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Initial reports of States parties due in 2005

serbia*

[16 May 2008]

REPUBLIC OF SERBIA

Serbian Government

Agency for Human and Minority Rights

INITIAL REPORT ON THE IMPLEMENTATION OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICTS FOR THE PERIOD 2003-2007

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TITLE:	Initial report on the implementation of the optional protocol to the convention on the rights of the child, on the involvement of children in armed conflicts for the period 2003-2007.	
ABSTRACT:	Initial Report contains the analysis of the legal system of the Republic of Serbia (the State Union of Serbia and Montenegro/the Federal Republic of Yugoslavia), in the area of the protection of children from the involvement in armed conflict. The report also provides information on the basis of which the Committee on the Rights of the Child shall get a broad insight into the implementation of the Optional Protocol in the period 2003-2007.	
Key Words	Initial Report; Optional Protocol on the Involvement of Children in Armed Conflicts; Convention on the Rights of the Child; The Committee on the Rights of the Child; armed conflicts, protection of the rights of the child in armed conflicts.	

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Introduction

1. The Republic of Serbia is a legal successor of the State Union of Serbia and Montenegro and the Federal Republic of Yugoslavia; therefore, as this Initial Report refers to the implementation of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts for the period 2003-2007, this Report *inter alia* provides an analysis of the regulations and practices that had existed at the time of the State Union of Serbia and Montenegro and the Federal Republic of Yugoslavia.

2. The Republic of Serbia (the State Union of Serbia and Montenegro/the Federal Republic of Yugoslavia), is a State Party to the Convention on the Rights of the Child ("Official Gazette of SFRY - International Agreements", No. 15/90 and ("Official Gazette of FRY", No. 4/96 and 2/97) and both Protocols thereto, the Optional Protocol on the Involvement of Children in Armed Conflicts ("Official Gazette of FRY - International Agreements", No. 7/02) and the Optional Protocol on the Sale of Children, the Child Prostitution and the Child Pornography ("Official Gazette of FRY I International Agreements" No. 7/02).

3. The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts was adopted in New York on May 25, 2000. The main objective of the Protocol is to supplement and work out the Convention and its goals in the area of advancing protection provided to children in armed conflicts. In that respect, the intention of the Protocol is to elaborate relevant provisions of the Convention on the Rights of the Child through the adoption of adequate measures by State Parties in order to ensure as good as possible protection of minors in armed conflicts.

4. Federal Republic of Yugoslavia (now the Republic of Serbia) signed the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts on October 8, 2001 and ratified it on July 2, 2007 (for the Federal Republic of Yugoslavia, the Protocol came into force on January 31, 2003). By its ratification and entry into force, the Republic of Serbia (the State Union of Serbia and Montenegro/the Federal Republic of Yugoslavia) has undertaken, pursuant to Article 8, Paragraph 1 of the Protocol, to submit, within two years following the entry into force thereof for that State Party, a report to the Committee on the Rights of the Child providing comprehensive information on measures it has taken to implement the provisions of the Protocol.

5. In that respect, this Initial Report on the implementation of the Optional Protocol to the Convention on the Rights of the Child, on the Involvement of Children in Armed Conflicts for 2003-2007 has been prepared. The Report includes provisions in force by the end of December 2007.

6. The Initial Report describes legislative, executive, judicial and other measures enforced in the Republic of Serbia (the State Union of Serbia and Montenegro/the Federal Republic of Yugoslavia) pertaining to rights guaranteed by the Protocol and in accordance with Guidelines for the preparation of the initial reports on the implementation of the Protocol, adopted by the Committee on the Rights of the Child.

7. Following the submission of the comprehensive report pursuant to Article 8, Paragraph 2 of the Protocol, each State Party shall include in the reports it submits to the Committee on the Rights of the Child, in accordance with Article 44 of the Convention on the Rights of the Child, any further information with respect to the implementation of the Protocol.

8. The Initial Report contains an analysis of the legal system of the Republic of Serbia (the State Union of Serbia and Montenegro/the Federal Republic of Yugoslavia) in the area of protection of children from the involvement in armed conflicts. The Report presents data and information based on which the Committee on the Rights of the Child will have insight into the implementation of the Protocol in the said period.

9. The Agency for Human and Minority Rights of the Government of Serbia, as a body in charge of monitoring the implementation and enforcement of the Convention on the Rights of the Child and the Optional Protocol on the Involvement of Children in Armed Conflicts, has coordinated the preparation and produced this Initial Report. Relevant state authorities have participated in its preparation (Ministry of Defense of the Republic of Serbia, Ministry of Labor and Social Policy of the Republic of Serbia, Ministry of Health of the Republic of Serbia, Ministry of Justice of the Republic of Serbia, Ministry of Education of the Republic of Serbia, Ministry of Culture of the Republic of Serbia, Ministry of Foreign Affairs of the Republic of Serbia, Commissariat for Refugees of the Republic of Serbia and the Ombudsman of the Autonomous Province of Vojvodina). The data and information of local nongovernmental organizations have been used, as well.

10. The preparation of the Initial Report started at the beginning of 2007. The Report is based on contribution by competent state authorities, in particular the Ministry of Defense, which should also give its consent to the text of the Report. After that, the Report will also be discussed and adopted by the Government of the Republic of Serbia.

11. For the needs of this Report, the names of all three states will be used, i.e. the Republic of Serbia (the State Union of Serbia and

Montenegro/the Federal Republic of Yugoslavia).

12. The Republic of Serbia will ensure access to the Report to the broadest public.

PART II GENERAL INFORMATION

A. Definition of the child in the legislation of the Republic of Serbia

13. Pursuant to Article 34 of the Constitution of FR Yugoslavia ("Official Gazette of Federal Republic of Yugoslavia", No. 1/92), which was promulgated and entered into force on April 27, 1992 and ceased to be valid on February 3, 2003 by the adoption of the Constitutional Charter of the State Union of Serbia and Montenegro, a Yugoslav citizen who had reached the age of 18 years should be entitled to vote or to be elected to public bodies.

14. According to the Charter on Human and Minority Rights and Civil Liberties ("Official Gazette of the State Union of Serbia and Montenegro", No. 6/03), which was promulgated and entered into force on February 4, 2003 and ceased to be valid on June 5, 2006 by the passage of the Decision by the National Assembly of the Republic of Serbia on the obligations of state authorities of the Republic of Serbia in the implementation of prerogatives of the Republic of Serbia as the successor of the State Union of Serbia and Montenegro, whose provisions came into force on the day of adoption ("Official Gazette of the Republic of Serbia", No. 48/06), majority should be reached at the age of 18 years (Article 36). Also, the citizen of Serbia and Montenegro who had attained the age of 18 years should have the right to vote and to be elected to local self-government bodies, Member State bodies and State Union institutions in accordance with the Constitutional Charter and laws of Member States (Article 33, Paragraph 2).

15. According to previous Constitution of the Republic of Serbia of 1990 ("Official Gazette of the Republic of Serbia", No. 1/90), which was promulgated and entered into force on September 28, 1990 and ceased to be valid on November 8, 2006 by the adoption of the new Constitution of the Republic of Serbia, a citizen who had attained the age of 18 years should have the right to vote and be elected to the National Assembly and other agencies and elective bodies (Article 42, paragraph 1).

16. Pursuant to the provisions of Article 11 of the Family Law of the Republic of Serbia ("Official Gazette of the Republic of Serbia", No. 18/05), majority shall be attained at the age of 18 years.

17. Pursuant to Article 37, Paragraph 2 of the new Constitution of the Republic of Serbia ("Official Gazette of the Republic of Serbia", No. 98/06), which was promulgated and entered into force on November 8, 2006, upon becoming of age, all persons shall acquire capacity to autonomously decide about their rights and obligations. Majority shall be attained at the age of 18 years. Pursuant to Article 64, Paragraph 3 thereof, children shall be protected from psychological, physical, economic and any other form of exploitation or abuse.

18. Hence, the definition of the child in the legislation of the Republic of Serbia (the State Union of Serbia and Montenegro/the Federal Republic of Yugoslavia) is identical to the definition given in Article 1 of the Convention on the Rights of the Child. Namely, every person is considered to be a child below the age of 18, when he/she shall attain majority and acquire legal capacity.

B. Applicability of the Protocol in the Republic of Serbia

19. Obligations of the Republic of Serbia with regard to human rights, democracy and the rule of law represent one of priorities of its foreign policy; hence the Republic of Serbia has taken all legislative and other necessary measures in accordance with the provisions of international law in the area of child protection, in this specific case in the area of prohibition of the recruitment of juveniles.

20. With regard to the place of the Protocol in the legal system of the Republic of Serbia (the State Union of Serbia and Montenegro/the Federal Republic of Yugoslavia), pursuant to Article 10 of the Constitutional Charter of the State Union of Serbia and Montenegro ("Official Gazette of the State Union of Serbia and Montenegro", No. 1/03), which was promulgated and entered into force on February 4, 2003 and ceased to be valid on June 5, 2006 by the passage of the Decision by the National Assembly of the Republic of Serbia on the obligations of state authorities of the Republic of Serbia in the implementation of prerogatives of the Republic of Serbia as the successor of the State Union of Serbia and Montenegro, whose provisions came into force on the day of the adoption ("Official Gazette of the Republic of Serbia", No. 48/06), the provisions of international treaties on human and minority rights and civil liberties applicable in the territory of Serbia and Montenegro were applied directly.

21. In accordance with Article 194 of the new Constitution of the Republic of Serbia, ratified international treaties and generally accepted rules of the international law shall be part of the legal system of the Republic of Serbia, whereby ratified international treaties may not be in contrast to the Constitution. Laws and other general acts enacted in the Republic of Serbia may not be in noncompliance with the ratified international treaties and generally accepted rules of international law. This means that international treaties, which are concluded, ratified and published in accordance with the Constitution and which are in force, have precedence over laws in the hierarchy of legal acts. Hence, the provisions of ratified international treaties which are not in compliance with laws applied internally shall apply directly under the Constitution. On the other hand, ratified international treaties shall also apply directly in cases when adequate domestic regulation does not exist. Since the Protocol has been ratified and come into force, its provisions are applicable in the Republic of Serbia.

C. Implementation and enforcement of the Protocol in accordance with general principles of the Convention on the Rights of the Child

1. Prohibition of discrimination (Convention on the Rights of the Child, article 2)

22. The principle of non-discrimination and equality before the law is contained in the new Constitution of the Republic of Serbia, Part

2 (Human and Minority Rights and Freedoms), in Article 21 (“All people are equal before the Constitution and law. Everyone shall have the right to equal legal protection, without discrimination. All direct or indirect discrimination based on any grounds, particularly on race, sex, national origin, social origin, birth, religion, political or other opinion, property status, culture, language, age and mental or physical disability shall be prohibited. Special measures which the Republic of Serbia may introduce to achieve full equality of individuals or groups of individuals in a substantially unequal position compared to other citizens shall not be deemed discrimination”).

23. Since the principle of non-discrimination and equality before the law is a constitutional category, universally applicable, every person may refer to individual rights, regardless of being minor or adult, the citizen of the Republic of Serbia or an alien.

24. In that respect, the new Constitution of the Republic of Serbia, in Part 2 (Human and Minority Rights and Freedoms), Article 36, Paragraph 1 provides that “Equal protection of rights before courts and other state bodies, entities exercising public powers and bodies of the autonomous province and local self-government shall be guaranteed.” In Part One (Principles of the Constitution), Article 17, it provides “Pursuant to international treaties, foreign nationals in the Republic of Serbia shall have all rights guaranteed by the Constitution and law, with exception of rights to which only the citizens of the Republic of Serbia are entitled under the Constitution and law.”

2. Best interest of the Child (Convention on the Rights of the Child, article 3)

25. Best interest of the child is a very important principle of domestic legislation. In that respect, the new Constitution of the Republic of Serbia, in Part Two (Human and Minority Rights and Freedoms), in Articles 60, 64, 66, 68 and 71, focuses on special protection at work provided to juveniles, protection of children from psychological, physical, economic and any other form of exploitation or abuse, protection of the mother and child, children’s right to health care and education.

26. The said Constitution, in Part Two (Human and Minority Rights and Freedoms), Article 64, Paragraph 5, provides that more specific protection of children’s rights shall be regulated by special laws (“Rights of the child and their protection shall be regulated by the law.”)

27. Starting from this provision, in a broader legal sense, more specific protection of the best interest of the child is provided by different laws.

3. Right to life, survival and development (Convention on the Rights of the Child, article 6)

28. In the Republic of Serbia, right to life, survival and development of the child implies a range of social, economic and other rights. It is guaranteed by specific articles of the Constitution and a set of laws, in particular, in the area of family legislation.

29. As a basic human right, the new Constitution of the Republic of Serbia, in its Part Two (Human and Minority Rights and Freedoms), Article 24, Paragraph 1, provides “Human life is inviolable”.

30. Protection which the state shall provide to children is defined in Part Two of the Constitution of the Republic of Serbia (Human and Minority Rights and Freedoms), Article 66, Para 1 and 3: “Families, mothers, single parents and any child in the Republic of Serbia shall enjoy special protection in the Republic of Serbia in accordance with the law. Special protection shall be provided for children without parental care and mentally or physically handicapped children”.

31. Part Two of the said Constitution (Human and Minority Rights and Freedoms), Article 60, Paragraph 5 provides that “Women, young and disabled persons shall be provided with special protection at work and special work conditions in accordance with the law”, while Article 66, Paragraph 4 provides that “Children under 15 years of age may not be employed, nor may children under 18 years of age be employed at jobs detrimental to their health or morals”.

32. The Constitution of the Republic of Serbia, in Part Two (Human and Minority Rights and Freedoms), Article 71, Para. 1, 2 and 3, provides “Everyone shall have the right to education. Primary education is mandatory and free, whereas secondary education is free. All citizens shall have access under equal conditions to higher education. The Republic of Serbia shall provide for free tertiary education to successful and talented students of lower property status in accordance with the law”.

33. The responsibility of parents towards children, that is, their rights and duties with regard to raising and upbringing their children are established in the Constitution of the Republic of Serbia, Part Two (Human and Minority Rights and Freedoms), Article 65: “Parents shall have the right and duty to provide for, raise and educate their children and are equal in that respect. All or individual rights may be revoked from one or both parents only by the ruling of the court if this is in the best interests of the child, in accordance with the law”.

4. Consideration of child’s views (Convention on the Rights of the Child, Article 12)

34. The freedom of thought implies, in the first place, the right to expression of opinions. This freedom is exercised by all - by minors and adults alike, and is guaranteed under the national judicial order.

35. Thus, in the new Constitution of the Republic of Serbia, Part Two (Human and Minority Rights and Freedoms), Article 43, Paragraph 1, it is provided that “The freedom of thought, conscience, beliefs and religion shall be guaranteed, as well as the right to stand by one’s belief or religion or change them by choice”. In Article 46, Paragraph 1, it is provided that “The freedom of thought and expression shall be guaranteed, as well as the freedom to seek, receive and spread information and ideas through speech, writing, arts or in some other manner.”

36. The consideration of child’s views is a legislative principle applied in all judicial and administrative procedures pertaining to the rights, interests and wellbeing of a child. By the provisions of laws in the area of family legislation, such as the Law on Marriage and

Family Relations ("Official Gazette of the Republic of Serbia", No. 22/80, 24/84, 11/88, 22/93, 25/93, 34/94, 46/95 and 29/01) and the Family Law of RS, legal personality of a child is recognized in specific cases, e.g. in the custody award proceedings or proceedings for alimony from father, proceedings for establishing or contesting paternity or maternity, in the adoption procedure or juvenile marriage.

37. By the provisions of criminal procedural legislation that pertain to children, i.e. by the Criminal Procedure Law of FRY ("Official Gazette of the Federal Republic of Yugoslavia", No. 70/01 and 68/02) and the Law Dealing with Juvenile Perpetrators of Criminal Act and Protection of Juveniles under Criminal Law of the Republic of Serbia ("Official Gazette of the Republic of Serbia", No. 85/05), special protection of minors shall be ensured pending criminal proceedings, including excuse from obligation to testify.

PART II - ARTICLES OF THE PROTOCOL

Article 1

38. Pursuant to the provision of Article 1 of the Protocol, State Parties shall raise minimum age for direct participation in hostilities to the attained 18 years of age.

39. Measures taken in the Republic of Serbia to ensure that persons who have not reached the age of 18 years do not take direct part in hostilities, when mandatory recruitment is concerned, are implemented in such a way that such persons may not become members of armed forces before they attain the age of 18 years. Thus, according to Article 301 of the Law on the Yugoslav Army ("Official Gazette of the Federal Republic of Yugoslavia", No. 43/94, 28/96, 44/99, 74/99, 3/02 and 37/02 and ("Official Gazette of the State Union of Serbia and Montenegro", No. 7/05 and 44/05) military service shall be mandatory for recruits assessed as capable or with limited capability for military service when they have attained the age of 21 years, while military obligation shall cease at the end of the year in which such person has attained the age of 27.

40. Special attention should be paid to the fact that the Law on the Yugoslav Army was superseded by the Law of Serbian Army ("Official Gazette of the Republic of Serbia, No. 116/07) which was adopted on December 11, 2007 and entered into force on January 1, 2008. Pursuant to the provisions of this new Law, however, until the passage of a regulation on military, labor and material duty, which should be passed within 90 days from the day of entry into force of that Law, the provisions of Chapter XVII of the Law on the Yugoslav Army - Military Duty (Articles 279 to 336), which are the topic of this Report, should stay in force.

41. With regard to recruitment upon recruit's request (the so called voluntary recruitment, i.e. military service done in the calendar year in which such recruit has attained the age of 18 years), please note that in the reporting period no case of voluntary recruitment was reported, i.e. there were no examples of the Army of FR Yugoslavia, Serbia and Montenegro and the Republic of Serbia having admitted recruits to do military service upon their request; therefore, in that respect, persons who have not attained the age of 18 years could not have taken direct part in hostilities.

42. This question is not of relevance for the Republic of Serbia, given what was said in Paragraph 20 of this Report and the fact that the Republic of Serbia, when recruits are registered, takes measures to establish the age of the recruit (examination of birth certificate, personal identification card and other documents).

43. The Republic of Serbia is a country in which territory there are no hostilities and in which, according to Paragraph 20 of the Report, there are no children in armed forces.

44. Since, in accordance with Paragraph 20 of this Report, there are no children in the armed forces of the Republic of Serbia, such cases have not been reported.

Article 2

45. According to Article 2 of the Protocol, State Parties shall ensure that persons who have not attained the age of 18 years are not compulsory recruited into their armed forces.

46. The concept of military service in the legislation of the Federal Republic Yugoslavia, later the State Union of Serbia and Montenegro and today the Republic of Serbia, requires a more specific definition. In the Law on Yugoslav Army, Article 279, paragraph 1, military duty is defined as follows: "All citizens of Yugoslavia shall have military duty in peace and war under conditions prescribed by this Law". Article 282 of the Law on Yugoslav Army provides "Military duty shall consist of recruitment duty, compulsory military service and military reserve duty. All citizens of Yugoslavia shall have recruitment duty under conditions prescribed by the law, while all Yugoslav citizens capable for military service shall have duty to do military service and military reserve duty." Article 283, Paragraph 1 of the Law on Yugoslav Army provides that "Women shall not have recruitment duty or duty to do military service". According to Article 284 of the Law on Yugoslav Army, "Conscript is every person during his recruitment duty, every person during his military service and every person during his reserve duty". Article 287 of the Law on Yugoslav Army reads: "Conscript shall become a member of the armed forces by being deployed in the unit and/or institution and shall cease to be the member of the armed forces by his discharge from the unit and/or institution."

47. Article 288 of the Law on Yugoslav Army provides "Recruitment duty is the obligation of a conscript to fulfil prescribed obligations and orders from territorial military authorities in charge, with regard to registration, medical and other examinations and check-ups, recruitment and deployment. Recruitment duty shall start at the beginning of the calendar year in which the Yugoslav citizen has attained the age of 17 years and shall last until the beginning of military service, i.e. until transfer to reserve corps if military service has been regulated in some other way, i.e. until the end of military service pursuant to the provisions of Article 285 Item 2 or 3 of this Law".

48. According to Article 289 of the Law on Yugoslav Army, "During the period of recruitment duty, a recruit shall be subjected to

medical and other examinations and psychological testing to establish whether he is capable of military service; recruitment; being sent to do his military service; other obligations prescribed by this Law”.

49. According to Article 291 of the Law on Yugoslav Army, “Recruitment shall be conducted in the calendar year in which a conscript has attained the age of 18 years. The conscript may, upon his request, be recruited in the calendar year in which he has attained the age of 17 years. During war, President of the Republic may order the recruitment of conscripts who have attained the age 17 years”.

50. Article 301 of the Law on Yugoslav Army provides that “Recruits who are assessed as capable or partially capable shall do military service when they have attained the age of 21 years”. According to Article 302 of the Law on Yugoslav Army “The recruit who requests to do or complete military service shall be deployed within three months from the day of filing the request if he has attained the age of 18 years in that year. The recruit who returns to the country from the approved temporary stay in a foreign country for the period longer than one year and requests to do military service shall be deployed within three months from the day of filing the request if he has attained the age of 18 years in that year”. Article 305 of the Law on Yugoslav Army reads “The recruit to whom permanent residence in a foreign country has been approved and the recruit who, besides Yugoslav, has foreign citizenship, but who has permanent residence in FR Yugoslavia, shall be sent to do military service in accordance with the provisions of this Law. The recruit who, besides Yugoslav, has foreign citizenship, but who has done military service in the foreign country, as well as the recruit who, besides Yugoslav, has foreign citizenship, but has not done military service and lives in a foreign country, shall be sent to do military service upon their own request, which shall be decided by the Chief of the General Staff”.

51. According to the Draft Law on Military, Labor and Material Duty, which should be adopted within 90 days following the entry into force of the Law on the Serbian Army, and which is in accordance with the obligations of State Parties regarding the implementation of the Protocol, young people shall be registered for military service in the calendar year in which they have attained the age of 18 years. Registration is only the first stage in the fulfilment of recruitment duty and is prescribed as the duty of every male person to report to the relevant authority in the calendar year in which he has attained 18 years of age, for the purpose of registration and regulation of specific documents related to military records. In addition, according to this Draft Law, recruits shall be called for medical examination and recruitment before being sent to do military service, but not before they have attained the age of 18 years. Also, the Draft Law on Military, Labor and Material Duty does not stipulate that during war the recruitment of conscripts may be ordered before the calendar year in which they have attained the age of 18 years.

52. Therefore, as far as compulsory recruitment is concerned, the provisions of the Law on Yugoslav Army unambiguously imply that FR Yugoslavia, the State Union of Serbia and Montenegro and the Republic of Serbia have regulated the issue of military duty, legally and in practice, in such a way that a person below the age of 18 years may not become member of the armed force, i.e. may not be deployed before having attained the age of 21 years.

53. As far as the Draft Law on Military, Labor and Material Duty is concerned, which should be passed within 90 days following the entry into force of the Law on the Serbian Army, it provides that a person may not be deployed to military service before having attained the age of 18 years.

54. In order to register the recruit, local recruitment services send general or individual call to recruits, requiring them to appear in person in the place and on time specified in the call. The call indicates that the summoned person is required to bring with him personal identification card or other personal document (birth certificate and the like) which enable precise identification of such person with regard to personal identity and age.

55. In the legal system of the Republic of Serbia, pursuant to the Law on Yugoslav Army, no provision allows minimum age for compulsory military service to be lowered in exceptional circumstances. In that respect, even in case when President of the Republic, pursuant to the mentioned provision of this Law, may order the recruitment of conscripts who have attained the age of 17 years during war, recruits may not be deployed until they have attained the age of 21 years.

56. As far as the Draft Law on Military, Labor and Material Duty is concerned, which should be passed within 90 days following the entry into force of the Law on the Serbian Army, its provisions do not even provide that during war the recruitment may be ordered before the calendar year in which recruits have attained the age of 18 years. In this case, recruits may also be deployed only after they have attained the age of 18 years.

Article 3

57. Pursuant to the Law on Yugoslav Army, a recruit who requests to do or to complete military service, shall be deployed within three months from the day of filing the request, providing that he has attained the age of 18 years in that year. The recruit who returns to the country after the approved temporary stay in a foreign country for a period longer than one year and requests to do military service shall be deployed in the first deployment cycle providing that he has attained the age of 18 years in that year.

58. The above indicates that, at recruit's request, he may be deployed in the calendar year in which he has attained the age of 18 years.

59. Note, however, that in the reported period, no case of voluntary recruitment has been reported, i.e. there were no examples that the Army of FR Yugoslavia, Serbia and Montenegro and the Republic of Serbia accepted recruits into military service upon their request.

60. As far as education in secondary military schools in the Republic of Serbia is concerned, minimum age for entry into schools operated by or under the control of the armed forces is the same as for entry of pupils who have finished primary school into regular secondary schools, i.e. 15 years of age.

61. The system of military education has two levels: higher and secondary. It is designed in such a way as to provide initial training for officers, non-commissioned officers and civilian persons who, with further professional development, would be able to perform the most complex and most responsible duties in the Army and society in the area of defense.

62. The system of military education is regulated by the Law on Military Schools and Military Research Institutions ("Official Gazette of the Federal Republic of Yugoslavia", No. 80/94 and 74/99 and "Official Gazette of the State Union of Serbia and Montenegro", No. 44/05, hereinafter referred to as the Law), relevant bylaws and systemic documents (based on that Law) which ensure legal functioning and stability of the system.

63. Military schools are defined by the Law as: secondary military schools (Military Grammar School and Secondary Vocational Military School) and higher military schools (Military Academy and Military Medical Academy).

64. In the existing organizational system, Military Grammar School is in jurisdiction of the Ministry of Defense, while Secondary Vocational Military School has been practically dissolved (after the end of the current year, the school will not educate nor admit new generations of pupils). Secondary education system is based on the said Law and bylaws arising out of it, which are in compliance with regulations governing the system of secondary education in the Republic of Serbia.

65. The system of military education is undergoing reorganization alongside the reorganization of the Ministry of Defense of the Republic of Serbia. Reorganization in the area of military education involves a series of activities taken to include military schools into the education system of the Republic of Serbia.

66. The following measures have been taken in the area of secondary education:

In cooperation with the Ministry of Education and Sport of the Republic of Serbia, initiative for the inclusion of Military Grammar School into the education system of the Republic of Serbia has been raised. This practically means that Military Grammar School will be in jurisdiction of the Ministry of Education and Sport of the Republic of Serbia and that pupils will be educated in accordance with laws and bylaws applied in the education system of the Republic of Serbia. Its organization will also be fully

adjusted to the organization of other civil schools, while the pupils of Military Grammar School will acquire education according to the curriculum of civil grammar schools in the Republic of Serbia.

Measures taken regarding the reorganization of education in Secondary Vocational Military School include the abandonment of current system of education. This means that as of 2007 Secondary Vocational Military School will not admit and provide education to juveniles. With regard to the trend of professionalization of the Army, the required non-commissioned officers will be obtained by sending professional soldiers working on contract to courses, while personnel for performing duties done by civilians will be obtained by hiring adult candidates from civilian population (with adequate training courses for performing duties).

67. As far as the current state of organization of secondary education in jurisdiction of the Ministry of Defense is concerned, note that Military Grammar School is an academic institution that provides general education for candidates that would enrol in the Military Academy and develops motivation for military schools.

68. Military Grammar School is a secondary boarding school that provides education in two academic fields: general and air force. Education in both fields lasts for four years. School year starts on September 1 and lasts until August 31 the next year; it is divided into two semesters, while each semester is divided into two trimesters - classification periods. During school year, pupils have holidays: spring holiday in the duration of seven days, semi-annual holiday in the duration of not less than 15 days and annual holiday in the duration of not less than 30 days.

69. The general goal of education in Military Grammar School is to prepare and to motivate pupils for continuing studies at the Military Academy. In that respect, special attention is paid to the acquiring of general knowledge of fundamental importance for continuing studies at the Military Academy; forming and developing motivation for military professions, necessary intellectual, moral, will, psychological and physical abilities; nurturing and developing ethical features of a person and patriotism as necessary prerequisites for the profession of military officer.

70. The specific goal of education in general academic field is to ensure, through regular education, special forms of training and optional activities, quality selection and classification of pupils for continuing studies in accordance with accomplished results, abilities, affinities and needs of the Serbian Army.

71. The specific goal of education in air force field is to ensure, through selective flying and other special forms of education, quality selection of candidates for the profession of officer - pilot.

72. Educational and pedagogical work is organized and implemented in accordance with modern pedagogical, psychological, didactical and methodical requirements.

73. Teaching is a dominant form of organized educational and pedagogical work, which enables pupils to acquire knowledge, skills and habits, develop numerous abilities and interests, form attitudes and beliefs in accordance with desired values accepted in society.

74. Curriculum for each subject contains goals and tasks based on which educational and pedagogical influence will be achieved.

75. Through the implementation of goals and tasks for each teaching unit (school class), knowledge which student should acquire, attitudes and values that should be developed and forms of behavior that should be encouraged are defined in detail. Through adequate choice of forms, methods and tools, pupils are activated - put in situation to independently decide on their own work and encouraged to individually or in a group solve problems they come across.

76. Military Grammar School is based on the system of subjects and school classes as the main and differentiated form of organization, while through practical exercises (lab and others), it is ensured that the acquired knowledge is used and necessary skills and habits developed.

77. Military Grammar School curriculum includes regular education, special forms of training and optional courses.

78. The program of regular academic education, the number and type of academic subjects, the contents and number of school classes are in accordance with the Curriculum of Grammar Schools in the Republic of Serbia. It is mandatory for all pupils, regardless of their chosen field. The implementation of this basic part of the curriculum provides fundamental knowledge that would be the basis for general military education, vocational military education and technical military education at the Military Academy.

79. What is specific in the school curriculum and what makes this school Military Grammar School are special forms of training, optional courses and different extra-curricular activities.

80. Military education is realized through two subjects:

Military training in the third year realized through 107 classes (45 classes for lectures, 27 for testing and exercising and 35 classes for bivouacking). This training is not aimed at participation in armed conflict, but at acquiring basic knowledge and skills in the area of defense and security, developing motivation and preparing pupils for further studies at the Military Academy.

Basics of military air force theory and technique realized through 64 classes (44 classes for lectures, 17 classes for systematization and testing and 3 classes for exercises). The aim of the subject is to develop pupils' interest in flying and acquiring basic knowledge of flight theory, flight technique, meteorology and navigation.

81. Special forms of training, depending on the field, include camping, ski course, swimming course, survival training, parachuting, flying training, tactical-technical musters and study visits.

82. As opposed to special forms of training which are mandatory, Military Grammar School, in the four-year cycle, offers to its pupils around twenty different optional courses and trainings, while pupils, depending on their interests, choose which one they would attend. All optional subjects and courses are in the service of their future call, i.e. they include the contents relevant for one of services or branches of the Serbian Army. Thus, for example, a pupil who wants to become logistic officer in future, may choose electronics as optional subject and radio-amateurs' course, while future "KOB" officer may opt for military topography or squad reconnoitre course.

83. A whole range of activities in Military Grammar School which are not included in mandatory curriculum is aimed at the development of capacities, knowledge and skills of relevance for future profession.

84. The pupils of Military Grammar School always participate in pupils' contests in key subject areas, from municipal to national level, where they have achieved remarkable results in recent years.

85. Regardless of the secondary school level of education, the pupils of Military Grammar School are not unfamiliar with research activity. They are traditionally present and sought-after participants and authors of programs at Research Station Petnica (5-6 pupils of Military Grammar School attend winter and summer courses in different scientific fields every year).

86. Teaching personnel of Military Grammar School has university education and is highly skilled and highly motivated for work on regular and specific tasks. The majority of teachers are civilians employed with the Army, while military subjects (2) are taught by teachers - professional military officers.

87. In the current school years, there is a total of 41 teachers - civilians (for general academic subjects) and two officers (for military training and the basics of air force technique and theory) working at Military Grammar School. Of the said number of teachers - civilians, 33 are fixed-term employees, while eight are hired based on the contract on supply of services.

88. Great attention in the school is paid to didactical, methodical and professional development of teachers, as well as to cooperation with research institutions and teachers from other secondary schools, especially Belgrade grammar schools. Thus, besides professional development programs carried out at the level of the school and professional sections, teachers are regularly sent to seminars and conferences organized by civilian research institutions.

89. The organization of work and school management is based on the principles of military organization.

90. Pupils who attend Military Grammar School are male juveniles who have finished civilian primary schools (15 years of age).

91. The following programs are implemented through Secondary Vocational Military School:

Two-year education (eligible are minor civilian candidates who have finished two years of civilian secondary school; here, they are trained for the duty of non-commissioned officer or civilian in army service, acquiring secondary vocational education, which is, in accordance with the Law, recognized in the civilian sector, too).

One-year specialist education (eligible are adult civilian candidates who have graduated from civilian secondary school; here, they are trained for the duty of non-commissioned officer).

One-year professional training (eligible are adult civilian candidates who have graduated from civilian secondary school; here, they are trained for the duty of civilian in army service).

92. The School also carries out specialist education of civilians for acquiring the fifth degree of education, which is organized as one-

year part-time education. In accordance with the focus of this Report (children), we only present data related to two-year education in Secondary Vocational Military School.

93. The goal of two-year education for non-commissioned officers is to acquire necessary general academic education, with focus on acquiring general and specific military knowledge and skills, professional, psychological and physical abilities and moral values for performing military service as professional non-commissioned officer and further studying and development.

94. The projected general goal of education is achieved through the implementation of the following tasks:

The training of pupils for successful commanding of the department and performing other duties of professional non-commissioned officers in their army service, in peace and war.

The training of pupils for organizing and delivering combat training in the department and squad.

The training of pupils for proper handling, usage, keeping and maintaining military technique, resources and equipment of the department and squad.

Acquiring necessary knowledge in the area of moral, with focus on work with people in the department and squad, for the development of positive moral characteristics necessary for successful execution of tasks in peace and war.

Acquiring necessary theoretical knowledge for further professional development and training for the admission and use of new military resources and equipment of his army service.

Developing patriotism, necessary psychological and physical skills and professional relation towards responsibilities and tasks.

Specific goals and tasks of education are set by school curricula for all army services.

95. The forms of educational and pedagogical work on specialist education of pupils for non-commissioned officers in Secondary Vocational Military School are: regular education (theoretical and practical), additional and supplementary courses and consultations. Regular education (theoretical and practical) represents the basic form of educational work. Theoretical work is done based on subjects and school classes. Practical training and special forms of trainings may be carried out in block classes.

96. Special forms of training include functional entities of educational contents of one or several subjects, through whose implementation pupils shall acquire knowledge, skills and habits and become practically trained for professional execution of initial duties of a non-commissioned officer.

97. Basic military training and shooting from land-force weapons is carried out during three-week bivouacking, while other practically applicable forms of trainings predicted in the curricula of military subjects are realized during other bivouacking exercises in the duration of two to four weeks.

98. Driving training and passing the driving test is implemented within a four-week program.

99. Internship is done at the units of the Serbian Army in the duration of three weeks.

100. Additional training is organized for pupils with extraordinary skills and expressed interest in specific education fields and subjects, especially the ones relevant for pupils' future profession. This is organized during time scheduled for studying and in pupils' spare time, above all in the form of tutorials and work in sections.

101. Supplementary classes are organized for underachieving individuals or groups of individuals for specific subjects and it takes place in time scheduled for studying.

102. Consultations are conducted throughout the schooling, primarily in additional training and supplementary classes, during the classes where pupils learn methods for delivering combat training of soldiers and while working on graphic and other papers and the graduation paper.

103. Methodical training provided to pupils for acquiring skills to deliver combat training of soldiers is carried out in the final stage of secondary education within general and specific military subjects, in accordance with contents as presented in the curricula for combat training of soldiers and service units.

104. Extra-curricular educational and pedagogical work includes, besides studying, also work in sections and study groups in general academic, general military, specific military, sport, recreational, cultural and other fields (as regulated by the Instruction of SVMS).

105. Based on the goal and tasks of education, School Curriculum contains mandatory educational areas and teaching fields:

1. General academic area (general academic subjects);

2. Military education area:

(a) General military subjects;

(b) Vocational military subjects;

3. Physical education.

106. During two-year education (third and fourth grade), around 16% of available school time is used for general academic subjects,

carried out in third and partially fourth grade. Around 19% of school time is used for general military subjects, carried out in third and partially fourth grade. Around 46% of available school time is used for vocational military subjects. Subjects in this field are carried out in third and mostly in fourth grade. Physical education takes 8% of available school time.

107. A portion of special forms of training (internship and driving course) take around 11% of available school time. All special forms of training take a total of around 25% of available school time, while 75% is reserved for regular training.

108. Teaching personnel include 38 teachers with higher education (32 officers and 6 civilians), 4 persons with college degree and 6 associates with secondary education (5 non-commissioned officers and 1 civilian). Persons with secondary education are hired as associates, working as cabinet technicians, lab technicians or instructors working on preparation and implementation of school contents.

109. School curricula incorporate a certain number of classes at all levels of military education dedicated to human rights and international humanitarian law, especially in the light of the realization of the rights of the child.

110. Admission to military schools is regulated by Article 37 of the Law. Candidates are admitted on the basis of a public call publicized by relevant organizational unit of the Ministry of Defense.

111. For now, only male candidates are eligible for education in military schools.

112. Rights and duties of pupils are regulated in detail by the Law (Art. 37 to 53), the school statutes and Education Contract. The said documents regulate the following issues, too:

Jurisdiction for publicizing call for enrolment of pupils

The right to apply, general and specific conditions for application

The status of pupil

The rights of pupils (inter alia, the right to change education field and school)

Granting awards and prizes

Passing educational and corrective measures, the procedure of appeal, competence in passing measures and competence in deciding upon pupils' appeals

In what situations pupil may lose his status

Acquiring educational level etc.

113. More specific rights and obligations during education in military schools are regulated by special Education Contract. The Education Contract is entered into by the Ministry of Defense and one parent, i.e. guardian acting on behalf of the child.

114. Education in military schools is free of charge, including accommodation, meals, clothing, footwear, books, notebooks, equipment, travel costs when going on leaves and holidays etc.

115. Note that in accordance with the Law, in case of a mobilization or an armed conflict, all children are temporarily discharged from school and returned to their homes (whereby their status of a pupil in a military school rests); only adults are sent to training and professional development centers. Of course, this means that there is no legal possibility or practice to impose military duty on juveniles in military schools or possibility to directly or indirectly participate in armed conflicts.

Article 4

116. No armed group operates on/from the territory of the Republic of Serbia or has sanctuary there. Consequently, there is not recruitment of children by such armed groups in the territory of Serbia.

117. The criminal legislation of the Republic of Serbia does not contain special provisions that would address and that could be applied in such a situation, since, as has been stated earlier, the Republic of Serbia has regulated the issue of mandatory recruitment in such a way so that persons below the age of 21 years may not become members of the armed forces, while, when voluntary recruitment is concerned, the Army has not accepted any recruits to do military service upon their own request.

118. Thus far, criminal judiciary of the Republic of Serbia has not registered any case of the recruitment of children (or similar phenomena) by armed groups.

Article 5

119. The Constitution of the Federal Republic Yugoslavia, the Charter on Human and Minority Rights and Civil Liberties, previous Constitution of the Republic of Serbia and new Constitution of the Republic of Serbia, as well as many legal regulations, protect the rights of the child in different spheres of life.

120. The Constitution of the Federal Republic Yugoslavia, the Charter on Human and Minority Rights and Civil Liberties, previous Constitution of the Republic of Serbia and new Constitution of the Republic of Serbia contain several provisions that specifically refer to the protection of children and youth. In that respect, the Constitution of the Federal Republic Yugoslavia, in Article 61, the Charter on Human and Minority Rights and Civil Liberties in Article 39, previous Constitution of the Republic of Serbia in Article 28 and new

Constitution of the Republic of Serbia in Article 66 provide that families, mothers and any child shall enjoy special protection.

121. The Constitution of the Federal Republic Yugoslavia, in Article 56, previous Constitution of the Republic of Serbia in Article 38 and new Constitution of the Republic of Serbia in Article 60 provide special protection at work to be enjoyed by young.

122. Previous Constitution of the Republic of Serbia in Article 29 and new Constitution of the Republic of Serbia in Article 65 emphasize that parents shall have the right and duty to support and provide upbringing and education to their children.

123. The Constitution of the Republic of Serbia that is currently in force, in Article 64, provides that the rights of the child and protection thereof shall be regulated by the law.

124. Besides these, on a broader legislative level, a great number of laws is dedicated to the special protection and best interest of the child, such as:

Law on Marriage and Family Relations ("Official Gazette of the Republic of Serbia", No. 22/80, 24/84, 11/88, 22/93, 25/93, 34/94, 46/95 and 29/01)

Family Law ("Official Gazette of the Republic of Serbia", No. 18/05)

Inheritance Law ("Official Gazette of the Republic of Serbia", No. 46/95)

Labor Law ("Official Gazette of the Republic of Serbia", No. 24/05 and 61/05)

Basic Penal Law ("Official Gazette of the Republic of Serbia", No. 39/2003, ceased to be valid)

Penal Law of the Republic of Serbia ("Official Gazette of the Socialist Republic of Serbia", No. 66/77, 28/77, 43/77, 20/79, 24/84, 39/86, 51/87, 6/89, 42/89 and 21/90 and ("Official Gazette of the Republic of Serbia", No. 16/90, 21/90, 26/91, 75/91, 9/92, 49/92, 51/92, 23/93, 67/93, 47/94, 17/95, 44/98, 10/02, 11/02, 67/03 and 80/03)

Criminal Code ("Official Gazette of the Republic of Serbia", No. 88/05, 88/05 and 107/05)

Law Dealing with Juvenile Perpetrators of Criminal Act and Protection of Juveniles under Criminal Law ("Official Gazette of the Republic of Serbia", No. 85/05)

Law on Social Welfare and the Provision of Social Security to Citizens ("Official Gazette of the Republic of Serbia", No. 36/91, 79/91, 33/93, 53/93, 67/93, 46/94, 48/94, 52/96, 29/01, 84/04, 101/05)

Health Care Law ("Official Gazette of the Republic of Serbia", No. 107/05 and 109/05)

Law on Financial Support to Families with Children ("Official Gazette of the Republic of Serbia", No. 16/02)

Law on Social Care for Children ("Official Gazette of the Republic of Serbia", No. 49/92, 29/93, 53/93, 67/93, 28/94, 47/94, 48/94, 25/96, 29/01, 16/02, 62/03 and 101/05)

Elementary School Law of the Republic of Serbia ("Official Gazette of the Republic of Serbia", No. 50/92, 53/92, 67/93, 48/94, 66/94, 22/02, 62/03 and 101/05)

Secondary School Law of the Republic of Serbia ("Official Gazette of the Republic of Serbia", No. 50/92, 53/93, 67/93, 48/94, 24/96, 23/02, 62/03, 64/03 and 101/05).

125. With regard to international instruments in the field of humanitarian law ratified by the Republic of Serbia, which are of significance for the rights of the child in armed conflicts, we list the following:

Geneva Conventions of 12 August 1949

The Convention on the Prevention and Punishment of the Crime of Genocide (Paris, 9 December 1948)

International Convention Against the Recruitment, Use, Financing and Training of Mercenaries (New York, 4 December 1989)

Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, with Protocols I, II and III (Geneva, 10 October 1980)

Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Amended and Supplemented Protocol II to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects), Geneva, 3 May 1996

Protocol on Blinding Laser Weapons (Protocol IV to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects), Vienna, 13 October 1995

Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (London, Moscow and Washington, 10 April 1972)

Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and Their Destruction (Paris, 13 January 1993)

Convention on Prohibition or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (Geneva, 10 October 1980), Amendment and Supplement to Article 1, Geneva, 21 December 2001

Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Ottawa, 18 September 1997)

ILO Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, (Geneva, 17 June 1999)

Article 6

126. All laws of the Republic of Serbia are in compliance with the provisions of the Protocol and obligations contained therein thanks to the regular review of constitutional and legislative rules and their adjustment to relevant international documents and undertaken obligations.

127. As has been stated in Part One of the Report, as far as the legal status of the Protocol and applicability thereof in the Republic of Serbia are concerned, pursuant to Article 10 of the Constitutional Charter of the State Union of Serbia and Montenegro, the provisions of international treaties on human and minority rights and civil liberties applicable on the territory of Serbia and Montenegro should be applied directly. In accordance with Article 194 of the new Constitution of the Republic of Serbia, ratified international treaties and generally accepted rules of the international law shall be part of the legal system of the Republic of Serbia, whereby ratified international treaties may not be in contrast to the Constitution. Laws and other general acts enacted in the Republic of Serbia may not be in noncompliance with the ratified international treaties and generally accepted rules of international law. This means that international treaties, which are concluded, ratified and published in accordance with the Constitution and which are in force, have precedence over laws in the hierarchy of legal acts. Hence, the provisions of ratified international treaties which are not in compliance with laws applied internally shall apply directly under the Constitution. On the other hand, ratified international treaties shall apply directly also in cases when adequate domestic regulation does not exist. Since the Protocol has been ratified and come into force, its provisions are applicable in the Republic of Serbia.

128. The Agency for Human and Minority Rights of the Government of Serbia is responsible for monitoring the implementation of the Protocol at national level.

129. Ministries responsible for monitoring the implementation of the provisions of the Protocol at national level are the Ministry of Defense, the Ministry of Labor and Social Policy and the Ministry of Health. Within their jurisdiction and when needed, the said state authorities directly cooperate and coordinate with regional and local bodies and civil society.

130. The existing constitutional and legal rules governing this area are continuously monitored. Thereby, the experiences of bodies responsible for direct implementation of the Protocol are particularly monitored and examined in order to take adequate legislative, administrative and other measures, if a need arises, necessary for persistent and comprehensive implementation of this document.

131. As stated earlier, the text of the Protocol has been published in the "Official Gazette of FRY - International Agreements", No. 7/02; it is available in printed form and online.

132. Responsible persons - those participating in military recruitment study international humanitarian law and human rights in general during their regular education and supplementary professional development training. 133. The staff of relevant ministries and other bodies of the Republic of Serbia under whose jurisdiction is the implementation and enforcement of the Protocol, as well as professional groups whose activity is focused on work with/for children, including nongovernmental organizations (which have common grounds with the provisions of this document) learn the contents of the Protocol in different manners (trainings, seminars, roundtables and the like).

Article 7

134. The Government of the Republic of Serbia is very active in the field of implementation and enforcement of the Protocol. In that respect, Government puts particular effort into advancing the implementation of both key provisions of the Protocol and the realization of the rights of the child in general, in cooperation with specialized UN agencies and international organizations as well as with other states.

135. Efforts of the Republic of Serbia are particularly supported by UNICEF and UNHCR, as well as international humanitarian organizations, such as, for example, International Committee of the Red Cross.

136. In its international activities, either at multilateral conferences in the field of the realization and protection of the rights of the child or in bilateral contacts, the Republic of Serbia often points to the necessity of accepting, i.e. ratifying the Protocol.
