensions³¹³, various forms of social assistance for families with children, etc. One of the basic elements of eligibility to use these mostly social entitlements is that the claimant does not possess reckonable assets above the legally defined minimum. For example, the social assistance beneficiary in Kosovo cannot be a person who owns more than 0.5 hectares of cultivatable land.³¹⁴ This provision is the main obstacle which prevents minority communities from meeting the criteria necessary for access to the system of social assistance, which is why relevant provisions take on an indirectly discriminating character. Namely, great number of members of minority communities, especially repatriates, own more than the allowed limit of cultivatable land, but due to unstable security situation for minorities, long standing usurpation of the land and passivity of competent authorities when it comes to protection of property rights in the Province, they are objectively prevented from cultivating that land and thus generating revenue from it.

57. According to the report of the International Centre for Migration Policy Development from 2006, this problem was temporarily resolved in certain municipalities

³⁰⁷ There are exceptions when Bosniaks and Turks requested to get an employment contract in Albanian language. Although this is not explained in report, it may have been an attempt of individuals to mitigate tensions and humor the majority population by such gesture.

³⁰⁸ Kosovatrans is a public transportation company.

³⁰⁹ Termokos is a remote heating company in Pristina.

³¹⁰ Remote Heating Company Djakovica.

³¹¹ UNMIK Regulation 2001/35 on pensions in Kosovo, amended by UNMIK Direction 2005/20, 22 December 2005.

³¹² UNMIK Regulation 2000/66 on benefits for war invalids of Kosovo and next of kin of those who died as a result of the armed conflict in Kosovo, 21 December 2000.

³¹³ UNMIK Regulation 2003/40 on disability pensions in Kosovo, 17 December 2003.

³¹⁴ UNMIK Regulation 2003/28, 18 August, 2003, Section 5 and adjoining Administrative Instruction 8/2004.

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in Kosovo and Metohija through some sort of interim measure carried out by international military authorities in the Province. KFOR was issuing certificates declaring insufficient security in the area where cultivatable land is located, on the basis of which member of minority community who applied for social assistance could prove that they are not capable of generating any kind of income by using their cultivatable land, or, in other words, proving their eligibility for social assistance despite the fact that they own more cultivatable land than set as minimum. But, such practice, as mentioned earlier, was sporadic more than uniform and, while it lasted, represented temporary solution for a permanent problem.³¹⁵

58. Beside various forms of indirect discrimination of members of minority communities, the social assistance system established in Kosovo and Metohija has also been violated by acts of direct discrimination, over a long period of time, by denying members of minority communities to access information in their mother tongue. For example, although the Law on Disability Pensions in Kosovo took effect on 17 December 2003, relevant forms and instruction in Serbian language were published as late as January 2006, only then allowing disabled persons who don't speak Albanian to apply for social assistance.³¹⁶

59. Discriminatory practice was also observed in the implementation of provisions of UNMIK Regulation 2000/66 on benefits for war invalids in Kosovo and next of kin of those who lost their lives in armed conflict in Kosovo, from 21 December 2000.³¹⁷

60. The above mentioned claims about existence of obstacles for access to the social assistance system affecting only members of minority communities is clearly proven by the Report on Number of Users of Social Assistance and Pensions in Kosovo, published by the Statistical Office of Kosovo in 2006. The report specifies that in that year a total of 7.501 members of the majority community successfully applied for this type of social assistance, while only 24 successful applications were submitted in the Serbian language.³¹⁸

61. The internally displaced persons, as a specially threatened category of population, are under care of the Centres for Social Work of the Republic of Serbia, which in the territory of Kosovo and Metohija³¹⁹ works only in areas with predominantly Serbian and

³¹⁵ For example, according to available information, in the territory of municipality of Klina, this practice has never taken root.

³¹⁶ ICMPD Legal Team: *Report on Gaps and Needs Analysis of the Legislative Framework Including Recommendations for Revisions and Complementary Legislation*, Belgrade, July 2006, p. 39. The Report identifies practical obstacles to the return of displaced persons and refugees, with special emphasis on property rights and indirect discrimination in Croatia and Kosovo.

³¹⁷ UNMIK Regulation 2000/66 on benefits for war invalids in Kosovo and next of kin of those who lost their lives in armed conflict in Kosovo, 21 December 2000.

³¹⁸ Statistical Office of Kosovo, *Report on the number of users of social assistance and pensions in Kosovo in 2004*, Pristina, October, 2005, table 2.2.

³¹⁹ The legal grounds for their operation are Resolution 1244 (1999) UNSC and Common Document: Agreement on Cooperation between the Federal Republic of Yugoslavia and UNMIK, signed by Nebojsa Covic, the then President of the Coordination Centre for Kosovo and Metohija, and Hans Haekerup, the then Special representative of the Secretary-General of the UN, November 2001..

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non-Albanian population.³²⁰ Centres make regular monthly payments³²¹ of social assistance to families with children, newly-born, disabled persons, and assist threatened families in any other way.

62. Since 1999, in areas inhabited by non-Albanian population, there is not a single institution of social assistance to take care of disabled persons, nor is there a single nursing home for taking care of the elderly.

63. According to the available data, and taking into consideration the report of the Mental Disability Rights International on situation in Special nursing home for mentally disabled persons in Stimlje, there are serious and numerous violations of rights of persons with intellectual disability and mental disorders sheltered in this institution. Beneficiaries of the said institution are exposed to inappropriate care and physical, psychological and sexual abuse. Following the publishing of the report by the Mental Disability Rights International, the Dutch government and UNMIK built a special facility in Gracanica of highest international standards for nine non-Albanian children (alternative shelter for beneficiaries in community – the so-called protected housing). However, despite meeting world standards in technical characteristics of the facility, nothing else changed. The same unqualified staff still works with beneficiaries with little guarantees of protection of professional ethics and hygiene standards. In Stimlje, there are still 88 beneficiaries of Serb nationality, and Serbian Government cannot get any official information on them through UNMIK channels, or organise visits of their custodians or relatives.

64. After June 1999, there were 98 Serb beneficiaries left in the Gerontology Centre in Pristina. Since then, measures have been take for their urgent transfer to similar centres in Serbia proper, as well as transfer of mortal remains of the deceased to members of their families. A request was also sent to UNMIK to submit complete documentation on deceased inmates in the Special Institute for Mentally Disabled Persons in Stimlje and about the missing from the institution.

Right to adequate standard of living

65. Since June 1999, the process of return of the minority non-Albanian communities to Kosovo and Metohija has been full of obstacles comprising of, among other things, unstable security situation, lack of economic sustainability for repatriates, unresolved

³²⁰ In Serb communities in the territory of Kosovo there are eight centres for social work: Social Work Centre Kosovska Mitrovica (covers enclaves in Metohija as well), Social Centre Work Leposavic, Social Centre Work Zubin Potok, Social Centre Work Srbica, Social Centre Work Vucitrn, with headquarters in Priluzje, Social Centre Work Kosovska Kamenica (for municipalities of Kosovska Kamenica, Vitina and Gnjilane) based in Ranilug, Social Centre Work Pristina based in Gracanica, Social Centre Work Strpce with outpost in Gora).

³²¹ More detailed data on assistance presented in table in Annex 3.

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status of their property and limited freedom of movement.³²² The lack of basic guarantees of physical survival under the existing conditions in Kosovo and Metohija implies the impossibility of enjoying relevant aspects of the right to adequate standard of living, with special emphasis on the right to adequate housing.

66. Article 11 of Covenant recognises the right of all people to adequate housing, which “should not be interpreted in a narrow or restrictive sense”, but as “the right to live somewhere in security, peace and dignity”.³²³ Realisation of the principle of effective monitoring of the situation regarding housing, as “obligation of immediate effect”, is perceived through the prism of all necessary measures undertaken alone or on the basis of international cooperation.³²⁴ Based on the facts presented in further text, we conclude that the situation in Kosovo and Metohija is an obvious example of violation of this right, especially in the field of existing mechanisms for resolving property disputes, as well as in the sense of non-existing but necessary mechanisms.

67. Establishing the right to housing was the task of the Housing and Property Directorate and Housing and Property Claims Commission. In their work several significant problems were observed regarding claims processing³²⁵, contrary to the essence of the generally acknowledged elements of the right to adequate housing. The incompatibility primarily applies to the field of element of legal safety of the property, or the guarantee of “legal protection against forced eviction, eviction harassment and other threats”, which includes the imperative of undertaking “immediate measures aimed at establishing legal security of property for persons and households which currently lack such protection”.³²⁶

68. Despite clear obligation to “deliver copies of the Reply to Claim to the other parties”³²⁷, the Housing and Property Directorate was delivering neither reply nor the evidence from opposing side to C-claimants³²⁸. This problem is especially noticeable in

³²² See, UNHCR, UNHCR’s Position Paper on Continued International Protection Needs of Individuals from Kosovo June 2006, page 3, paragraph 6, available at <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=44928257e>, accessed on October 15, 2008.

³²³ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 4 (The Right to Adequate Housing from Article 11 (1)), Paragraph 7.

³²⁴ *Ibid*, Paragraph 13.

³²⁵ The data is based on direct experience and information of Ministry for Kosovo and Metohija of the Republic of Serbia, non-government organization Praksis and International Organisation for Migration (Project of institutional support to government of the Republic of Serbia in sector for refugees and internally displaced persons.).

³²⁶ CESCR, *General Comment No. 4*, Paragraph 8 (a).

³²⁷ Article 9.7 of the UNMIK Regulation 2000/60 (31 October 2000) on Residential Property Claims and the Rules of Procedure and Evidence of the Housing and Property Directorate and the Housing and Property Claims Commission. An exception from this obligation, in a sense of providing the parties with only summaries of the documents presented by the other party(ies) is possible only “in appropriate cases” which can hardly (if anyhow) be applicable to the procedures initiated upon the reconsideration requests.

³²⁸ According to internal classification of Housing Property Department, A-claims were submitted mostly by Kosovo Albanian who claimed that their right to housing property was denied to them solely on the basis of discrimination. C-claims were submitted mostly Serbs and member of other communities in order to prove ownership over real estate which was in factual and illegal possession of other parties.

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the cases of so-called “related” A- and C-claims.³²⁹ Bearing in mind that the allegations of discrimination were *a priori* accepted without a reasonable burden of proof on the side of the A-claimant, in these situations it was of the utmost importance for the C-claimant to have the full insight into the arguments and the evidence submitted by the other party. Withholding such information violated the imperative principle of an adversarial process as “the opportunity for the parties to have knowledge of and comment on the observations filed or evidence adduced by the other party”³³⁰ and, consequently, jeopardized effective conduct of the proceedings and the legal security of tenure.

69. The first instance decisions which dismissed C-claims did not contain any or clear reasons as the basis for the decision or explanations why some evidence was taken into consideration while others weren't.

70. Certain number of these decisions was based on claims that C-claimant had already sold their housing property before the 1999 conflict, but that they submitted the claim after the fact because they were dissatisfied with the achieved price under the expected market value at the time of purchase, or because the price was never actually paid at all. Furthermore, certain number of cases was solved based on claims that the reason for discontent was unjustly closed contract on exchange of the housing property.³³¹ Having in mind that C-claimants were had been providing valid supporting documents, that type of decisions was apparently based solely on claims of the opposing side, without possibility to dispute them, due to a lack of insight into the opponent's responses and evidence material.

71. Certain number of decisions claimed without basis that C-claimants failed to prove their property right although valid supporting evidence had been presented in the first instance procedure (e.g., contract on use, lease, purchase, etc.), without explanation why the evidence was not considered relevant for the decision. Thus were the C-claimants prevented from successful participation in the second instance proceedings.

72. In the cases related A- and C-claims, despite the fact that HPCC had the mandate to establish whether there had been discrimination in the implementation of the so-called “discriminatory laws” as regulated by the relevant provision³³², the body often went further than that to assume the existence of general discriminatory *practice*, and thus take it upon itself (without authority) the role of court, behaving *ultra vires*. As applicants of C-claims were almost without exception Albanians, priority recognition of their legal claims based on abstract indications of discrimination in practice was equalised with

³²⁹ The cases when the C-claim is followed by an A-claim of an interested person who also asserts that he/she had had the property right (which determination is sought before the HPD), but that such right was once lost due to application of discriminatory laws in Kosovo and Metohija.

³³⁰ See *Ruiz-Mateos v. Spain*, Verdict of the European Court for Human Rights from 23 June 1993, Paragraph 63.

³³¹ In such cases, HPD/HPCC regularly deemed themselves incompetent and passed on the cases to local courts in order to establish the disputed property right.

³³² See Article 1 of the UNMIK Regulation 1999/10 (October 13, 1999) which applies to repealing of discriminatory laws related to real estate and ownership rights.

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indirect discrimination of C-claimants as members of non-Albanian communities, which can be read as contrary to Article 11.1 and Article 2 (2) of the Covenant.

73. Beside general problem of bias and lack of independence with HPCC in regard to realistically non-existence distribution of competences in Kosovo³³³ and lack of rules on ethnic composition of local commissioners, there was also the issue of structural impartiality: a practice has been introduced that the first instance and second instance decision be made by the HPCC panel of the same make-up. Article 2.2 of UNMIK Regulation 1999/23 envisaged that HPCC only “initially be composed of just one panel.” Persistence of that situation for years was certainly not the intention of the legislator. The same conclusion can be drawn from the wording in Article 25.1 of UNMIK Regulation 2000/60 which explicitly states that “following the establishment of *two or more* Panels of the Commission, any reconsideration of a matter shall be conducted by a *different* Panel than the one that decided the claim, unless... [it was determined] that it should be conducted in plenary session.” Similarly, the SRSG’s clarification of Regulation in 2001 says that the “only appeal from the decisions of the HPCC is to *another panel or a plenary session of the HPCC*, and not courts [emphasis added].”³³⁴

74. This means that the principle of impartiality of the tribunal was not respected, or, in other words, the fair trial guarantee, as one of the prerequisites of adequate protection of legal safety of the property, was not provided.

75. In numerous cases resolved at the first instance, HPCC accepted to process claims submitted after scheduled deadlines, after maximum one year from the date when the decision was made.³³⁵ Beside cases when untimely claims were processed without any reasonable ground, or by crude discrimination presumption, HPCC was quoting Article 19.6 of Regulation 2000/60 which allows that “[the Commission] may, in specific cases, *proceed notwithstanding non-compliance with any procedural rule* by any Party or by the Directorate *in the interests of the efficient administration of justice*, where there is *good reason to do so* and this *would not materially prejudice the rights of any party*.” [emphasis added]. Although such action generally can be justified in very exceptional cases, arbitrary interpretation of the possibility of exclusion of basic procedural rules was observed, while the questioning of *res iudicata* endangers the principle of legal security.

76. The majority of the cases in which HPCC was instructing A-claimant to launch a court procedure were the cases where A-claimant had had the decision (of the competent socially- or state-owned enterprise) on the right to use the apartment but still did not sign the contract on use and still did not enter the physical possession of the apartment at all.

³³³ Stance of the Human Rights Committee on “influencing executing decisions” in legal matters and recommendation for establishing “clear distribution of competences among executive and legal bodies”, *Closing Remarks of the Human Rights Committee: Romania*, UN doc CCPR/C/79/Add 111 (28 June 1999), Paragraph 10.

³³⁴ Clarification of the Special Representative of the UN Secretary-General of UNMIK Regulation No. 2000/60 from April 12, 2001, Paragraph 21, available at: <http://www.hpdkosovo.org/pdf/engclari/pdf>. Updated on 1 August 1 2007.

³³⁵ Article 14.2 of Regulation 2000/60.

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The fact that the apartment was never in legal possession of the A-claimant is allegedly the reason of his addressing the court in order to have the legal remedy established.

77. HPCC justified this by quoting provision which stipulates the possibility that HPCC may “refer issues arising in connection with a claim, which are not within its jurisdiction to a competent local court or administrative board or tribunal.”³³⁶ However, we should note that the in the said example this referring happened only after the positive interpretation of its own jurisdiction by HPCC, in other words, after final decision in the legal matter. By referring to the court, HPCC obviously *de facto* opened the possibility of court re-examination of the “final” decision by the HPCC.³³⁷

78. Since the 60-day deadline for the A-claimant refers to his/her expression of *intent* to launch a court procedure, and not the actual *launching* of procedure itself, this provision represents a very realistic field of abuse. As C-claimant is prevented from using his property fully as an owner (his right can be entered into cadastral records, but he has no possibility of transferring the right) till the end of court procedure, introduction of this legal remedy allows virtually unlimited interference into their property rights. In addition, having in mind the finality of the second instance decision by the HPCC, C-claimant, as conscientious claimant and *prima facie* owner, does not have an equivalent possibility of referring to a judicial or administrative body for protection of the right.

79. The HPCC was, according to the regulation, granting restitution of the property to successful A-claimant in kind when the housing property in question did not already become a property of natural person, by closing valid voluntary transaction³³⁸, and after the A-claimant paid HPCC the purchase price for the apartment contained in the contract of sale concluded by the First Owner, or the price at which the claimant would have been entitled to purchase the apartment under the Law on Housing but for the discrimination, plus a percentage of the current market value of the apartment, as determined by the Directorate, and the cost of any improvements made to the apartment by the First Owner.³³⁹ The sum must be paid to the Directorate within 120 days of the Commission’s decision on the right to restitution.³⁴⁰ Any claimant found by the Commission to have a right to restitution of a socially owned apartment, but who is not awarded restitution in kind, shall be issued a certificate by the Directorate stating the current market value of the apartment in its current condition³⁴¹, whose amount would be determined on the basis of the Directorate’s formulae.³⁴²

80. Despite the firm obligation to pass a subsequent legislation which would regulate

³³⁶ Article 22.1 of Regulation 2000/60.

³³⁷ *Ibid*, Article 22.3: “The Commission shall not award any remedies other than those provided for in the present regulation.”

³³⁸ Regulation 2000/60, Article 3.3.

³³⁹ *Ibid*, Article 4.2.

³⁴⁰ *Ibid*,

³⁴¹ *Ibid*, Article 4.2 and 4.4

³⁴² *Ibid*, Article 4.4.

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compensation problem³⁴³ and precise deadlines for payment, HPD and UNMIK have never done it. Allegedly³⁴⁴, the draft law of compensation was submitted to UNMIK in 2004, but was never passed. Because there are no mechanisms of restitution (compensation)³⁴⁵ and UNMIK failed to execute its legal obligations³⁴⁶, large number of successful C-claimants were fully prevented from realising their right to adequate housing.³⁴⁷

81. Decisions made upon B-claims are, due to the nature of the claims, of constitutive character, and allow registration of the determined property right into cadastral books. Also, decisions made upon A-claims can be a valid basis for cadastral registration if the successful A-claimant paid the value of the housing property in question.

82. Contrary to all this, the HPCC's decision for successful C-claimants has almost no practical value in terms of the possibility of registration of the property right into appropriate cadastral records or proving the right before any other institution in Kosovo and Metohija. This is because such decision formally determines only the holding of physical possession in a defined period, but not the ownership right. In order to conduct the cadastral registration, it is necessary to submit the competent municipal office of the Kosovo Cadastral Agency a "classical" legal ground, i.e. relevant property documents, with or without positive HPCC decision. If these documents undoubtedly prove the property right, in majority of cases Kosovo Cadastral Agency was conducting registration. These are usually the same documents which HPD/HPCC had already taken into consideration when making a decision about the disputed right. This raises the question of the real end value of the HPCC's obviously manifestly declaratory act which remains unrecognised by itself in terms of proving and protecting the owner's right to housing property.

83. The Republic of Serbia has identified numerous legal problems related to the mandate of the Kosovo Property Agency which considerably affect the possibility of access by persons from Kosovo, primarily internally displaced persons, to the right to adequate housing.

84. Kosovo Property Agency was established by UNMIK Regulation 2006/50 as an independent administrative body with sole jurisdiction to "receive, register and resolve" ownership claims related to private immovable property in Kosovo and Metohija³⁴⁸. The established final deadline for submitting claims to Kosovo Property Agency was 3 December 2007, in accordance with UNMIK Administrative Instruction 2007/5 from 1

³⁴³ *Ibid*, Article 4.5.

³⁴⁴ Source of information is Mr. Agron Beka, coordinator of the Kosovo Property Agency's enforcement unit – conversation conducted in March 2007.

³⁴⁵ Article 23 of Maastricht Guidelines.

³⁴⁶ Article 15 of Maastricht Guidelines.

³⁴⁷ CESCR, General Comment No. 7 (on the right to appropriate housing from Article 11 (1): forced eviction), Paragraph 13.

³⁴⁸ UNMIK Regulation 2006/50 on the resolution of claims relating to private immovable property, including agricultural and commercial property.

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June 1 2007³⁴⁹, passed in order to implement Regulation.³⁵⁰ The regulation itself does not stipulate any concrete deadlines for submitting claims, except for the deadline of its own validity (31 December 2008.).³⁵¹ Having in mind that the Administrative Directive, as an act of lesser legal power, can only implement and in not in any substantial way materially change or amend regulations stipulated by the Regulation, this manner of time limit for access of interested persons to Kosovo Property Agency is illegitimate, because the cessation of reception of ownership claims in the period of legal validity of Regulation which grants Kosovo Property Agency the exclusive jurisdiction to receive and resolve claims results in impossibility for the interested parties to refer to any other body for meritorious resolution of relevant the property issues. It is the violation of the right to a due process (access to court) and certainly does not contribute to protection of the interested person's security and peaceful enjoyment of possession, or, in other words, right to adequate housing.

85. Another problem is the earlier practice by the officers of Kosovo Property Agency who refused to receive claims from persons whose housing property had already been a subject of consideration by HPD/HPCC. This can be interpreted only as unauthorised preliminary selection and arbitrary interpretation of the Kosovo Property Agency's mandate. According to applicable administrative rules in Kosovo and Metohija, the competent staff of an administrative body (which Kosovo Property Agency formally is) is in any case obliged to receive and register the case. Upon interventions from non-government organisation, officers of Kosovo Property Agency started receiving claims without prejudice, but the damage was already done since many interested parties were previously not able to submit claims for said reasons.

86. In the course of submitting the claims, interested persons were required to present the required evidence obtained on their own. Kosovo Property Agency did not have the responsibility to ex officio collect the available evidence to which the parties eventually point during the initiation or in the later phases of the proceedings. Kosovo Property Agency considered verified only the evidence whose existence it could check in archives in Kosovo and Metohija (priority evidence) and Serbia proper. Problem was the fact that the documented evidence held in archives of Kosovo institutions, due to bad security situation and lack of money, often were not available to internally displaced persons in Serbia. Furthermore, competent administrative clerks officials in cadastral offices frequently resorted to illegal conditioning of issuing necessary documents by previous paying of tax duty for the property in question. That is why it can be said that the factual impossibility to access the requested evidence, which the Kosovo Property Agency could easily obtain by using its own authority, resulted in practical impossibility to protect property rights of interested parties.

87. Section 12 of Regulation 2006/50 provided the possibility of appeal against the decisions by Kosovo Property Agency to Supreme Court of Kosovo, i.e. the three judge panel which was supposed to be authorised by the Special Representative of the UN

³⁴⁹ Article 8 in relation to Article 26

³⁵⁰ *Ibid*, Article 22

³⁵¹ Article 21, Regulation 2006/50.

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Secretary-General.³⁵² The Chamber has never been founded, and there are no clear indications when and how it would be done. According to statements from officials of the Kosovo Property Agency, the appeal mechanisms has not yet been established because there was no need for it – Kosovo Property Agency has so far been dealing only with undisputed cases. Having in mind the time limitation of the Regulation 2006/50 which regulates the mandate of the Kosovo Property Agency and uncertainty of its extension or renewal, the lack of access to and ineffectiveness of the envisaged appeal stance represents an example of inability of the existing claims resolution mechanism to adequately protect the right to adequate housing.

88. Pursuant to Section 17 of UNMIK Regulation 2006/50, Kosovo Property Agency exercises the same powers as the Housing and Property Directorate, for the execution of all the same decisions and eviction orders by Housing and Property Claims Commission which were ready for execution on 7 March 2006 but were never executed.³⁵³ Despite the very clear obligation of execution of final and executive decisions by the Housing and Property Claims Commission, Kosovo Property Agency often was not capable of executing this duty and provide entry to the housing property due to the lack of political will. This significantly undermined the credibility of the whole Kosovo Property Agency mechanism and UNMIK to protect property rights of minority communities in Kosovo.

89. One of the problems encountered in the course of the execution of decisions by the Housing and Property Claims Commission was damage caused to immovable and movable property which is the subject of eviction. Pursuant to existing regulations, Kosovo Property Agency, just like the former Housing and Property Directorate, has no obligation to preserve the totality of the property in question, not in a single phase of its activity, not even under its administration, in order words, in the procedure of implementation of rental scheme. The practice confirmed the absolute certainty of total destruction of all movable property, but the biggest concern of is raised in respect of total destruction of immovable property. Due to the fear of total loss of the only residential object available and adequate for living, many owners decide not to request or to reject eviction of the unlawful occupant.³⁵⁴

A special problem is the lack of adequate protection after the execution of the first eviction, because the usurper or the third party usurps the property once again within 24 hours from moving out by simply removing the protective seal. Kosovo Protection Agency has no obligation to carry out multiple evictions, instead transferring the matter to law enforcement bodies. However, police and prosecution in Kosovo very rarely undertake such actions and legally prosecute repeat perpetrators of such criminal acts.

90. According to interpretation of Article 13.6 of UNMIK Regulation 2000/60 (on prosecution of repeat usurpers) given in February 2007 by Mr. Borg Olivier, earlier legal

³⁵² Article 12.8 of Regulation 2006/50.

³⁵³ *Ibid*, Article 17, see UNMIK Regulation 2006/10 (changed and amended by Regulation 2006/50).

³⁵⁴ See e.g. the case *Stamenko Kovacevic v. UNMIK*, The Institution of Ombudsperson in Kosovo, No. 592/02.

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advisor of the Special Representative of the Secretary-General, for subsequent evictions in cases of property sealed by Housing and Property Directorate or Kosovo Property Agency, police do not have to seek agreement from the public prosecutor. On one hand, this move could have been a useful contribution to the more efficient action by the police. On the other hand, such action is contrary to the provision of the Provisional Criminal Code of Kosovo, according to which usurpation of someone else's property represents a criminal act punishable by fine or imprisonment of up to a year³⁵⁵ and results in a situation in which re-usurpation in the name of "efficiency" becomes non-punishable.

91. Since KFOR arrived to Kosovo and Metohija on June 12, 1999, national KFOR contingents³⁵⁶ occupied, among the rest, private property as well, which the owners were forced to leave in the midst of armed conflict or its consequences, under the circumstance of forced evictions³⁵⁷. Individual owners encountered series of difficulties in an attempt to obtain restitution or at least a fair compensation for the use of usurped property or inflicted damages.

92. UNMIK has no mechanisms whatsoever to protect the damaged persons in cases of endangered property by KFOR international security presence. Primary problem is the full legal immunity of KFOR. Pursuant to the text of the Military-Technical Agreement and its accompanying annexes, KFOR "will deploy and operate without hindrance within Kosovo and with the authority to take all necessary action to establish and maintain a secure environment for all citizens of Kosovo."³⁵⁸ KFOR (nor any of its personnel or staff) shall be liable for any damages to public or private property that they may cause in the course of duties related to the implementation of this Agreement.³⁵⁹ Furthermore, pursuant to UNMIK Regulation 2000/47, "KFOR, its property, funds and assets shall be immune from any legal process"³⁶⁰.

93. Section 7 of the UNMIK Regulation 2000/47 exceptionally provided that KFOR Claims Commission resolve third party claims for, among others, property loss or damage arising from or directly attributed to KFOR which do not arise from "operational necessity"³⁶¹. Regulation (or any other document) does not make it clear what is operational necessity. The question which property claim is considered legitimate in individual cases KFOR can interpret differently, depending on its requirements. Mechanism for processing claims, briefly given in Regulation, formally was established only on March 22, 2003, through Standard Operating Procedure 3023 on claims in Kosovo, issued by the KFOR main headquarters. According to SOP, "each Troop Contributing Nation [TCN] is responsible for adjudicating claims that arise from their own activities, in accordance with their own claims rules, regulations and procedures."³⁶²

³⁵⁵ See Article 259 of the Law, or UNMIK Regulation 2003/25 (July 6, 2003)

³⁵⁶ At first there were four multinational brigades – South and East were making one (MNTF-SW). As of May 15, 2006, MNTF-S (South) exists as a special multinational brigade.

³⁵⁷ CESCR, General Comment, No. 7, Paragraph 3.

³⁵⁸ Article 1 Paragraph 2 and Annex B of the Military-Technical Agreement.

³⁵⁹ Ibid, Article 3 of Annex B.

³⁶⁰ Article 2 of Regulation 2000/47.

³⁶¹ Ibid, Article 7.

³⁶² Ibid, Article 6.

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However, this mechanism of resolving claims “is not legally binding” – any decision made is internal in character for KFOR and the contingent’s nation, and the Standard Operating Procedure serves only to “encourage” member states to process claims in accordance with “advisory steps” from Annex B of the Standard Operating Procedure.³⁶³ Similar is the situation in the appeal procedure, which was assumed to be unimportant from the very beginning, and fully stopped functioning back in 2004.³⁶⁴

94. Despite the fact that in a presumed democratic order the civilian authorities have to have a reasonable level of control over its military component and adequate protection from possible and current abuses of power, the relation of KFOR towards UNMIK is fully devoid of any subordination. Resolution 1244 demands from Secretary-General to “instruct his Special Representative with *coordinating* closely with the international security presence in order to secure both presences acting towards the same goals in a *mutually supportive* manner.”³⁶⁵ Lack of civilian control over military force in Kosovo deprives the threatened persons of all guarantees of legal protection from violation of property rights: inability to enforce restitution or compensation for property, and thus inability to return or freely chose the place of living. This creates a persistent existence of a huge hole in the law in the component of legal security contained in the right to adequate housing.

95. In Kosovo and Metohija, the illegal construction boom is the cumulative result of absence of rule of law, non-implementation of laws, non-harmonized and poor practice of municipal authorities, and lack of civil construction inspection.³⁶⁶ Property relations were made extremely difficult by exponential growth of illegal construction around bigger cities and along the main roads after migration of rural population into cities. That resulted in construction on agricultural land in vast majority of cases without agreement and even contrary to intentions of lawful owners, who are often displaced persons.³⁶⁷ Illegal construction in places of destroyed buildings or in the immediate vicinity or connection with destroyed housing property, beside huge ecological attack on the environment, represents a huge problem, which seriously reduces the chances of forcedly displaced persons to realise their right to adequate housing through peaceful enjoyment of their property, or, in other words, undermines the legal security of the property.

96. Enormous amounts of money are funnelled into illegal construction on unwillingly and temporarily abandoned property, so it cannot be expected from authorised institutions to order the demolition of such erected buildings and return of

³⁶³ *Ibid.*

³⁶⁴ See e.g. Margaret Cordial, ‘Outline of Presentation on the Situation in Kosovo’ in International Committee of the Red Cross, *Report on Applicability of International Humanitarian Law and International Human Rights Law to UN Mandated Forces* (2004 ICRC, Geneva), p. 52, available at www.icrc.org.

³⁶⁵ Resolution 1244, preamble, paragraph 13, point 6 (emphasis added). See point 9 (f). See also Official web-site of NATO/KFOR, www.nato.int/kfor/kfor/objectives.htm. See Venice Commission, *Opinion on Human Rights in Kosovo*, para. 79.

³⁶⁶ Ombudsperson Institution in Kosovo, „Seventh Annual report for 2006-2007“

³⁶⁷ EAR, “*Feasibility Study for Evaluation of Scope and Nature of Work on Administrative Mechanism for Settlement of Disputes Related to Land and Commercial Property in Kosovo, Final Report*“, (December 2004)

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property to previous condition. This is sad but true, and this is exactly what all the illegal investors rely on.³⁶⁸

97. One of the constitutive elements of the right to adequate housing is the availability of services, buildings and infrastructure, which include permanent access, among other things, to “power supply for cooking, heating and light [...] means to store food [...]”.³⁶⁹ In this there is a series of problems in Kosovo.

98. By linear implementation of its so-called ABC policy, designed to supply electricity to consumers according to their regularity of paying electrical bills, Kosovo Energy Corporation achieved factual discrimination of non-majority population in territories in which they live and in territories to which they would like to return. Reasons are poor material state of the repatriate community, caused by long standing displacement and objective inability of the economic sustainability of the return. The context itself of the practice opens up the question of possible indirect discrimination in the protection of rights guaranteed by Section 11.1 in collision with Section 2(2) of the Covenant.

99. Another very problematic policy by the Kosovo Energy Corporation is to charge repatriates with electricity bills, including the electricity spent during the time they were away, i.e. on the property they did not and could not use because it was illegally taken away from them by the third party.

100. In those and similar situations, consumers may file complaints to branch offices of Kosovo Energy Corporation, which are mostly located in cities, which causes financial expenses and security risk. According to available information, when certain threatened persons addressed the competent municipal court in such cases, it did not have a positive outcome.

101. Additional problem is the practice by Kosovo Energy Corporation to charge the repatriates relatively high amounts of tax for activation of power consumption meters (electric-meters), even for houses built through humanitarian aid. Majority of projects for repatriates does not cover these kind of expenses, repatriates mostly cannot pay the bills, and that is why they don't have the chance to start using and paying the spent electrical energy. Such approach is contrary to implicit obligation to refrain from actions which can endanger or threaten the access to adequate housing and sheltering.

102. In the summer of 2009, in an attempt to charge the electrical energy spent in some Serb enclaves, Kosovo Energy Corporation first partially and then fully stopped sending electrical power to Sredacka Zupa, with a population of around 15,000 Serbs and a smaller number of Kosovo Albanians. Consequences were large amounts of spoiled food,

³⁶⁸ Construction in Kosovo is regulated in Kosovo by UNMIK Regulation 2000/53 on construction in Kosovo, or the Luci Regulation. It was named after Rexhep Luci, who, doing seriously the job that'd been assigned to him on trying to put illegal construction into order, ordered cessation of work and demolition of a certain number of illegal buildings. He was murdered soon afterwards, under mysterious circumstances. His murdered was never found or brought to justice. After his murder, interest in demolishing illegal constructed building drastically dropped.

³⁶⁹ CESCR, General Comment No. 4, Paragraph 8 (b).

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with several cases of food poisoning, deteriorated personal hygiene, denied information over radio and television, difficult situation for acutely and chronically sick people, necessity to fire up timber for cooking in the summer months and many others examples. The fact that no one from the international community stood up in the defence of fundamental human rights of the affected population to dignity of life and appropriate standard of living. This way the non-selective worsening of living conditions had been carried out for all citizens of Sredacka Zupa. Unfortunately, not even members of European Union reacted to draw the attention to the golden rule of the EU: principle of proportionality, which says that we must always take care of proportion of measure and consequence, or, in other words, to ask yourself whether you can achieve the same goal with other non-invasive measures which would not endanger life and health of 15,000 people. We cannot take into consideration the remarks that one economic operator must generate profit and charge its service, because there are regular courts which, among other things, deal with the issue of people who do not pay regularly for communal services. This way, Kosovo Energy Corporation got away with obvious act of clearly targeted discrimination towards an ethnically determined group. This way, in the situation when there are Provisional Institutions of Self-Government and two international missions, the United Nations and European Union, a milieu was created for anarchy, unpunished discrimination and unscrupulous violation of fundamental human rights contained in international instruments signed by all members of EU.

103. Difficulties in obtaining construction permits from municipal authorities for construction or refurbishment of residential units are just some among many problems that undermine the right to adequate housing. The process is encumbered by protracted duration and unreasonable costs, which put additional burden to already extremely vulnerable returning community. Getting the necessary documentation is a problem faced even by the international NGOs implementing return projects. The procedure for issuing these permits may last up to a year, and in the overall atmosphere of restricted freedom of movement and limited communication with municipal authorities, such protracted period can be seen as an impediment of the right to freely choose a place of living and/or return, and of the right to adequate housing.

104. Special group of problems for securing adequate housing is related to extremely poor quality of reconstructed houses. Due to failure to respect construction standards, houses given to repatriates either from the very beginning or after short period do not offer protection any more from the “cold, humidity heat, rain, wind or other threats to health, structural hazards and sickness”.³⁷⁰ The phenomenon was observed and confirmed by Secretary-General and the UN Security Council.³⁷¹

105. Lack of basic preconditions for the exercise of rights to adequate housing results in practical impossibility to efficiently carry out return of internally displaced people and

³⁷⁰ CESCR, General Comment No. 4, Paragraph 8 (d).

³⁷¹ *Report of the Secretary-General on the United Nations Interim Government in Kosovo* (January 25, 2006), UN Document S/2006/45, page 17: “Over 170 complaints have been received about the quality of residential reconstruction; 38 of 42 houses inspected by UNMIK and KFOR engineers are not habitable.”

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endangers the local integration of the so-called internally-internally displaced persons³⁷². Despite the apologetic attitude of local and international organisations active in the process of repatriation, which often tend to explain the low degree of return with lack of funding, that is not the whole truth because in many cases even when the money was secured, there is no return because of the lack of political willingness to receive a large number of repatriates from minority communities. Obstruction or passivity from authorities in executing their duty in the field of repatriation obviously violates the principle of access to adequate housing, especially to threatened groups³⁷³. These groups, including internally displaced persons and minority communities, suffer disproportionately large damage as victims of violation of economic, social and cultural rights.³⁷⁴

106. The respect of international standards of human rights when it comes to displacement – among others, the right to free choice of the place of living, is one of the elementary prerequisites of protection of right to adequate housing.³⁷⁵ Despite the huge amount of spent resources, there are no effective and visible results with UNMIK when protecting this right in the context of allowing displaced people from Kosovo to return.

107. According to official data of the International Red Cross and UNHCR, since June 1999, Kosovo was left by 238,000 Serbs, 30,000 Roma and other non-Albanians.³⁷⁶ By the end of 2007, according to data from the UNHCR office in Pristina, around 18,000 Serbs and members of other ethnic communities returned, which makes 7.5 per cent.³⁷⁷ That number changed a little in the subsequent years. Between March 2005 and May 2006, only 2,816 individuals returned. According to data from UNHCR, the total of around 600 displaced persons returned in 2009, only 184 of which opted for the organised return through registration. In 2010, that number is 393 individuals, also according to the same data. For the sake of comparison, in six months only – between June and December 1999, approximately 90 per cent of Albanian refugees returned to Kosovo, which includes all except those who fled to countries of the western Europe in an attempt to seek asylum.

³⁷² Internally-internally displaced persons are persons who were forced to leave their homes in 1999 and 2004, but remained as displaced persons within safe zones in Kosovo.

³⁷³ CESCR, General Comment No. 4, Paragraph 8 (e).

³⁷⁴ Article 20 Maastricht Guidelines.

³⁷⁵ CESCR, General Comment No. 4, Paragraph 9

³⁷⁶ Cf. EAR, „Situation Assessment on Communities and Return in Kosovo“ (February 2006), p. 4.

³⁷⁷ The figure is unreliable because of the methodology used by Pristina office of UNHCR. Namely, field operatives register as permanent repatriates persons who stay in their place of return at least six months, while in 2007 that limit was two months. This was a subject of stern criticism by the Commissariat for Refugees of the Republic of Serbia and former Coordination Centre for Kosovo, which proposed that the threshold for determining permanence of return be twofold – temporal (at least a year) and fundamental (only in case of return of the whole family and not only one person). Realistically, the vast majority of those registered “repatriates” was coming back to finish various administrative and family affairs, such as оставински поступак, realisation of right to UNMIK pension or sale of immovable property. According to estimates of the Ministry for Kosovo of the Republic of Serbia, done based on number of school children and payment of social welfare, the number of actual repatriates is somewhere between 3.5 and 5 per cent.

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108. By signing the Memorandum on Understanding of 23 January 2007, reserved powers for the return of displaced people by SRSG have been practically transferred to provisional institutions such as “localisation” of the UNHCR’s function³⁷⁸, by obvious severe interference into the mandate and without participation and agreement from UNMIK. Results of that transfer of authority are devastating: between February and September 2008, the total of 143 persons (0.6 per cent of the displaced population) returned to Kosovo³⁷⁹, which means that the return was practically stopped. One of the key goals of Resolution 1244³⁸⁰ is the return of refugees and the displaced.³⁸¹ Having in mind that by autumn 2008 only 7.5 per cent of internally displaced persons returned to Kosovo, we can conclude that the goal was not met and that strong segregation is still spreading in all segments of life in the Province.³⁸²

109. UNMIK as mandated to facilitate the return of the displaced persons³⁸³ has been effectively restricting the process by conditioning the return *exclusively* to places of origin, despite Belgrade office of UNHCR insisting on return according to the places of choice.³⁸⁴ This is completely contrary to UNMIK’s stance about the return of Albanian displaced population in 1999, when this principle was not implemented.³⁸⁵ Such discriminatory approach violates the right to free choice of place of living by members of non-Albanian communities and thus, among other things, right to adequate housing. Having in mind the unfavourable security situation and the fact that many settlements and **all** the cities in Kosovo south of the Ibar River became mono-ethnic³⁸⁶ and unsafe for minority ethnic communities, conditioning the return of smaller groups and individuals to unsafe places for them is tantamount to denying them return.

110. In June 2006, the Protocol on Sustainable Return was signed³⁸⁷, which recognises the right to return to any place in Kosovo. In practice, for the displaced persons this once again boiled down to objectively reduced choice of relatively safe places with mostly Serb population in rural parts of Kosovo. Despite this, the document remained in the sphere of political manipulation (as false evidence of meeting obligations of provisional

³⁷⁸ Memorandum on Understanding was signed by Lufti Haziri, minister for local self-government of Provisional Institutions, and Martin Loftus, head of UNHCR mission in Pristina. UNMIK had no comment.

³⁷⁹ 55 Serbs, 52 Ashkali, 17 Gorani, 15 Roma and 4 Bosniaks. Data from Department for Return and Humanitarian Aid in the Ministry for Kosovo of the Republic of Serbia.

³⁸⁰ Adopted by the Security Council on June 10, 1999.

³⁸¹ Item 9.3 of Resolution 1244 stipulates that the responsibility of international security presence is: “Establishing a secure environment in which refugees and displaced persons can return home in safety, the international civil presence can operate”; Item 11.11 stipulates main responsibilities of civil presence: “Assuring the safe and unimpeded return of all refugees and displaced persons to their homes in Kosovo.”

³⁸² See Table in Annex 4.

³⁸³ Return of displaced persons, due to its significance and need for international protection and engagement, remained one of the reserved authorities of SRSG.

³⁸⁴ We remind that Article 11 of the Pact stipulates the right to safe, peaceful and dignified life in any place, which was denied by restricting the return solely to the place of origin.

³⁸⁵ EAP, „Процена ситуације у погледу заједница и повратка на Косову“ (February 2006), page 40.

³⁸⁶ *Ibid.*, page 7.

³⁸⁷ Protocol on Sustainable Return was signed by representatives of UNMIK, Provisional Institutions of Self-Government and Serbian Government on June 6, 2006.

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institutions and alleged success of international administration in the field of repatriation), and in practice was never implemented.³⁸⁸

111. Sections 2 and 3 of the Protocol determine a 60-day deadline for competent municipal bodies to carry out and finish the procedure for organised return of persons who declared they intend to return. However, the revised Manual for Sustainable Return³⁸⁹, adopted as a document for implementation of the Protocol, unnecessarily complicated the procedure of return introducing numerous administrative mechanisms and instances of work groups and bodies³⁹⁰ for certain phases of the procedure. That way, the initial deadline of 60 days was virtually abolished and turned into an open period.³⁹¹ That is why local Albanian authorities, with obvious aim to slow down the return, insist on consistent implementation of all phases and mechanisms under the Manual.³⁹²

112. Another measure which considerably slows down the return is an arbitrary selection of displaced persons willing to return by the so-called “receiving community”. This arbitrary selection was usually carried out by informal representatives of the reception community, taking over the role of arbiters who decide who can and who cannot return. The selection of acceptable candidates does not depend on material or legal evidence, or decisions by authorised bodies (such as indictments, court verdicts, etc.).³⁹³ Although it is important that the receiving community accept repatriates in order to achieve sustainability of return, such practice of “filtering” repatriates by receiving community is very disputable, because of the highly obvious discriminatory effect.

113. The important moment in the creation of preconditions for the respect of rights to adequate housing for minority non-Albanian communities is made by so-called balancing components, i.e. an investment into local receiving community in order to reduce

³⁸⁸ Protocol established four basic preconditions for return: (1) security and freedom of movement, (2) access to public services, (3) access to shelter, and (4) economic viability. UNMIK and Provisional Institutions of Self-Government proclaimed the first two conditions met, despite continued security incidents and ethnically motivated attacks; the whole concept stuck with *стамбеног збрињавања* because that included return of private property, which turned out as insurmountable obstacle. In more detail in part about property rights.

³⁸⁹ Revised Manual for Sustainable Return was adopted in June 200 and revised very quickly. In 2008, due to many objections from associations of displaced persons, the work on new revisions and amendments began, which were still not finalised or adopted. In practice, some kind of mixture of basic and revised text, as well as non-adopted changes, are used.

³⁹⁰ See schematics in Annex 1.

³⁹¹ EAR, „Situation Assessment on Communities and Return in Kosovo“ (February 2006), p. 31.

³⁹² The return was led by the Work Group for Direct Dialogue, supported by regional UNHCR office in Vienna. It met only twice. The executive hand of the Work Group was supposed to be the Technical Subgroup, which, due to frequent and consistent obstruction by the Pristina delegation, met only once or twice a year. There were no visible efforts from the Pristina delegation, or from Vienna office of UNHCR for that matter, to overcome these obstructions.

³⁹³ A representative of the American Refugee Council (ARC) indicated to another complication experienced in the process of return, saying that, in three separate occasions, returns almost became “conditional returns” because the receiving community and the municipal structures used to exercise veto on who will return and who will not. EAR, „Situation Assessment on Communities and Return in Kosovo“ (February 2006), p. 21

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resistance to the return of non-Albanian communities.³⁹⁴ Such programs include between 30 and 50 per cent of finances intended for individual project of return. It often happens that, after realisation of the balance program, repatriates are exposed to intimidation and attacks and forced to once again leave their homes and enter secondary displacement. Naturally, the receiving community gets to keep the benefits from the return program.

114. The fact is that efforts by UNMIK so far aimed at sustainable return and securing adequate housing for minority communities in Kosovo, due to all the mentioned circumstances, failed to bear fruit. In that context, especially worrying is the initiative that the buildings built for minority communities that were not taken up be put to use to municipal authorities. The alleged purpose is securing temporary accommodation for second categories of repatriates, such as unsuccessful asylum seekers from Western Europe, almost solely Kosovo Albanians. Project of return and reintegration in Kosovo financed by European Union and UNDP in cooperation with Ministry for Communities and Return of the Provisional Institutions of Self-Government, worth over five million dollars, envisages as one of its final goals “development of the revised strategy of municipal authorities for reconstructed empty property”.³⁹⁵ Such initiatives may become additional obstacle in the series of already existing obstacles in the field of protection of rights to adequate housing of endangered members of repatriate minority communities.

115. Another very worrisome moment is the intention of the said EU/UNDP Project to be the single project of return in Kosovo, especially when having in mind that the Project relates to only four municipalities (Istok, Pec, Kosovo Polje and Gnjilane). In addition, most of the secured finances is planned for “capacity building” in those municipalities in order to enable undisturbed return, which makes it fairly certain that another dispersion of already modest finances would occur. In other words, finances intended for return of displaced persons are redirected to various training of uninterested local officials instead of to displaced persons and repatriates.

116. Additional problem of the above described context of preventing return and adequate housing is the lack of coordination among Ministry for Communities and Return, Kosovo Provisional Institutions and municipal return offices. What’s worse, the competent Ministry is shaken by frequent corruption scandals, dismissals of officials, which is why there is no necessary continuity in work or institutional memory. This is added to by frequent institutional changes as well, the latest of which being the merge of earlier positions of municipal official for return and municipal official for communities.

Health care

The right to access to health care services on a non-discriminatory basis belongs to a group of rights from the Constitutional Framework for Provisional Self-Government (Article 4.4, Paragraph

³⁹⁴ For example, construction of waterworks, road network, kindergartens or houses for local Albanian population.

³⁹⁵ EU/UNDP Joint Return and Reintegration Project in Kosovo (2008-2010), page 11.

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(m)).³⁹⁶ The Provisional Institutions of Self-Government shall ensure that all Communities and their members may exercise their rights³⁹⁷, and the Ministry in charge “develops policies and implements legislation for a non-discriminatory and accountable health care system.”³⁹⁸ According to Constitutional Framework and based on its duties in accordance with Resolution 1244, SRSG will retain the authority to protect the “rights of Communities and their members”³⁹⁹.

The Kosovo Law on Health, basic law in this field, contains a series of provisions which make a legal foundation for a non-discriminatory and inclusive system of healthcare. In Section 7.1, legislator stipulates that the “system of health care should be accessible to all citizens and all Communities of Kosovo.”, and Section 12 defines principles which guarantee access to health care system to members of non-Albanian communities (principles of equity, quality, inclusiveness and non-discrimination).

117. However, that legal framework does not contain necessary provisions whose implementation would guarantee efficient implementation of principles of inclusiveness and non-discrimination, in other words, establishing conditions for adequate use of Serb language as official language of Kosovo. It can be concluded that the valid provisions point out to the fact that health care institutions in Kosovo under Provisional Institutions of Self Government are not aware of the equal significance of Albanian and Serb language. That is why their work can become indirect source of discrimination towards patients who do not speak Albanian.

118. Beside that, the provision which guarantees non-discriminatory functioning of the health care system in Kosovo does not include *ethnic origin*⁴⁰⁰ as basis for discrimination, which means that it offers only partial protection from discrimination of communities in Kosovo.

119. However, non-Albanian population in Kosovo is afraid to use health care services in hospitals employing solely Albanian-speaking staff. That is why one of the biggest problems of minority communities remains the secondary health care⁴⁰¹.

³⁹⁶ This is in accordance with Article 25 of the Universal Declaration on Human Rights and Article 12 of the International Pact on Economic, Social and Cultural Rights, which are in direct implementation in Kosovo, in accordance with Article 3.3 of the Constitutional Framework.

³⁹⁷ UNMIK Regulation No. 2001/9, articles 4.5 and 5

³⁹⁸ UNMIK Regulation No. 2001/9, Annex 6, paragraph (i), Law No. 2004/4, articles 16, 17

³⁹⁹ UNMIK Regulation No. 2001/9, articles 4.6 and 8.1

⁴⁰⁰ Article 12 of the Kosovo Law on Health No. 2004/31 stipulates that inclusiveness and non-discrimination mean: equal health care for all citizens by ensuring the standards during fulfilling the needs at all levels of health care as well as ensuring health care without discrimination regardless: gender, nation, race, color, language, religion, political preferences, social status, the property status, the level of physical or mental abilities, family status, or age differences.

⁴⁰¹ This was as well the finding of the ICMPD study on the health care system in Kosovo and Metohija. ICMPD Legal Team: *Report on Gaps and Needs Analysis of the Legislative Framework Including Recommendations for Revisions and Complementary Legislation*, Belgrade, July 2006. The Report identifies practical obstacles to the return of displaced persons and refugees, with special emphasis on property rights and indirect discrimination in Croatia and Kosovo, p. 37.

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120. Especially threatened segment of population when it comes to health care is displaced persons and repatriates who live in isolated neighbourhoods and Albanian surrounding. Generally speaking, their economic positions is poorer than that of the total population, even than that of the other displaced persons and repatriates who live in larger Serb settlements, such as Gracanica, Strpce and villages in Kosovsko Pomoravlje. Because of their geographical location, they are far from health care institutions under the jurisdiction of the Republic of Serbia. On the other hand, health care institutions under jurisdiction of Kosovo authorities are practically inaccessible to them, due to language barrier, mutual mistrust, lack of freedom of movement and safety in mono-ethnic Albanian communities.

121. Almost all projects of return of displaced persons even in their blueprint plans contain a sub-project or component of health care, usually through a construction of small outpatient clinic which covers one or several neighbouring villages. However, in practice that part of project remains unfinished due to a lack of funding, without the question ever being asked why sufficient funding was not provided or why there is a discrepancy between the plan and realisation.

122. Health care in areas with predominantly Serb population is carried out according to health protocols and with funding from the Republic of Serbia⁴⁰², including medicine supplies. However, distribution of medicine and other medical material to these health care institutions encounters great problems. Medicine supplies were detained and confiscated on several occasions at the Merdare administrative line crossing, and at the customs checkpoints in southern part of Kosovska Mitrovica.⁴⁰³ This creates additional pressure on Serb population and insecurity when it comes to full protection of the right to health care.

123. We remind that the right to health, among others, contains four inter-connected and fundamental elements, of which the right to medicine was established as one of the basic determinants of elements of availability⁴⁰⁴ and elements of quality⁴⁰⁵

124. Thanks to exceptional engagement of the UN office and Red Cross of Serbia, with assistance from World Health Organisation, distribution of humanitarian aid is temporarily normalised. However, UNMIK Office for Civil Affairs informed the Red Cross of Serbia on 18 August 2008 that it ceases activities which included cooperation with UNMIK customs in the field of procuring permits to Red Cross of Serbia for

⁴⁰² Legal foundation of their activity is UN Security Council Resolution 1244 (1999) SBUN and Joint Document: Agreement on Cooperation of Yugoslavia and UNMIK, signed by Nebojsa Covic, at the time President of the Coordination Centre for Kosovo and Hans Haekkerup, the then special Representatives of the UN Secretary-General, in November 2001.

⁴⁰³ Reasons for confiscation of those packages are of various administrative nature, although the distribution is carried out by the authorised distributor, Velefarm.

⁴⁰⁴ General Comment No. 14 of the UN Committee for economic, social and cultural rights: the element of availability таксативно lists basic medicine, as defined by Action program for Basic Medicine of the World Health Organisation.

⁴⁰⁵ Ibid. An element of quality in point (d) enumerates the basic medicaments, as defined in Action Program for basic medicaments of World Health Organization.

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customs free and unhindered supply of humanitarian aid and medicine to endangered population of Kosovo and Metohija.

Education

125. The right to education in Kosovo and Metohija is regulated by relevant international instruments and local regulations, in compliance with Section 3.3 of the Constitutional Framework.⁴⁰⁶ The right to education in *one's own language* belongs to a group of rights directly guaranteed to communities in Kosovo based by Chapter 4 of the Constitutional Framework 4: "Communities and their members have the right to receive education in their own language."⁴⁰⁷

126. The Provisional Institutions of Self-Government shall ensure that all Communities and their members may exercise this right⁴⁰⁸. Within the Provisional Institutions of Self-Government, the Ministry of Education, Science and Technology have specific competences to implement laws and promote non-discriminatory education system.⁴⁰⁹ Beside that, in accordance with the Constitutional Framework and based on its duties in accordance with the UN Security Council Resolution 1244 (1999), SRSG reserves the power to "protect the right of communities and their members".⁴¹⁰

127. In academic year 1998/99, in 29 municipalities and 5 districts in Kosovo and Metohija, Serbian-language were attended by 45,279 pupils in primary and 19,966 students in secondary schools. After the exodus of Serb and non-Albanian population, the picture of education system has been completely changed. Majority of schools were moved from their bases, mostly in cities, to inadequate buildings most often in rural areas. Several secondary schools often work in the same building. Seven primary schools teach in private homes.

128. Primary and secondary schools in Kosovo and Metohija financed from the budget of the Republic of Serbia are using the same education programs as in Serbia proper. Provisional Institutions of Self-Government in Kosovo do not recognise the validity of these programs which directly endangers the right of minority communities in Kosovo to realise their right to education in their mother tongue. The reason for this is that programs used in the Province and the ones used in the territory of Serbia proper are so different that students who would finish secondary education pursuant to the Kosovo program would be impossible to resume their education in universities in Serbia, including universities in Vojvodina and Mitrovica. We should also add that Kosovo Ministry for Education, Science and Technology still did not organise lectures of high education in the Serbian language.

⁴⁰⁶ Article 36 of the Universal Declaration of Human Rights, Article 2 of the Protocol 1 of the European Convention for Protection of Human Rights and Fundamental Freedoms, Article 13 of the International Pact on Economic, Social and Cultural Rights, UNMIK Regulation 2001/9.

⁴⁰⁷ Article 4.4 of the UNMIK Regulation 2001/9.

⁴⁰⁸ *Ibid*, articles 4.5 and 5.

⁴⁰⁹ *Ibid*, Annex 4.

⁴¹⁰ *Ibid*, Articles 4.6 and 8.1.

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129. The key problem in the sector of education, beside exodus of minority communities, is the lack of security in educational facilities, and frequent, almost daily disruptions of teaching, restricted freedom of movement of students, involuntary transfer of school buildings into inadequate rooms in villages in which only a small number of Serb and non-Albanian population remained. Coordination Centre for Kosovo and Metohija of the Republic of Serbia in the meantime launched reparation of the school buildings. Competences and the status of primary and secondary schools in Kosovo and Metohija for Serb community have been defined pursuant to 1244 and resume work under plan and program of the Serbian Ministry of Education.

130. Especially difficult is the situation of the municipality of Dragas (also known as Gora), inhabited by the Gorani ethnic community.⁴¹¹ The pressure on the community of Gorani, which have been going on since 1999, culminates at the beginning of each school year, which delays the beginning of classes. The attempt of forced assimilation of Gorani results in moving the Gorani community out of the area. Schools are moved to private houses or facilities which not only are not adequately equipped, but do not have the most basic means for performing lectures. Parents and children, members of the Gorani community, declared themselves through petitions that they want to attend classes according to the plan and program of Republic of Serbia.

131. Two secondary schools with 150 students were moved from Dragas to the village of Mlike, after expulsions and pressures on pupils and teachers to work according to the education plan of the Provisional Institutions of Self-Government of Kosovo. Since the building in the village of Mlike is inadequate and that it does not even have a toilet, Serbian Government through its National Investment Plan allocated finances for adaptation and supplementary construction works on the school building. However, municipal authorities of Provisional Institutions of Self-Government in Gora refused to issue the earlier requested construction permit, although the hired contractor was the non-government organisation registered with UNMIK. That is why Gorani parents started building the annex which contains the IT classroom and toilet on their own. Their effort was annulled when the authorities on 11 October 2008 tore down the newly built section, which caused a serious conflict between the villagers and local authorities.

132. Since June 1999, some 1,500 professors, associates and employees of the University of Pristina, together with 16,000 Serbian-speaking students, were expelled from the university and its faculties, and due to a bad security situation, they never returned to Pristina. The Serbian-teaching part of the University of Pristina moved to Kosovska Mitrovica⁴¹², the only remaining multi-ethnic city. The University currently

⁴¹¹ Gorani are of Slav origin and Muslim religion, a separate ethnic community which speaks Serbian. They live in southwest of Kosovo, in geographic “pocket”, isolated and surrounded by Albanian communities, which makes their position difficult. Additional problem is that Turkish battalion of KFOR is stationed there. Turks from the battalion also pressure them to accept Albanian language and Albanian school plan and program.

⁴¹² By the decision of the Government of Republic of Srpska (*Official Gazette* No. 60/01) in late 2001, University in Pristina moves to Kosovska Mitrovica, which is determined as temporary headquarters of the

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employs 746 professors and associates and around 350 non-teaching staff, and educates over 10,000 students.⁴¹³

133. Beside the University in Kosovska Mitrovica, there are no other higher education programs in Serbian language in Kosovo and Metohija⁴¹⁴. In the University of Pristina, there is no single program for students who speak Serbian.

134. Although the only education institution in Kosovo with lectures in Serbian, there are cases when students who graduated at this university had difficulties in seeking jobs or entering further education programs, because diplomas of this institution are not recognised in practice⁴¹⁵. The same goes for diplomas of all education institutions in Kosovo financed from the budget of the Republic of Serbia.

135. This situation is one of the factors which increases the level of insecurity and endanger the return of displaced persons and normal functioning of non-Albanian communities in Kosovo. According to the Advisory Committee of the Framework Convention for Protection of National Minorities:

“[...] availability of higher education in one’s mother tongue can be a key factor in deciding whether to stay in Kosovo. Together with access to primary and secondary levels of education in one’s mother tongue, the availability of higher education is influencing the return decisions of IDPs and refugees. This should be reflected in the policies and practices developed in this field. Furthermore, the Advisory Committee wishes to underline that the important role assigned to the Serbian language in official bodies and other contexts in Kosovo, reflected inter alia in the Constitutional Framework and in the draft law on languages, implies that there is a need to ensure adequate language skills and capacity within various public sectors. This also needs to be taken into account in the design and implementation of educational legislation and policies, including in higher education.”⁴¹⁶

136. Non-recognition of diplomas issued by the University in Kosovska Mitrovica is a direct consequence of the discriminatory acts of the Kosovo Assembly in the course of

university. Gradually and thoroughly all the faculties which were a part of the University are returning to the territory of Kosovo.

⁴¹³ At all faculties there is work on reform of educational plans and programs, which are being synchronised with the Bologna education process. Especially is being insisted upon synchronisation of curriculum for study programs with the same or kindred faculties in Serbia according to the principle that curriculums for study programs of kindred faculties cannot differ from the same for more than 10 per cent. It is realistically expected that by 2010 the University in Pristina (K. Mitrovica) will fully take over the Bologna process.

⁴¹⁴ Partial exception from this claims is the program in Bosniak language at the Business School in Pec and at the Faculty of Pedagogy in the University of Prizren.

⁴¹⁵ *Ibid.* See also OSCE Mission in Kosovo: *Parallel structures in Kosovo*, Pristina, March 2003, page 32.

⁴¹⁶ Advisory Committee on the Framework Convention for Protection of National Minorities, *Opinion on Implementation of Framework Convention for Protection of National Minorities in Kosovo*, Strasbourg, November 2005, page 27.

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adopting Kosovo Law on Higher Education⁴¹⁷ and failure of the interim international management to adequately react to such acts.

137. In 2003, Kosovo Assembly adopted the Law on Higher Education. This law directly accredited the University in Pristina. At the same time, prescribed conditions for accreditation seriously questioned the possibility of University in Kosovska Mitrovica being accredited as well. That is one of the reasons why, still in the phase of adoption of this law, representatives of the Serb community in the Assembly sent a complaint to the Presidency of the Assembly⁴¹⁸, claiming that draft law on higher education “violates vital interests of the community they belong to, in other words, negatively affect the rights of community or their members, in accordance with Section 4.”⁴¹⁹ Since Presidency of the Assembly failed to reach consensus on the proposal, Special Panel was founded with task of assessing the situation.⁴²⁰ Within five days, Special Panel gave a recommendation that Assembly adopt the amended Law on Higher Education which would directly accredit University in Kosovska Mitrovica, in order to allow persons who speak Serbian to realise their right to higher education. According to James O’Brien, chair of the Panel, the decision was made because after the Assembly refused to legalise the work of the University in Kosovska Mitrovica, this University “had no practical way of applying for certification in the near term, even if it chose to do so, because the procedures for certifying universities will not be in place.”⁴²¹ Despite this, Kosovo Assembly dismissed the recommendations of the Panel and the Law was not amended.

138. In compliance with Section 9.1.45, laws shall become effective “on the day of their promulgation by the SRSG”. However, in this case, promulgation of the Law on Higher Education without amendments recommended by the Special Panel would be contrary to obligations of SRSG in the field of protection of rights and interests of communities⁴²². A year after it was adopted, SRSG promulgated the Law on Higher Education in Kosovo. He did it by adding a new provisional supplement to Article 10 by which the University in Kosovska Mitrovica acquired temporary accreditation: “All providers of higher education that were authorized to operate in the academic year 2001-02 will get the license for work by this Law and in accordance with the international principles of non-discrimination, in an effort to reach standards envisaged by the Law”. Since then, SRSG is each year extending the accreditation to this University by decree.⁴²³

139. The Law on Higher Education, as basic legislation in this field in Kosovo and Metohija, contains a series of other shortfalls which indirectly discriminate the Serbian-

⁴¹⁷ UNMIK Regulation 2003/14 (12 May 2003) on the promulgation of a law adopted by the Assembly of Kosovo on higher education in Kosovo.

⁴¹⁸ In accordance with the procedure for adoption of legislation as stipulated in Article 9 of Constitutional Framework.

⁴¹⁹ In accordance with Article 9.1.39 of the UNMIK Regulation 2001/9.

⁴²⁰ *Ibid*, articles 9.1.40 and 91.41.

⁴²¹ James O’Brien, *Working Towards a Unified System, Focus Kosovo*, Pristina, August 2002.

⁴²² Chapter 8 of the UNMIK Regulation No. 2001/9.

⁴²³ According to the available information, University in Kosovska Mitrovica was accredited for the last time in early 2007. European Commission, *Progress Report (under 1244) 2007*, Brussels, 2007, page 21.

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speaking communities. Namely, this document, or any other legislation adopted in Kosovo since 1999, does not contain a provision which explicitly stipulates the right to higher education in one's own language. The Law on Higher Education only generally stipulates that "objects of higher education are [...] to provide opportunities for all inhabitants of Kosovo with the ability to benefit from such education, throughout their lives."⁴²⁴, while the Ministry of Education of Provisional Institutions of Self-Governments of Kosovo is responsible for "promoting equality of opportunity in access and admission to higher education".⁴²⁵ Therefore, although it represents a fundamental law in the field of higher education, not a single provision of the Law on Higher Education says that Albanian and Serbian are official languages in Kosovo, and that, accordingly, the system of higher education should be based on principle of equality of these two languages in institutions of higher education and their programs. The Law contains only general prohibition of discrimination regarding approach to higher education in Kosovo and Metohija (Section 3.1) and prohibition of discrimination against students.⁴²⁶

140. The Law on Higher Education does not contain any other guarantees necessary for effective functioning of a bilingual system of higher education either, such as affirmative measures in fields of employment in institutions of higher education, provisions on equal use of official languages in these institutions and use of official languages on diplomas of institutions of higher education in Kosovo.

Cultural Life

141. Despite claims by UNMIK about existing investments aimed at reconstructing 156 destroyed Orthodox churches in Kosovo⁴²⁷, set as specific priority, no real positive progress has been observed in that regard. On the contrary, certain activities of local authorities can be perceived as directly aimed against preservation of the Serb cultural heritage in Kosovo.

142. The position of the Serbian Orthodox Church is still very difficult in Kosovo. The huge number of churches, monasteries and other temples are destroyed or severely damaged since June 1999. Destruction, burning down and attacking of 117 churches, monasteries and innumerable cemeteries happened in the second half of 1999, in the presence of several thousand soldiers of international forces and UNMIK. That must not be forgotten and made insignificant as previous destruction, despite unprecedented and

⁴²⁴ Article 2.1, Paragraph (b) of UNMIK Regulation No. 2003/14.

⁴²⁵ *Ibid*, Article 4.1, Paragraph (h).

⁴²⁶ *Ibid*, Article 3.1 and Article 2.9.4, Paragraph (c). The only provision which stipulates, once again indirectly, the right of Serb communities to higher education in their mother tongue, is contained in the article which regulates authority of Ministry of Education: "In exercising powers and duties under this Law, the Ministry shall respect and promote the rights of Communities and their members established in Chapter 4 of the Constitutional Framework for Provisional Self-Government. (Article 4.2)."

⁴²⁷ In the period between June and October, 1999, 76 monasteries and churches were destroyed or damaged. See for example <http://www.rastko.org.yu/kosovo/crucified/default.htm>. On March 17 and 18, 2004, alone, 36 monasteries, churches and other cultural and religious objects were destroyed or damaged. UNHCR Kosovo, *Supplement on Kosovo communities of Roma, Ashkali, Egyptians, Serbs, Bosniaks, Gorani and Albanians in minority situation* (June 2004), page 32.

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unseen repeated destruction of other and the same monasteries, churches, monuments of culture, cemeteries and everything else with a Serb or Orthodox sign which happened on March 17 and 18, 2004. In the two-day March pogrom alone, 34 buildings or locations of the Serbian Orthodox Church under management of the Eparchy of Raska and Prizren and Kosovo and Metohija were destroyed, burned down or damaged. The most affected were churches and monasteries. Of that number in the March pogrom, 18 buildings were monuments of culture of the Serbian cultural heritage in Kosovo, and of the total number of damaged buildings (monasteries and churches), 60 are monuments of culture of the Serbian cultural heritage. These numbers are incomprehensible. In this century, an unthinkable pogrom is being carried out, seizing of the land, human and cultural genocide against Serb people and its heritage. Qualification “crime against cultural heritage” in Kosovo was entered into Resolution 26, XXXI of the General Conference of UNESCO.

143. The events from March 17, resulted in new expulsion, displacement and pogrom of population and monuments of culture in Kosovo. By expelling Serbs and “erasing” their cultural heritage which testifies of emergence of the state of Serb people, Albanians from Kosovo are trying to rewrite and falsify history. The destruction exceeded the one from 1999 (after the war). Two monuments were burnt down (monastery of St. Archangel, sepulchral temple of King Dusan and unique city church of Bogorodica Ljeviska), which were, in the Report of UNESCO mission in Kosovo in 2003 deemed monuments of universal significance (of the total of six such monuments in Kosovo).

144. Mostly all churches and many monasteries suffered some **damages** (the example are Prizren churches, especially the church of *Bogorodica Ljeviska* and *Holy Salvation* then church of *St. Andrew* in Podujevo, church of *Holy Mother of God* in Belo Polje, church of *St. Ilija* in Vucitrn and others) or were completely **destroyed** (for example, *monasteries: Zociste* near Orahovac, *Holy Trinity* near Musutiste, *Devic* near Srbica, *Dolac* near Klina, *St. Mark's* in Korisa, *St. Archangels'* in Gornje Nerodimlje, *St. Archangel Michael* in Buzovik and others; and *churches: St. George* in Prizren, Recani and Siga, *Virgin Hodegetria* in Musutiste, *Holy Mother of God* in Suva Reka, *Church of Holy Trinity* in Djakovica, *Birth of Holy Mother of God* in Softovic, *St. Nicholas* in Pristina, Prizren, Slovinj, Djurakovac, Stimlje, Popovljan, Mlecani, Kijev, Donje Nerodimlje, Sicevo, Bistrazin, Ljubizda and Cabici, *St. Petka* in Drsnik, *Most Holy Mother of God* Sajkovac and others), even in the form of annihilating-making all the traces disappear – even the foundations of churches (example: church of *Most Holy Mother of God* with its parochial home in Djakovica). Together with the destruction of monasteries, churches, cemeteries and other, over 10,000 icons were destroyed, as well as church art and church service objects. It is interesting that, before the churches were burnt down or blown up, the looting of movable Orthodox treasure happened and that it is currently being exploited at the world illegal market of antiquities and art objects, old manuscripts and other rarities.

145. As an example of institutional usurpation of property we can offer the example of a Serbian Orthodox Church in Djakovica. The Church of Holy Trinity in Djakovica was torn down by Albanian extremists in 1999. In the place of the destroyed church, municipality of Djakovica started works on construction of city park, despite the fact that

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the land in the Cadastre is registered to Serbian Orthodox Church. Bishop of Lipljan Teodosije sent a protest to UNMIK and Council of Europe.

146. The municipality of Decani refused to carry out the executive decision made by SRSJ Joachim Ruecker on 17 May 2008, returning to the Decani monastery 24 hectares of land which the Communist authorities took away from the monastery after WWII. Serbian Government made a Decision in 1996 that this land be returned to the monastery. After 1999, municipal authorities of Decani still treated this land as socially-owned and erased the monastery from the Cadastre as owner. On 17 May 2008, on insisting of Bishop Teodosije, Ruecker made the Decision that the land be returned to the monastery and ordered the municipal authorities to enter it into Cadastre once again as the owner. Local Assembly of Decani declaratively rejected the carrying out of this UNMIK Decision and decided to terminate all contact with local UNMIK staff. Bishop Teodosije informed the UN headquarters in New York about the case.

147. One of the priorities for reconstruction, because of its exceptional religious and cultural significance, should also be the Church of Holy Trinity in Djakovica. After a series of cardinal damages and ignoring from authorities in its recent history, that Church was fully reconstructed in 1992, after denationalisation of the church plot. In July 1999, it was blown up by local Albanian residents. It was additionally damaged in 2004, when only foundation and parts of a wall remained. Although this location is included in the Memorandum on the Restoration of the Holy Sites Destroyed which were damaged in March 2004 and despite secured finances from the Donor Conference in 2005, UNMIK never even attempted to reconstruct it, because the reconstruction of this church is considered to be a politically sensitive issue. The principle and duty to preserve cultural heritage dictates that, if the already damaged monument cannot be reconstructed due to current lack of finances, it at least must not be deteriorated further. However, representatives of the municipality of Djakovica undertook a series of steps aimed at worsening the current situation. Representatives of local authorities together with members of the Association of War Veterans of the so-called Liberation Army of Kosovo, erected the monument to the "heroes of war" in the plot which belongs to the Serbian Orthodox Church (later removed). In September 2007, the place where the church stood was once again cleaned up, in order to remove the remains of the temple, and in early 2008 almost all signs of its existence were completely removed. In the place of the church, local authorities built a public park.

148. Similar activities aimed at making the access more difficult, disrespect and direct annihilation of cultural heritage were carried out in the territory of Kosovska Kamenica, where the church in the village of Tomance was turned into a waste dump, and the church of St. Petka in Dobrocan, damaged in 1999, was covered in waste. In Prizren, in a part of the plot Crven breg owned by the Serbian Orthodox Church, 12 houses were built for the local Albanian population, completely preventing access to the plot in order to be used. In the yard of the church of Apostle Peter and Paul in Petrovac which was destroyed in 1999, a monument to the KLA was erected.

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149. As an exceptionally frequent problem we have the vandalizing of gravestones on Serb cemeteries. According to existing data of the Serbian Orthodox Church, local Albanian population destroyed 5,250 monuments in 254 cemeteries⁴²⁸, while in over 50 cemeteries there is not a single untouched gravestone. In gross negligence, on the hill above the Serb cemetery in Zakovo (municipality of Istok), local Albanian community built a water tank, which caused landslide and extensive damage to graves.

150. Another example of manifest attempt to root out Serb national identity and gross perversion of historical facts is the content of the presentation of tourist offer in Kosovo, under sponsorship of Provisional Institutions of Self-Government in Kosovo (Tourism Department of the Ministry of Industry and Trade).

151. In the International Fair of Tourism in Ohrid (FYR Macedonia) held between 17 and 20 January, 2008, four brochures of the Kosovo Tourist Association⁴²⁹ were distributed with signs of statehood of Provisional Institutions of Self-Government in Kosovo, which presented monasteries of Decani, Gračanica and the Pec Patriarchate without mention of their Serb origin⁴³⁰. When it comes to Pec Patriarchate, there was a warning to “be ready to hear the other side of the Kosovo story as well, as told by the Serb church community, from their angle”.⁴³¹ Above the text about the Catholic church, there was a photograph of the Orthodox church of St. George in Prizren, without a mention that it is an Orthodox church damaged in the March pogrom of 2004. Left out were the information about Serbian religious and cultural heritage when mentioning Sredacka Zupa. There was also no mention of existence of 15 Serbian churches, some of which are monuments of culture of exceptional significance for the Republic of Serbia. The same was left out when mentioning Rugovska and Decani gorges on which there are Orthodox hermit cells. There were incorrect historical and expert information (for example, claims that Emperor Dusan “conquered Albanian land” in 1346, that “Orthodox churches date back to the Byzantine period”, etc.) In such international presentation of historical and cultural characteristics of Kosovo, Serb cultural identity is completely marginalised and presented only through the prism of Kosovo multi-ethnicity.

152. Identical errors when it comes to identification and recognition of non-Albanian and Serb cultural heritage was observed on official internet presentation of the tourist offer of Kosovo supported by Provisional Institutions of Self-Government in Kosovo.⁴³² As part of the presentation of the tourist offer, basic protected pillars of the Serb cultural heritage in Kosovo such as Gračanica (recognised by UNESCO) were for a long time presented as Albanian, or Illyrian cultural heritage⁴³³, without any mention of their Serb

⁴²⁸ By the end of 2005.

⁴²⁹ Available at official internet presentation of KOTAS at <http://www.kotas-ks.org/publications.html>.

⁴³⁰ KOTAS's Tourist Package 03 KO.

⁴³¹ KOTAS's Complete Tourist Package of Kosovo, page 12.

⁴³² Official internet presentation of the tourist officer of Kosovo <http://www.visitkosova.org>.

⁴³³ For details, see, for example http://www.kosovo.net/news/archive/2006/December_02/1.html, accessed on October 15, 2008. Distortion of cultural and historical facts was also present at the official internet presentation of the tourist offer of Kosovo, but such content was removed after strong pressure from the public.

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origin. The usual practice is also renaming of the most important Serb churches, which are, despite frequent objections, consistently called alternatively “castle”⁴³⁴.

153. Permanent incorrect presentation of historical and expert data can justifiably be interpreted as a part of strategy of alienation of Serb cultural heritage in Kosovo from Serb people who have created and are its legal owner. Such behaviour violates the principle of preservation, development and spreading of culture, as a right of the individual to participate in cultural life. Such practice demands broader condemnation of UNMIK and broad international public which should undertake appropriate measures.

154. Special problem is the actual rooting out of Serb language, as one of the three languages in official use in Kosovo, through the practice of writing incorrect topographical names as symbols of ethnic presence and part of national treasure. It is a relatively frequent phenomenon that instead of Serb names to write the *Albanized* version⁴³⁵ or use official new-Albanian names. This practice directly opposes the Article 9.4 of UNMIK Regulation 2000/45⁴³⁶ which stipulates bilingual (Albanian-Serb) official signs of names of cities, villages, roads, streets and other public places in Kosovo.

⁴³⁴ See, for example, <http://www.visitkosova.org/english/photogallery.htm>, accessed on October 15, 2008.

⁴³⁵ For example, Kamoglava instead of Kamena Glava, or Glllogoc (Albanian) instead of Glogovac (Serbian).

⁴³⁶ UNMIK Regulation 2000/45 (11. август 2000.) on municipal self-government in Kosovo.

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ANNEX 2

ADVANCED UNEDITED VERSION

LABOUR MARKET

Table 1

Basic indicators of labour market of Roma population								
	Unemployment rate		Employment rate		Activity rate		Inactivity rate	
	Total	Roma	Total	Roma	Total	Roma	Total	Roma
Total	16.4	40.7	50.8	27.8	60.8	46.8	39.2	53.2
Males	15.0	28.0	58.7	42.6	69.0	59.1	31	40.9
Females	18.1	68.2	43.3	10.3	52.8	32.3	47.2	67.7

Source: Survey on labour force, Statistical Office of the Republic of Serbia (Note: Sample of Roma from ARS, 2009, do not contain Roma with highest level of education).

Table 2

Number of the unemployed included in the measures of active employment policy carried out by the National Employment Strategy 2005-2010		
Measure	2009	
	Number of persons included in the measure	Effects on employment
Career management and counselling	93.377	16.327
ATP-1	35.911	6.229
Self-efficiency training/ATP-2	1.975	/
Clubs for seeking jobs	3.190	642
Employment fairs	52.301	9.456
Programs of additional education and training	20.515	19.097
Probationary employee	17.150	17.150 *
Trainings	3.365	1.947
Employment subsidies	11.732	11.732
Self-employment subsidies	5.303	5.303
New job opening subsidies	6.429	6.429
Public works	10.160	10.160 **
TOTAL	135.784	57.316

* Employed as probationary employee for a definite time.

** Employed for a definite time for the duration of public work.

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Table 3

Fluctuation of employment and unemployment rate ⁴³⁷						
Year	2005 October	2006 October	2007 October	2008 October	2009 April	2009 October
General unemployment rate (15 – 64 years of age)	21,80%	21,60%	18,80%	14,70%	16,40%	17,40%
General employment rate (15 – 64 years of age)	51,00%	49,90%	51,5 %	53,30%	50,80%	50,00%

Source: Statistical Office, Survey on labour force

Table 4

Basic indicators of the labour market (15-64) according to gender								
APS for persons of working age 15-64 years of age	April 08		October 08		April 09		October 09	
	m	f	m	f	m	f	m	f
Employment rate	62.3	46.0	62.2	44.7	58.7	43.3	57.4	42.7
Unemployment rate	12.4	16.1	12.7	17.3	15.0	18.1	16.1	19.1
Activity rate	71.1	54.8	71.3	54.1	69.0	52.8	68.4	52.8
Inactivity rate	28.9	45.2	28.7	45.9	31.0	47.2	31.6	47.2

Source: Survey on labour force, Statistical Office of the Republic of Serbia

⁴³⁷Since the beginning of the implementation of the National Employment Strategy, 2005-2010.

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ANNEX 3

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Regulations in the filed of safety and health at work

- The Law on Safety and Health at Work (*Official Gazette*, No. 101/05);
- Rule Book on the method and procedure of risk assessment at work station and in work environment (*Official Gazette*, No 94/06, 108/06 и 30/10);
- Rule book on conditions and amount of expenses for issuing licenses for work in the field of safety and health at work (*Official Gazette*, No. 29/06, 72/06 and 62/06);
- Rule book on program, method and amount of expenses taking expert exam for carrying out duties of safety and health at work and jobs of persons in charge (*Official Gazette*, No. 29/06 and 62/07);
- Rule book on procedure of establishing whether regulated conditions in the field of safety and health at work are met (*Official Gazette*, No. 60/06);
- Rule book on amount of expenses of procedure for establishing whether regulated conditions in the field of safety and health at work are met (*Official Gazette*, No. 60/06);
- Rule book on records in safety and health at work (*Official Gazette*, No. 62/07);
- Rule book on previous and periodical medical exams of employees at work station with increased risk (*Official Gazette*, No. 120/07 and 93/08);
- Rule book on content and method of issuing report forms on injuries at work, professional sickness and work related sickness (*Official Gazette*, No. 72/06 and 84/06);
- Rule book on procedure of testing and examining work equipment and examining conditions of work environment (*Official Gazette*, No. 72/06 and 84/06);
- Rule on preventive measures for safe and health work by using means and time for personal protection at work (*Official Gazette*, No. 23/08);
- Provision on safety and health at work in temporary and movable construction site (*Official Gazette*, No. 14/09);
- Rule book on preventive measures for safe and health work at work station (*Official Gazette*, No.21/09);
- Rule Book on preventive measures for safe and healthy work when using work equipment (*Official Gazette*, No.23/09);
- Rule Book on preventive measures for safe and healthy work when handling burden manually (*Official Gazette*, No. 106/09);
- Rule Book on preventive measures for safe and healthy work when using work equipment with a screen (*Official Gazette*, No. 106/09);
- Rule Book on preventive measures for safe and secure work when exposed to asbestos (*Official Gazette*, No. 106/09, 6/10-correction and 15/10-correction);
- Rule Book on preventive measures for safe and healthy work when exposed to chemical materials (*Official Gazette*, No. 106/09).

Regulations in the field of safety and health at work adopted by the Assembly of the Republic of Serbia and Government of the Republic of Serbia in 2009:

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- Law on ratification of International Labour Organization's Convention No. 187 for Promotional Framework on Occupational Safety and Health (Official Gazette, No.42/09);
- Law on ratification of International Labour Organization's Convention No. 167 on Safety and Health in Construction (Official Gazette, No.42/09);
- Law on ratification of Revised European Social Charter (Official Gazette, No. 42/09).

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ANNEX 4

ADVANCED UNEDITED VERSION

DOMESTIC VIOLENCE

Table 1

Domestic violence, Article 194 of Criminal Code

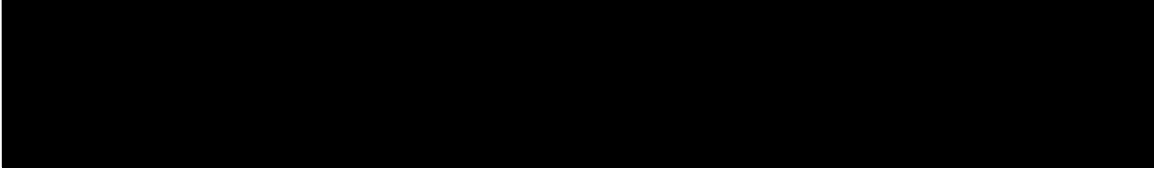
A large black rectangular redaction box covering the content of Table 1.

Table 2

ADVANCED UNEDITED VERSION

AGE AND GENDER STRUCTURE OF PERSONS DAMAGED BY CRIMINAL ACT OF DOMESTIC VIOLENCE IN PERIOD BETWEEN 2006 AND APRIL 2010.
IN TERRITORY OF THE REPUBLIC OF SERBIA

2006	2007	2008	2009	I-IV 2010	TOTAL
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ADVANCED UNEDITED VERSION

Table 3

AGE AND GENDER STRUCTURE OF PERSONS WHO COMMITTED CRIMINAL ACT OF DOMESTIC VIOLENCE IN PERIOD BETWEEN 2006 AND APRIL 2010 IN TERRITORY OF THE REPUBLIC OF SERBIA										
	2006	2007	2008	2009	I- IV 2010	??????				
NEGLECT AND ABUSE OF CHILDREN										
TOTAL NUMBER OF CRIMINAL OFFENCES COMMITTED AGAINST UNDERAGE PERSONS (WITH AGE AND GENDER STRUCTURE) IN THE PERIOD BETWEEN 2006 AND APRIL 2010 IN THE TERRITORY OF THE REPUBLIC OF SERBIA										
TOTAL NUMBER OF CRIMINAL OFFENCES	CHILDREN			UNDERAGE CHILDREN						Total number
	UP TO 14			14-16			16-18			m
	m	f	total	m	f	total	m	f	total	
3.737	992	810	1.802	515	379	894	904	474	1.378	2.411
4.125	1.124	887	2.011	556	384	940	895	495	1.390	2.575
4.403	1.290	979	2.269	608	426	1.034	957	529	1.486	2.855
4.431	1.163	890	2.053	569	423	992	868	582	1.450	2.600
1.128	233	170	403	123	90	213	229	127	356	585
17.824	4.802	3.736	8.538	2.371	1.702	4.073	3.853	2.207	6.060	11.026

11.527

the criminal offence

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CHILDREN WITHOUT PARENT CARE

Table 6

Reason for the absence of parent care	2007 %	2008 %
Parents deceased	12,7%	11,8%
Parents unknown	0,4%	0,3%
Parents completely stripped of parenting right	5,7%	7,4%
Parents partially stripped of parenting right	3,8%	4,4%
Parents prevented from performing parenting duties	22,9%	21,2%
Inadequate parent care	55,5%	54,9%
Total number of children	9.572 = 100,0	9.790 = 100,0

Table 7

End of 2008: Age of children and youths without parent care	Male children	Female children	Total children
Between 0 and 2 years	203	220	423
Between 3 and 7 years	909	857	1.766
Between 8 and 17 years	2.749	2.629	5.378
17 years and older	554	543	1.097
Total number of children and youths without parent care	4.415	4.249	8.664

Table 8

Users – children without parent care. Type of measures, forms, services:	2007	2008
Adoption	131	147
Custody	4863	5262
Temporary custody	1157	1362
Foster parents	3809	4238
Social protection institution	1459	1392
Material security	2570	2997

Table 9

ADVANCED UNEDITED VERSION

Users – children with disability Type of measures, forms, services:	2007	2008
Adoption	12	15
Custody	657	744
Temporary custody	286	308
Foster parents	376	364
Social protection institution	1066	982
Material security	1009	1167
Allowance for aid and care and increased allowance	6386	6949
Professional training (rehabilitation)	449	468

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ANNEX 5

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THE RIGHT TO WATER

Table 1

METHODS OF SOLVING PROBLEM WHEN WATER IS NOT AVAILABLE ACCORDING TO THE TYPE OF SETTLEMENT

	Belgrade	cities	villages
Use alternative source of drinking water	70,9	73,8	59,5
Use previously stored water	22,8	27,4	26,5
Addresses neighbour for help	12,8	15,8	31,2
Total	100%	100%	100%

Source: Study on living standard – *Serbia 2002 - 2007*.

Table 2

APARTMENT FOR PERMANENT RESIDENCE ACCORDING TO HOW THEY ARE EQUIPPED WITH WATER INTALLATIONS

Type of settlement		Total population	Equipped with water installations	Equipped in per cent
Urban settlements	No.	2743996	2453319	89,4
Other settlements	No.	1551036	1521326	98,1

source: Census of population, households and apartments, 2002.
Statistical Office of the Republic of Serbia

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THE RIGHT TO ADEQUATE HOUSING

Table 3

Data on shelters for adults and users according to years of age 1)

	Shelters in the Republic of Serbia	users		Younger than 18	18-27	28-40	41-60	61 and older
		total	women					
2006	3	545	232	6	46	74	219	200
2008	3	511	227	8	33	64	171	235

- 1) Data on shelters are collected in a two year period

source: Bulletin of the Statistical Office of the Republic of Serbia