



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

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**Committee on the Elimination of Racial Discrimination**

**Concluding observations on the initial report of Serbia,  
adopted by the Committee at its seventy-eighth session (14  
February to 11 March 2011)**

**Addendum**

**Information received from the Government of Serbia regarding the  
recommendations in paragraphs 11, 15, 19 and 22 of the concluding  
observations\***

[22 March 2013]

**I. Introduction**

1. The Committee on the Elimination of Racial Discrimination reviewed the initial report of the Republic of Serbia on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/SRB/1) during its 2067th and 2068th sessions held on 24 and 25 February 2011, in the presence of the delegation of the Republic of Serbia, and therefore adopted the key findings with recommendations that the Republic of Serbia should implement (CERD/C/SRB/CO/1), on 10 March 2011. According to paragraph 29 of the final findings, the Committee requested that the Republic of Serbia submit the information on conclusions on additional activities as per the recommendations contained under paragraphs 11, 15, 19 and 22.

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document has not been edited.

## **II. Government responses to the Committee's final findings (CERD/C/SRB/CO/1)**

### **A. Reply to the recommendations contained in paragraph 11 of the concluding observations**

#### **1. Office for Human and Minority Rights**

2. The National Assembly of the Republic of Serbia adopted the new Law on Ministries<sup>1</sup> on 26 July 2012, following the parliamentary elections held in May 2012. The Directorate for Human and Minority Rights ceased operation on the date of coming into force of this law, previously operating as a public administration body within the Ministry for Human and Minority Rights, Public Administration and Local Self-Government. Pursuant to the provisions of article 31, paragraph 1 of the Law on the Government<sup>2</sup> and article 37 of the Law on Ministries, the Government adopted the Decree on the Office for Human and Minority Rights<sup>3</sup> on 2 August 2012.

3. Pursuant to article 2 of the Decree, the Office for Human and Minority rights undertakes professional work for the Government and competent ministries regarding: protection and improvement of human and minority rights; monitoring the harmonization of local regulations with international treaties and other international legal documents on human and minority rights and initiates amendments to local regulations; general issues on the status of members of national minorities; monitoring the status of members of national minorities living within the territory of the Republic of Serbia and the exercise of minority rights; creation of links between national minorities and mother countries.

4 Pursuant to article 10 of the Law on Ministries, the Ministry of Justice and Public Administration undertakes public administration tasks related, *inter alia*, to keeping a registry of national councils of national minorities, the election of national councils of national minorities, and the preparation of regulations on human and minority rights, as well as other tasks as envisaged by law, taking over from the Ministry for Human and Minority Rights, Public Administration and Local Self-Government – the Directorate for Human and Minority Rights.

5. Funds from the current budget reserve were provided to initiate the operation of the Office, based on the Law on the Budget of the Republic of Serbia for 2012<sup>4</sup>, within the division of the Ministry for Human and Minority Rights, Public Administration and Local Self-Government – the Directorate for Human and Minority Rights. Funds to the amount of RSD 234,735,000 were approved for the Office for Human and Minority Rights for 2012, and RSD 378,599,000 was approved for 2013, amounting to a 5 per cent increase at the annual level.

#### **2. Commissioner for the Protection of Equality**

6. The Commissioner for the Protection of Equality is an independent, autonomous and specialized public administration body established with the aim of acting to combat all types, forms and cases of discrimination, protect the equality of legal persons in all areas of social relations, supervise the implementation of antidiscrimination regulations and

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<sup>1</sup> Official Gazette of RS", no. 72/2012.

<sup>2</sup> "Official Gazette of the RS", no. 55/05, 71/05 – correction, 101/07, 65/08, 16/11 and 68/12 – US.

<sup>3</sup> "Official Gazette of RS" no. 75/2012.

<sup>4</sup> "Official Gazette of RS" no. 101/2011.

improve the achievement and protection of equality. The basic competency of the Commissioner for the Protection of Equality is acting on complaints in cases of discrimination against individuals or groups of individuals linked by the same characteristic.

7. In fact, the Protector of Citizens of the Republic of Serbia is also authorized to act within certain areas of human and minority rights. The competencies of these two independent state bodies do not overlap.

8. The Commissioner has the following competencies: to receive and deliberate on complaints due to violations of the provisions of the Law on the Prohibition of Discrimination<sup>5</sup>; provide opinions and recommendations in specific cases and issue measures; provide information to the person submitting the complaint on the right and possibility of initiating court, or other proceedings for protection. The Commissioner is also provided active process identification, i.e. the right to press charges, with the consent of the person suffering discrimination. The Commissioner, likewise with the consent of the parties involved, recommends holding reconciliation procedures; submits an annual report to the National Assembly on violations of the provisions of this law and notifies the public thereof; warns the public of the most frequent, typical and severe cases of discrimination through media or otherwise; monitors the implementation of laws and other regulations, initiates the adoption or amendment of regulations for the implementation and improvement of protection from discrimination and provides opinion on the provisions of draft laws and other regulations regarding the prohibition of discrimination; establishes and maintains cooperation with independent bodies competent for achieving equality and the protection of human rights at the level of local self-government and territorial autonomy; recommends measures for achieving equality to public administration bodies and other persons. The framework regulating the actions of the Commissioner is the Law on the Prohibition of Discrimination (art. 34-40). Rules are further elaborated in the Rules of Procedure<sup>6</sup> (art. 34), and the Rules of the General Administrative Procedure<sup>7</sup> are duly applied to procedures.

9. The Commissioner acts on complaints if the same issue is not already under procedure before a court, or legally concluded. The Commissioner will not act if it is obvious that no violation of the right the submitter is indicating occurred, if they already acted on the same issue with no new evidence presented, and if they find that, due to the time elapsed since the violation, the purpose of the procedure cannot be achieved. After stating the lack of reasons for non-action as per the complaint, they forward the complaint to the person it was submitted against, within 15 days of the date of receiving the complaint. The provisions of the Law on the Prohibition of Discrimination authorize the Commissioner to initiate anti-discriminatory suits, assessing the need to press charges independently. Pursuant to article 33, paragraph 3, of the Law, the Commissioner is a party to the court proceedings in a functional sense. Charges are submitted in their own name, but requiring the agreement of the discriminated person, if the victim of discrimination is an individual. In cases of discrimination against a group of persons linked by the same characteristic, the agreement of the discriminated persons is not required, as per article 46, paragraph 2 of the Law. The Commissioner may indicate, in the suit, all anti-discriminatory legal protection requests of a preventive and restitutive type envisaged by article 43 of the Law, other than requests for the reimbursement of material and immaterial damages. The Commissioner may request, through the suit: that the court determine, authoritatively and beyond doubt, the defendant to have acted discriminatorily against a certain person (motion for determination). They may, also, request the prohibition of an action threatening

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<sup>5</sup> “Official Gazette of RS”, no. 22/09.

<sup>6</sup> “Official Gazette of RS”, no 34/11.

<sup>7</sup> “Official Gazette of the SRY”, nos 33/97 and 31/01 and the “Official Gazette of RS”, no. 30/10.

discrimination, the prohibition of further discriminatory activity, and/or the prohibition of repeating the discriminatory activity (motion to repel). The judgment adopting the motion to repel is adequate for enforced execution, and the Commissioner, acting as the prosecuting party in the proceedings, is authorized to initiate the procedure for its enforced execution. The Commissioner is authorized to note, within the suit, the request for eliminating discrimination, requesting the discriminator to undertake one or several activities eliminating (remedying, removing) the discriminatory situation. The Commissioner may also note the discriminator shall publish the court decision determining discrimination at his/her own expense.

10. The Commissioner submits an annual report to the National Assembly on the situation in the field of protection of equality, containing the assessment of the work of public administration bodies, service providers and other persons, noted deficiencies, and recommendations for remedying them. The report may also contain notices on the implementation of laws and other regulations, and/or the need to adopt or amend regulations in order to implement and improve protection from discrimination. If particularly important reasons exist, the Commissioner may, at their own initiative or at the request of the National Assembly, submit a special report.

11. The Commissioner for the Protection of Equality has no limits in determining discriminatory acts, in regards to who committed the act, or who the victim of discrimination was.

12. The National Assembly of the Republic of Serbia, as the body adopting the Law on the Budget, is responsible for the amount of funds dedicated to enabling the operation of the Commissioner for the Protection of Equality. The Commissioner, due to austerity measures and the economic crisis, corrected the expenditures within the budget earmarked in 2012. The office space of the Commissioner is insufficient to engage the required number of employees in the service of the Commissioner for the Protection of Equality.

### **3. Protector of citizens**

13. The Protector of Citizens (Ombudsman) controls the work of public administration bodies, the body competent for the 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 authority. The Protector of Citizens is not authorized to control the work of the National Assembly, the President of the Republic, the Government, the Constitutional Court, courts and public prosecutors' offices.

14. In addition to the *Law on the Protector of Citizens*, the provisions of the Law on Public Administration<sup>8</sup> and the Law on Civil Servants, as well as other regulations regulating the work relations within public administration, apply to the work of the professional service of the Protector of Citizens and its employees. The legal basis for financing the activities of the Protector of Citizens is represented by the Budget Law and the Law on the Budget System<sup>9</sup>.

15. In March 2010 the International Coordination Committee for Independent State Bodies for the Protection and Improvement of Human Rights awarded the Protector of Citizens with "A" status, confirming it to be an independent institution established in accordance with the Paris Principles.

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<sup>8</sup> "Official Gazette of RS", no. 79/05, 101/07 and 95/10.

<sup>9</sup> "Official Gazette of RS", nos 54/09, 73/10, 101/11 and 93/12.

16. The *Law on the Amendments to the Law on the Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*<sup>10</sup> appoints the Protector of Citizens to undertake the work of an Independent National Preventive Mechanism against Torture at the National Level (NPM). In implementing these competencies the Protector of Citizens cooperates with the ombudsmen of the autonomous provinces and associations with statutes envisaging their goal to be association for the improvement and protection of human rights and freedoms, pursuant to the law. In implementing this new competency, the Protector of Citizens cooperates, in particular, with the Provincial Ombudsman of the Autonomous Province of Vojvodina and nine associations with whom agreements were signed on cooperation for the systematic monitoring of the status of persons denied freedom and the occurrence of torture in certain areas.

17. The Protector of Citizens also has the right of legislative initiative. They may propose laws within their competency, submit initiatives for the amendment or adoption of new regulations if they believe the rights of citizens are violated due to deficiencies thereof, or if important for achieving and improving the rights of citizens. The Protector of Citizens is authorized to provide opinions on draft regulations to the Government and the National Assembly. Likewise, the Protector of Citizens is authorized to initiate proceedings before the Constitutional Court for the assessment of the constitutionality and legality of laws, other regulations and general acts.

18. Through a relatively swift procedure, free of too many formalities, the Protector of Citizens controls the respect for the rights of citizens, determines violations due to acts, actions or lack thereof by administration bodies, in regards to violations of national laws, other regulations and general acts. Pursuant to article 31, paragraph 2, of the Law on the Protector of Citizens, the Protector of Citizens is authorized, based on determined omissions in their work and in procedures as per citizens' complaints or on their own initiative, to issue recommendations to an administration body to remedy deficiencies or irregularities. In addition to the right to initiate and hold proceedings, the Protector of Citizens is entitled, in accordance with article 24, paragraph 2 of the Law, to provide an opinion on issues within their competency and to act preventively, aiming to improve the work of administration bodies and improve the protection of human rights and freedoms. The Protector of Citizens investigates whether a public administration body acted legally and correctly in issues pertaining to the rights, freedoms, or the legal interests of citizens. If this is not the case, the Protector of Citizens states the deficiencies and recommends measures for remedying them in specific, and other cases.

19. Complaints due to discrimination may be submitted to the Commissioner for the Protection of Equality, and thereafter the Commissioner holds proceedings as prescribed by the Law on the Prohibition of Discrimination. The Commissioner may, in accordance with article 41 of the Law, file charges to the court, with proceedings as per these charges being urgent. Proceedings before the Commissioner and before the courts are not mutually exclusive, and the Commissioner may even file charges to the court for the discrimination of citizens, and may hold proceedings on this issue as well. The Protector of Citizens, pursuant to the Constitution and the Law on the Protector of Citizens, acts after all legal remedies are exhausted, or extraordinarily, before their exhaustion, as per the assessment of the Protector of Citizens on the justifiability and need for such an exception. The Protector of Citizens shall consider a complaint filed to the Commissioner for the Protection of Equality as an available legal remedy the citizens shall use before turning to the Protector. Extraordinarily, the Protector of Citizens may decide to act on the complaint before the

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<sup>10</sup> "Official Gazette of RS – International Treaties", no. 7/11.

proceedings before the Commissioner are finalized or initiated (or any other legal remedy is used), if they assess this to be required due to the danger of harmful consequences that are not remedied, particularly the improper relation of authorities against the complainant, breaches to the principle of good administration, non-ethical or untimely actions.

20. Following the election of the Commissioner for the Protection of Equality, the Protector of Citizens, as a rule, no longer initiates proceedings due to citizen complaints against the discriminatory attitudes of public administration bodies unless they have previously, pursuant to the Law on the Prohibition of Discrimination, exhausted available legal remedies and turned to the Commissioner for the Protection of Equality. Due to reasons envisaged by the Law on the Protector of Citizens, the Protector of Citizens may decide to process complaints against discrimination by public administration bodies before the available legal remedies are exhausted. In such extraordinary cases the Protector of Citizens, in the spirit of the principle of cooperation between state bodies, notifies the Commissioner for the Protection of Equality.

21. Parallelism between the Commissioner for the Protection of Equality and the Protector of Citizens is additionally avoided by the fact that the Protector of Citizens does not decide on the right of the complainant, instead providing legally non-binding opinion on the existence of omissions in the legality and regularity of the work of authorities acting to the detriment of such rights. However, the fact remains that the legal system is somewhat inconsistent, since the other commissioner in the legal system of the Republic of Serbia, the Commissioner for Information of Public Importance and the Protection of Personal Data, decides by decision, i.e. an act of authority having *imperium*, while the Commissioner for the Protection of Equality issues measures somewhat similar to those of the Ombudsman. In practice, potential problems are successfully prevented through consultation and notifications.

22. Far more than the formal adherence to the law, the Protector of Citizens examines the ethics, conscientiousness, impartiality, professionalism, appropriateness, effectiveness, respect for the dignity of the party, and other properties that should describe the type of public administration the citizens fully expect from those they finance as taxpayers.

23. The recommendations, positions and opinions of the Protector of Citizens are not legally binding. The task of the Protector of Citizens is not to enforce, but to use the power of arguments, as well as the institutional and personal authority, to convince of the necessity to remedy omissions and improve the methods of work.

24. Administration bodies, however, are legally obliged to cooperate with the Protector of Citizens, providing them with access to their premises and providing all available data, regardless of the degree of secrecy (when of interest to the proceedings being held). Not respecting these legal obligations is a basis for initiating relevant disciplinary and other proceedings.

25. The Protector of Citizens may also recommend the dismissal of an official they believe to be responsible for violations of the rights of citizens, initiate disciplinary proceedings against employees in administration bodies, submit requests, and/or charges for initiating criminal, misdemeanour or other relevant proceedings.

26. Regarding the Recommendation of the Committee to provide for the effective operation of the office of the Protector of Citizens of the Republic of Serbia, it is important to note that the minimum spatial and technical conditions for the work of the Protector of Citizens were provided in 2010, only three years after the election of the first Protector of Citizens and five years after the adoption of the Law on the Protector of Citizens. The Protector of Citizens is currently located in temporary offices, the fifth such as of the founding of the institution, six years ago. The final solution for the premises has been

allocated, and the Government awarded it to the Protector of Citizens, however the reconstruction of this building requires over 10 million Euros.

#### 4. Activities of the Body for Protection from Racial Discrimination

27. Considering the importance and necessity of long-term and systemic combat against discrimination, the Commissioner for the Protection of Equality issued a recommendation to the Government in October 2011 to adopt the Strategy for Combating Discrimination with the relevant Action Plan, to be used to determine comprehensive and coordinated measures and activities for preventing and combating discrimination and achieving equality. The Strategy for Combating Discrimination would represent support for the implementation of legal anti-discrimination measures and its implementation would contribute to eliminating the causes of discrimination, strengthening public awareness on the social dangers of discrimination and the individual benefits for all of respecting the rights of others and those who are different, as well as improving tolerance and accepting and respecting differences. Additionally, the implementation of the Strategy for Combating Discrimination would improve the work of judiciary bodies and other public authorities and improve the effectiveness of all mechanisms for providing legal protection from discrimination. The Government accepted this recommendation and determined that the process of drafting the Strategy shall be led by the former Ministry for Human and Minority Rights, Public Administration and Local Self-Government – Directorate for Human and Minority Rights. The initiated work on drafting the Strategy was continued by the Office for Human and Minority rights, by nominating experts and forming working groups for designing the Draft Strategy, including numerous civil society organizations, representatives of state bodies and independent bodies. The Commissioner for the Protection of Equality is an active participant in this complex and important process.

28. The Protector of Citizens, in early 2012 and based on legal authorization, issued a formal initiative to the Government for amendments to the *Law on Extrajudicial Proceedings*. The Protector of Citizens, in addition to the above initiative, also initiated amendments to two laws in order for those citizens registered in registries, but unable to register their residence or temporary residence in accordance with positive regulations, to be able to gain personal identification documents. This problem also encompasses thousands of people living in illegal settlements, and the homeless. The initiative of the Protector of Citizens was accepted, and the National Assembly amended the Identity Card Law and the Law on Permanent and Temporary Residence, in order to enable persons without a permanent address to obtain temporary personal identification documents.

29. In regards to raising awareness and introducing the public and civil servants to the competencies of the above bodies, the previous Directorate for Human and Minority Rights started the initiative to include subjects from the field of protection and improvement of human and minority rights in the Programme of General Professional Training of Civil Servants from Public Administration Bodies and Government Services, adopted at the annual level. Civil servants are, inter alia, introduced to issues of international and national legal framework for the protection and improvement of human and minority rights, institutional mechanisms for their achievement and the reporting by the Republic of Serbia on meeting international obligations. The above subjects shall be included in the Programme of General Professional Training in 2013.

30. As part of their competencies, the Commissioner for the Protection of Equality implements various activities aimed at raising awareness in order to introduce the public and civil servants to various types and forms of discrimination. In regards to civil servants, the specific activity of educating civil servants is being implemented as part of seminars organized by the Human Resource Management Service of the Republic of Serbia.

31. During recent years the Protector of Citizens undertook all available measures and activities aimed at raising awareness on the importance and competencies of this body, as well as aiming to bring them closer to citizens. In addition to media regularly covering the activities, results, but also problems in their work, the Protector of Citizens introduced, as a regular practice, visits to local self-governments (Ombudsman days). In addition to discussions with representatives of local governments, talks are also organized during these occasions with civil society organizations and other institutions in the field of human and minority rights. In accordance with the basic competencies, the employees of the Professional Service receive citizen complaints in the field. This has significantly increased the accessibility of this institution to citizens, along with increasing public awareness of the competencies of this body. The Protector of Citizens also opened special field offices in the municipalities of Bujanovac, Preševo and Medveđa. These municipalities are located in the part of the Republic of Serbia predominantly settled by members of the Albanian national minority. In public libraries in 10 cities and municipalities, citizens can contact the reception service of the Protector of Citizens through an audio-visual internet connection. During the next two years, the number of such libraries will be increased to 25.

32. Evidence of this is that in 2011 alone (as compared to 2010), the number of appeals to the Protector of Citizens was increased by over 40 per cent, representing a trend existing since the institution was established in 2007. The total number of instances of contact with citizens in 2011 was 15,782.

## **B. Reply to the recommendations contained in paragraph 15 of the concluding observations**

33. According to the Population Census held in October 2011, the total number of citizens of the Republic of Serbia declaring themselves as Roma equals 147,604, i.e. 2.05 per cent of the total population (7,186,862). Since there were 108,193 (1.44 per cent) such citizens according to the 2002 Census, the absolute increase in the number of citizens is 39,411, i.e. 36.43 per cent.

<i>By region</i>		
Belgrade	27,325	1.65%
Vojvodina	42,391	2.19%
Šumadija and West Serbia	20,649	1.02%
South and East Serbia	57,239	3.66%

34. Urban areas account for 60 per cent of Roma, with 40 per cent residing in other areas. Men represent 51 per cent of the population, and women 49 per cent. Only Roma have an average life expectancy below 30 years, i.e. 28.3 years (Serbs 42.58, Hungarians 44.97, Croats 51.02, etc.)

35. The total number of citizens of the Republic of Serbia declaring themselves as Ashkalis is 997, with Egyptians at 1,834.

36. In addition to the census takers of the Statistical Office of the Republic of Serbia, approximately 150 coordinators and 550 additional census takers of Roma nationality are engaged in so called Roma settlements. The task of the additional census takers was to enable the unfettered work of "regular" census takers in Roma settlements, as well as to facilitate communication. Special cooperation was achieved by the Statistical Office with the national councils of national minorities. The former Ministry for Human and Minority Rights, in cooperation with the National Council of the Roma National Minority,

implemented a national campaign aiming to explain to members of the Roma community the purpose of the census and to encourage their declaration in accordance with their feelings of national affiliation.

**1. Action Plan for the implementation of the strategy for the improvement of the status of Roma in the Republic of Serbia**

37. The Office for Human and Minority Rights undertakes professional work for the Government and competent ministries in regards to the protection and improvement of the rights of the Roma national minority, monitoring and improving their status and implementing projects related to the social inclusion of Roma. The Office coordinates and supervises the work of line ministries implementing their measures envisaged by the Strategy for the Improvement of the Status of Roma.

38. As part of the Office for Human and Minority Rights, the Sector for National Minorities, the Group for the Implementation of the Strategy for the Improvement of the Status of Roma – Secretariat for the Roma National Strategy was systematized, existing since 2003 within institutions competent for human and minority rights, with the support of international organizations – United Nations Development Programme and Swedish International Development Agency (SIDA), Fund for an Open Society, OSCE Mission to Serbia, European Agency for Reconstruction, European Council, UNHCR. The Activities of the Group are initiating, coordination, monitoring and implementation of activities aimed at improving the status of members of the Roma national minority.

39. The Group for the Improvement of the Status of Roma and Providing Assistance to Migrants undertakes work related to: coordination and cooperation with line ministries aimed at initiating, drafting and implementing operational measures for implementing the Strategy for the Improvement of the Status of Roma and the relevant Action Plan; cooperation with local self-government units aimed at implementing local action plans and improving the status of Roma in the local self-government; implementing and monitoring the Decade of Roma Inclusion 2005-2015; providing assistance to vulnerable migrant categories of the population and other work within the scope of the Group.

40. The former Ministry for Human and Minority Rights, Public Administration and Local Self-Government – Directorate for Human and Minority Rights prepared, in late 2011, the working version of the Action Plan for the Implementation of the Strategy for the Improvement of the Status of Roma in the Republic of Serbia for 2012-2014. The working version of the Action Plan contains goals envisaged by the Strategy to be achieved during the action plan period, measures and activities required for their achievement, bearers of the planned measures and activities, partners in implementing the planned measures and activities, monitoring, as well as available budget and donor funds.

41. The action plan was prepared by working groups for each of the 13 areas the Strategy encompasses. The work of all 13 groups was governed by a representative of a ministry, and/or special organization competent for a certain area, while working groups were comprised of representatives appointed by the National Council of the Roma National Minority, associations achieving goals in the field of improving the status of Roma (League for the Decade, Women's Roma Network and other associations), as well as international organizations with activities aimed at improving the status of Roma. The working version of the Action Plan was presented at the session of the Council for Improving the Status of Roma and implementing the Decade of Roma Inclusion, as well as the consultative meeting with representatives of local self-government units.

42. Having in mind that, due to holding parliamentary elections in 2012, this draft was not adopted by the Government, the newly established Office for Human and Minority Rights initiated the process of updating the draft Action Plan in November. The Action Plan

should be updated in accordance with new priorities arising during 2012, and submitted to the Government for adoption in early 2013.

43. The Office participated in drafting the sector programmes for IPA Social Development for 2012 and 2013, in the segment related to support to the implementation of the Action Plan for Improving the Status of Roma in the Republic of Serbia. These programmes also envisaged activities with 4.8 million Euros planned for the implementation for IPA 2012, with programming for IPA 2013 currently under way. The programmes will be directed towards several sectors:

- Improving the coordinated provision of local services through the introduction of mobile teams in 20 pilot municipalities. The mobile teams will contain representatives of the local social work centre and the national employment service, a healthcare mediator, a Roma pedagogical assistant and a Roma municipal coordinator
- Improvement of the housing conditions in Roma settlements through support for legalization and infrastructure investments in settlements
- Reduction of the dispersal of Roma students in secondary education through a scholarship programme
- Improving employment access for Roma through supporting existing initiatives and creating new models for the employment of Roma
- Reducing the number of legally invisible persons through support to these persons during the process of registration in registries
- Building the capacities of the Roma civil society.

44. During October 2012 the Office organized an international conference on the challenges and opportunities for the coordinated provision of services at the local level for supporting the inclusion of Roma in the Republic of Serbia and the planned introduction of local mobile teams for Roma inclusion within the sectoral programme for social development – IPA 2012.

## 2. Education

45. Despite the activities undertaken by national and provincial bodies and local self-government units, as well as the considerable improvements and achieved results, complex problems still remain, both regarding the social integration of Roma, as well as regarding discrimination, combating poverty and resolving social-economic and cultural rights.

46. The *Law on the Fundamentals of the Education System*<sup>11</sup>, adopted in 2009, provides opportunities for inclusive education, including the engagement of pedagogical assistants and abolition of categorization. The development of inclusive education leads to the elimination of obstacles faced by Roma in education, but continued support is required, particularly at the local level, in order to continue and sustain the initiated processes. Support for the implementation of the Law, as well as the Strategy for the Improvement of the Status of Roma and the Action Plan in the field of education, is also provided through several large projects financed from EU funds and World Bank loans.

47. The following activities were implemented during 2011-2012:

(a) The intake of children in preschool institutions was increased. The capacities for the intake of children were expanded or adapted in cooperation with local self-

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<sup>11</sup> “Official Gazette of RS”, no. 72/09 and 52/11.

governments. The mandatory and free preparatory preschool programme is increasing the number of children encompassed every year. A large number of schools received support for developing programmes for working with children of Roma nationality, in order to increase the scope and raise the quality of education, as part of the Call for Project Grants – Delivery of Improved Local Services – DILS;

(b) The coverage of the preparatory preschool programme among children from Roma settlements is 78 per cent. A somewhat smaller coverage is recorded among Roma with girls in comparison to boys (72 per cent to 84 per cent), as well as in rural as opposed to urban environments (66 per cent to 84 per cent), as well as depending on the education of the parents and the economic status of the household;

(c) Considering the coverage of Roma children in primary education, the percentage of children enrolled in the first grade of primary school is increased by 9.87 per cent. UNICEF data indicate a considerable improvement of the situation among the Roma population compared to the rate of primary school attendance during the past 5 years – the rate has increased from 74 per cent to 88 per cent.

48. The establishment of the system for the functional primary education of adults is under way – in 2011/2012 a total of 37 schools were included, with another 43 and a total of 75 secondary vocational schools to be included in 2012/2013, i.e. 4000 adults will get a second chance and continue their education. Since 2009/2010, when adult education encompassed 370 members of the Roma national minority, the number increased by 8-10 per cent every school year.

49. The percentage of young Roma enrolling in secondary schools was also increased from 8.3 per cent during the 2004/2005 school year to 15-20 per cent in the 2011/2012 school year.

50. The number of Roma children enrolling in special schools decreased from 8 per cent to 6 per cent (2009). Since the adoption of the Law on the Fundamentals of the Education System in 2009, and the introduction of inclusive education, all children are enrolled in regular primary schools.

51. Through the application of affirmative action measures in 2011/2012, 380 students were enrolled in secondary schools, while 185 students of Roma nationality were enrolled in faculties and colleges; in 2012/2013 the application of affirmative action measures lead to the enrolment of 238 candidates of the Roma nationality in faculties and colleges, and 367 students of Roma nationality in secondary schools. A total of 1092 students and 1948 secondary school students were enrolled since the 2003/2004 school year.

52. A total of 590 pupil and 240 student scholarships and 2 student loans were awarded, and one-time financial assistance was provided for 185 first-year students of Roma nationality amounting to RSD 3,000,000 (approximately EUR 30,000).

53. A new Roma language programme has been piloted since September 2012, designed at the Faculty of Philology in Belgrade. Training will be organized during the coming school year for future Roma language teachers, able to teach throughout the territory of the Republic of Serbia, in accordance with needs expressed in primary schools.

54. The mentorship and scholarship programme was continued in the AP Vojvodina, financed by the Government of the AP Vojvodina and the Roma Education Fund. The first cycle of projects (2007-2011) provided scholarships for 435 students. During the first cycle (2007-2011) the project was implemented by a total of 79 schools from the territory of AP Vojvodina. A total of 98 mentors were engaged, comprised of teachers or professional associates from schools attended by students. The total value of the first cycle of the project amounted to over one million Euros; the second cycle is under way (2011-2013) and encompasses 401 students.

55. Roma secondary school students achieving a minimum 3.0 grade average during the past school year are provided scholarships – a financial sum to a monthly amount of RSD 4,800 (currently approximately EUR 45), as well as mentor support. The number of Roma nationality students in AP Vojvodina is constantly increasing at all education levels. Continued increase is noted in the number of students enrolled every year. During the 2010/2011 school year, the total number of Roma in secondary schools more than doubled (113 percent) compared to the situation before the implementation of the project. When observing this ratio in higher education, the number of students almost tripled. School success was also improved. The number of students with a grade average of 5.00 also increased – from 2.5 percent of students during the first project year to 6.1 per cent in the fourth.

56. The further introduction of Roma Language with Elements of National Culture in schools was continued within the territory of local self-governments in AP Vojvodina – currently there are 723 students in 27 primary schools in 14 units. Teacher education was continued in the Roma and Serbian language at the Vocational College “Mihajlo Pavlov” in Vršac.

57. The Office for Human and Minority Rights initiated the drafting of the *Rulebook on the Implementation of Affirmative Action Measures* that would define in more detail the criteria and procedures for implementing affirmative measures for the enrolment of members of the Roma community in secondary schools and higher education institutions in the Republic of Serbia. A working group was formed with participation by representatives of: the Ministry of Education, Science and Technological Development; Office for Human and Minority Rights; Provincial Secretariat for Education; National Council of the Roma National Minority; AP Vojvodina Office for the Inclusion of Roma; Women’s Roma Network; Roma Decade League.

### **3. Pedagogical assistants**

58. A total of 308 pedagogical assistants are employed in preschool institutions and primary schools across the Republic of Serbia. One of their tasks is to support children of Roma nationality and their families for inclusion in the education system. Trainings were developed and implemented for over 600 teachers and principals. Professional education programmes were implemented for employees in 180 institutions engaging pedagogical assistants.

59. One of the assistant training programmes was accredited in January 2012 at the Centre for Lifelong Learning (TEMPUS programme) at the University in Kragujevac. The modular training programme will be implemented by accredited trainers from the Teachers’ Faculty in Jagodina and partner associations that held trainings for assistants and education employees during the preceding period. The introduction of 200 new assistants was planned for the next two years at the Ministry of Education, Science and Technological Development, with the financial support of European funds and intersectoral cooperation. In accordance with the number of members of the Roma population, the socio-economic status and position of municipalities wherein they live, as well as the needs of children and their families, school administrations, local self-governments and associations will participate in the process of determining priorities and the number of pedagogical assistants for a given region.

60. The Office for Human and Minority Rights, in cooperation with the Ministry of Education, Science and Technological Development, organized four cycles of education for all pedagogical assistants during the second half of 2012. This training was supported from donor funds. The continued training of assistants was planned for 2013 through the sectoral programme IPA Social Development for 2012.

61. The creation of local intersectoral support systems was initiated through: strengthening intersectoral commissions assessing and proposing certain forms of support in the field of healthcare, social protection and education; institutionalization of local support networks for inclusive education of children from vulnerable social groups through linking institutions with good practice examples implemented by professionals in certain educational institutions or through the engagement of the civil sector. In the Republic of Serbia, 94 percent of local self-government units are implementing at least one project in the field of inclusive education.

#### **4. Protection from violence**

62. The Unit for the Prevention of Violence was founded within the Ministry of Education, Science and Technological Development, aimed at improving planning, coordination and efficiency in the field of protecting children from violence within the educational system, as well as the improved quality of implementation for the “School without Violence” programme lead successfully by the UNICEF office in Belgrade during the past six years. The tasks of the unit are securing the faster implementation and better understanding of policies and regulations in the prevention of violence, transferring knowledge and experiences gained from schools involved in the programme to other schools, as well as the incorporation of this knowledge and experiences in new bylaws and regulations. An SOS hotline was also opened for reporting cases of violence. Examples of inclusive educational practice to be published were collected.

#### **5. Returnees under the Readmission Agreement**

63. The legal framework for the implementation of the Readmission Agreement in the Republic of Serbia consists of ratified readmission agreements, i.e. laws on the ratification of readmission agreements, as well as relevant protocols concluded by the Republic of Serbia at the international level, and amendments to the Law on Refugees<sup>12</sup> (2010), the Law on Migration Management<sup>13</sup> (2012), the Strategy for the Reintegration of Returnees under the Readmission Agreement (2009) and the Strategy for Combating Illegal Migrations in the Republic of Serbia for the period 2009–2014.

64. The Commissariat for Refugees and Migrations coordinates and organises primary and urgent reception of returnees, creates conditions for the successful reintegration of returnees on the basis of the Readmission Agreement, is in charge of the activities of the primary reception of returnees in the readmission office at the “Nikola Tesla” airport, and the whole process also includes commissioners for refugees and migration councils of local self-government units. Returnees may receive the following forms of assistance in the readmission office:

- Information on rights, obligations and opportunities
- Advice on how to obtain identity documents
- Primary and urgent reception
- Reference to Commissariats/Migration Councils and other services in local self-governments for further assistance
- Returnees are also able to contact their relatives and friends by phone

<sup>12</sup> “Official Gazette of RS”, no. 30/10.

<sup>13</sup> “Official Gazette of RS”, no. 107/12.

- Transportation to adult shelters in Belgrade, establishing a connection with the social welfare centre for the purposes of providing returnees with a transportation ticket, accommodation at the Centre for Emergency Housing of the Commissariat for Refugees and Migrations, used for accommodating the most vulnerable returnee families.

65. Centres for emergency housing of returnees are used for accommodating the most vulnerable returnee families on the basis of the Instruction issued by the Commissariat for Refugees and Migrations. The information bulletin for returnees under the Readmission Agreement is available in English at the official website of the Commissioner for Refugees and Migrations [www.kirs.gov.rs/docs/read/Informator\\_eng\\_2012.pdf](http://www.kirs.gov.rs/docs/read/Informator_eng_2012.pdf).

66. In 2008, the Commissariat for Refugees of the Republic of Serbia, in cooperation with the International Organization for Migration and local self-governments, initiated implementation of the project for the development of local action plans for municipalities and cities aimed at adopting policy documents and action plans for the improvement of the status of refugees and internally displaced persons. Migration Councils were created as a result of the need for achieving this task at the local self-government level, and their task is to adopt local action plans. Revision of local action plans is under way which, in addition to refugees and internally displaced persons, also include returnees under the Readmission Agreement. Training related to the development of local action plans has so far included 146 municipalities/cities, out of which 18 municipalities were from Kosovo and Metohija. In the territory of the Republic of Serbia, 124 municipalities/cities successfully developed and adopted local action plans, 128 municipalities/cities established Migration Councils and durable solutions, and about 80 per cent municipalities/cities formed a special budget line.

67. The Roma, together with the Ashkali and Egyptians, which represent 10 per cent of internally displaced persons from Kosovo and Metohija, are a particularly vulnerable category which, due to the lack of identity documents and a traditional lifestyle, have more difficulty in exercising their rights in the field of health insurance, social care, employment and education. In order to resolve their problems, the Commissariat for Refugees and Migrations, in addition to their priority involvement in the programs for the improvement of living conditions of internally displaced persons, also takes care of equal involvement of these persons in all programs aimed at the Roma who are not displaced.

68. Parents of the children arriving under readmission are required to enrol their children in the pre-school and primary school curriculum. The preparatory curriculum is compulsory for all children aged 5 to 7, and represents a prerequisite for the enrolment of a child in the first grade of primary school. The curriculum is free, takes 4 hours a day, for at least six months. A parent, i.e. a guardian, is required to enrol the child to a preparatory educational group in a kindergarten or a primary school implementing the curriculum. To apply, a child must have a certificate of medical examination, a birth certificate and evidence of registration of place of residence. Children with disabilities have the right to be educated in specialized institutions.

69. In terms of children of returnees who started their education abroad and were interrupted by readmission, they were permitted the conditional enrolment in primary and secondary schools (other than art schools) to obtain diplomas and certificates, i.e. to complete the process of recognition or equivalence. Employees in professional services in schools are obliged to provide any form of assistance to parents. The former Ministry of Education exempted children whose parent or parents are beneficiaries of social welfare centre assistance of recognition and equivalence fees. Costs of translation of foreign school certificates by a court interpreter are still being borne by returnees if a civil society organization is not engaged in the process of obtaining the court interpreter.

70. Depending on the interests and needs in the field of specific local self-governments, education of adult returnees has also been organized.

71. In cooperation with civil society organizations, the Ministry of Education, Science and Technological Development, school administrations and schools have undertaken several activities such as:

- Improving the quality of communication among children, teachers and parents by developing tolerance, understanding and cooperative relations
- A workshop model of work, learning by experience and application of modern teaching aids which allowed students to progress at their own pace in learning the Serbian language and other contents, and active inclusion in the learning process
- Activities ensuring children who do not speak Serbian are not treated as a problem, but to indicate the social problem that needs to be changed
- Educating, informing and motivating parents to be role models for their children
- Providing teaching aids (adjusted to the age of students)
- Providing books, food, clothes, shoes and personal hygiene items.

72. An important role in the inclusion of the Roma children of returnees is played by Roma pedagogical assistants and health care mediators who jointly act with the support of Roma coordinators at the local level and assist parents and children of returnees.

73. The Commissioner for Refugees and Migrations held 35 regional workshops aimed at strengthening local institution capacities, as well as special workshops with Roma coordinators and civil society organizations. So far, 6 focus groups with returnees have been organized, and the plan is to organise 6 more.

74. Unlike previous years, when EU programs were implemented exclusively in cooperation with executive partners, IPA 2011 envisages a separate component of the program aimed at the implementation of activities envisaged by local action plans for refugees, internally displaced persons and the most vulnerable returnees under the readmission agreement, who live in private housing, and to will be implemented by local self-government units with direct support of the project management unit. The total value of the component of the program aimed at providing support to local self-government action plans amounts to EUR 1.7 million, whereas municipalities and cities may apply with individual projects to the amount of EUR 50,000 to 85,000.

75. With the public call for financing the projects of importance for refugees, internally displaced persons, asylum seekers and returnees under the Readmission Agreement announced on 9 April 2012, the following Roma association projects were financed:

- The project "Open Door" of the Roma Association of the Braničevo District – Požarevac, awarded RSD 300,000.00. The creation of workshops aimed at physical and motor skills development, social-emotional and cognitive development of the Roma children will contribute to the reduction of social isolation and facilitate their inclusion in the educational system.
- The programme "I Study, I Don't Want to Suffer" of the Roma Association of the Braničevo District, awarded RSD 150,000.00. Implementation of the project promotes the process of education of the Roma children of refugees, internally displaced persons and returnees under the Readmission Agreement, through specially organized programmes of complementary education that will stimulate integration of the Roma children in the society.

- The programme “Providing Assistance in the Educational System to the Roma Children of Returnees under the Readmission Agreement and to Persons Displaced from Kosovo and Metohija” of the native association “Zvezda vodilja”, receiving funds in amount of 170,000.00. Implementation of the project will reduce the language barrier present with children of internally displaced persons and returnees and representing an obstacle to inclusion in the educational system and further progress in the educational process.

76. The competition for awarding funds to associations, federations of associations, foundations and endowments registered in the territory of the Republic of Serbia was used for awarding funds to the associations submitting proposals for projects to the Office for Human and Minority Rights, aimed at achieving the following objectives:

(1) Prevention and assistance in the implementation of the policies in the field of asylum and readmission, with a special emphasis on the improvement of prevention in the above fields within the applicable legislative framework and in accordance with European standards, focusing on the Roma population;

(2) Efficient implementation of the existing policy documents concerning the position and status of Roma in the Republic of Serbia through the development of relevant reports and research;

(3) Improving the quality of life of the Roma population by creating and promoting integrated local service/programmes (inter-sectoral and inter-municipal);

(4) Prevention and suppression of trafficking in human beings through innovative local programs and by raising awareness about existing forms of trafficking in human beings in the Republic of Serbia, with a focus on the Roma population;

(5) Encouraging positive actions of the general society towards representatives of the Roma population, as a socially vulnerable population in the field of migration – national, regional, and towards the EU.

77. The total funds allocated with the competition to selected projects amount from RSD 22,500,000.00 to RSD 2,000,000.00 per selected project. A total of 59 associations applied for the competition, and the funds were granted to 14 projects of associations of citizens.

78. The Office for Human and Minority Rights, with the support of donor funds, plans to introduce six Roma inclusion advisors in the ministries responsible for education, health, housing, culture, employment and social policy. The advisors will be engaged in activities related to the Action Plan for the implementation of the Strategy for the Improvement of the Status of the Roma, as part of the system for coordination, monitoring and reporting on implemented activities.

## **6. Raising awareness to promote tolerance and respect for diversity**

79. Great efforts have been invested in the elimination of stereotypes, particularly against the Roma population, estimated to be one of the most vulnerable groups in the Republic of Serbia, inter alia, by launching awareness campaigns promoting tolerance and respect for diversity.

80. The following projects were implemented in combating racial prejudice and discrimination in the media, public and private, through increased efforts to promote understanding, tolerance and friendship among different minority ethnic groups in a member state and by adopting the codes of ethics:

- Implementation of the project “Strengthening Capacities of Institutions Competent for Migration Management and Reintegration of Returnees in the Republic of Serbia” – CBMM project, implemented in partnership by the International

Organization for Migration and the Commissariat for Refugees and Migrations. It included training in 140 municipalities in the Republic of Serbia aimed at raising awareness of the status and rights of migrants in the Republic of Serbia. The aim of these trainings is to introduce the representatives of local self-governments, encountering migrants in their field of work, to migration management in order to be able to ensure the most effective access to all rights for these persons, and to examples of good practice in mutual discussions.

- As part of the CBMM project component of raising awareness in civil society institutions on the rights and needs of migrants, the Commissariat participated in round tables aimed at informing and educating journalists and informing the academic community in the Republic of Serbia and representatives of the civil sector and associations of refugees, internally displaced persons and Roma associations, with a view to present to the general public and professional community the issue of migration management, as well as to focus attention on the needs and issues of different migrant groups. Part of this project included producing half-hour films about refugees, internally displaced persons, returnees under the Readmission Agreement and asylum seekers, broadcast on TV. Also, clips were broadcast on radio and TV stations, as well as 5 one-hour shows where guests were experts in the field of migration, representatives of competent public institutions, international organizations and civil society organizations.

81. Based on the public competition for the allocation of funds to associations for projects aimed at promoting and protecting human rights in the Republic of Serbia, i.e. encouraging tolerance and acceptance of diversity, the Directorate for Human and Minority Rights allocated funds to the projects of 11 associations in 2011, to the amount of EUR 50,000. It also conducted a public competition for association projects, for the purposes of promoting and protecting human rights in the Republic of Serbia, for the programme "Human Rights Calendar 2012". The basic concept of this programme implies that every month of the year will be dedicated to, and/or marked with a series of activities implemented by civil society organizations selected through an open competition, on the basis of their capacities and experience in a specific field which the thematic group is engaged in. The abovementioned activities contributed to the improvement of the status and rights of specific groups, i.e. minorities, the promotion of desirable behaviour patterns and values, as well as to combating discrimination. The selection of a field/topic is connected to the international UN holidays celebrated in a month, in all possible cases, i.e. holidays celebrated during a specific month in the world. The month of April is dedicated to the improvement of the status and rights of persons belonging to a national minority, as well as to the celebration of the World Roma Day, on 8 April, while the month of May is dedicated to the promotion of diversity and combating discrimination, with 21 May marked as the World Day for Cultural Diversity for Dialogue and Development, the month of November celebrated the Week of Tolerance, and on 16 November - the International Day for Tolerance.

### **C. Reply to the recommendations contained in paragraph 19 of the concluding observations**

82. The problem of persons without legal identity is the problem of persons who were either never registered in the registers of births, or the registers of births were destroyed or lost, and they do not have documents or other evidence of being registered therein, making it difficult for them to exercise citizens' and other rights. This is most often the case with persons of Roma origin, but also of internally displaced persons from Kosovo and

Metohija, who cannot obtain a birth certificate due to the destruction of the original registers.

83. The Republic of Serbia has done a lot in addressing the issue of legally invisible persons. New laws have been adopted; the method of exercising the right to registration in the register of births was improved; judicial proceedings were regulated for determining the time and place of birth for persons not registered in the register of births where the time and place of birth cannot be proved in administrative proceedings; exemption from administrative fees was introduced for documents and activities related to the registration of facts in the register of births in administrative and judicial proceedings; and expert ise costs are paid from the court budget.

84. One of the measures for the realization of the Action Plan for the implementation of the Strategy for the Improvement of the Status of Roma in the Republic of Serbia for the period 2009-2011 envisages amendments to the legal regulations governing registration of the place of residence of citizens, to enable the determination of residence for citizens without permanent residence on any legal grounds, according to the location of his/her actual residence.

85. The National Assembly of the Republic of Serbia adopted the Law on Temporary and Permanent Residence of Citizens<sup>14</sup>, coming into force on 29 November 2011. The Law establishes a facilitated procedure for the registration of places of residence, necessary for issuing identity documents, to all the citizens, including persons belonging to the Roma population that includes the largest number of persons without documents. Namely, article 11, paragraph 2, item 4 of the Law prescribes that if a citizen cannot register his/her permanent residence based on the property right to an apartment, lease agreement or other legal grounds, the competent authority shall, by decision, determine permanent residence at the address of the institution where the citizen is permanently housed, or in the social welfare centre where he/she is located, by informing the institution, i.e. the centre, that his/her address will be the address of the institution, i.e. the centre. Accordingly, persons without permanent residence will, by registration at the address of the social welfare centre, ensure the exercise of various rights and services in the field of social care, as well as other guaranteed rights.

86. Considering that a permanent place of residence is a condition for the issuance of identity documents, this has created the possibility for members of the Roma national minority in the Republic of Serbia, who, due to lack of legal grounds, could not be registered at the place of residence and who could not obtain identity documents, to register, after adoption of the Law, their place of residence at the address of an institution, i.e. a social welfare centre, and to obtain identity documents after meeting the prescribed legal requirements.

87. For the purposes of implementing the Law, the Minister of Interior, with the consent of the Minister of Labour, Employment and Social Policy, adopted the Rulebook on the Application Form for Reporting Permanent Residence at the Address of the Institution or Centre for Social Welfare, entering into force on 8 December 2012, and enabling persons belonging to the Roma population, if they have no other legal grounds, to register their place of permanent residence at the address of the institution wherein they are permanently accommodated, i.e. of the social welfare centre holding jurisdiction over the territory they reside in.

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<sup>14</sup> "Official Gazette of RS", no. 87/2011.

88. The National Assembly also adopted the Law on Amendments and Additions to the Law on Identity Cards<sup>15</sup>, coming into force on 4 June 2011, and prescribing, *inter alia*, that a citizen who has the right to an identity card, and does not have registered permanent residence within the territory of the Republic of Serbia, shall be issued an identity card on the basis of determined temporary residence, for a period of two years.

89. Persons belonging to the Roma nationality shall be issued with identity documents urgently and as a priority, and also, for the purposes of exercising the right to identity documents, if possible, documents necessary for their issuance shall be obtained *ex officio*. These citizens may submit applications for the issuance of an identity card according to the place of temporary residence, and, thus, not expose themselves to the costs of going to police departments, i.e. relocated stations competent for issuing an identity card according to the place of their temporary residence.

90. An important issue for identity documents is keeping registers of births, marriages and deaths, and issuing certificates from registers of births, marriages and deaths which are valid official documents used in specific proceedings before other competent authorities (e.g. a birth certificate in the procedure of issuing an identity card before the Ministry of Interior).

91. The *Law on Registers of Births, Marriages and Deaths*<sup>16</sup> ensures easier and faster exercising of rights of citizens by adhering to the legality of procedures and legal certainty in terms of registration in registers of births, marriages and deaths, or issuance of certificates from thereof. Special improvements have been made in exercising the right to entry of birth data in the register of births, particularly in case of entry of birth data reported upon expiry of a legal deadline (subsequent entry). Procedures for exercising this right are clearly and precisely regulated by the Guidelines for Keeping Registers of Births, Marriages and Deaths and Their Forms<sup>17</sup>. In addition to the solution for subsequent entry of birth data in registers of births, the Law on Registers of Births, Marriages and Deaths also regulates the procedure for restoring destroyed or missing registers kept for the territory of Kosovo and Metohija.

92. The process of entry of birth data in the register of births is regulated by the above Law and Guidelines in the manner enabling the exercise of the constitutionally guaranteed right to equal protection of all the citizens before competent authorities, and to a legal remedy against decisions used before the authorities for deciding on the right of entry in the register of births. The Law, *inter alia*, determines registration of a child in a register of births by regulating that a health care institution is obliged to report a child's birth on a registration form prescribed by the Rulebook on the Procedure of Issuing Birth Registration and on the Form for Registration of Child's Birth in a Healthcare Institution<sup>18</sup>, whereas the birth of a child outside a health care institution should be reported by the child's father, and if he is not able to do so, by another family member, i.e. a person whose home the child was born in, or by the mother, as soon as she is able to do this, or by a midwife, and/or the doctor who attended the birth, and if there are no such persons or they are unable to report the birth – by any person who learned of the birth. A child's birth is reported to the competent registrar for registration in the register of births. The registration may be carried out in writing or orally and it must contain correct data. A report on oral registration must be created on the form prescribed by the Guidelines for Keeping Registers of Births, Marriages and Deaths and Their Forms, with data about parents taken from identity cards

<sup>15</sup> "Official Gazette of RS", nos 62/2006 and 36/2011.

<sup>16</sup> "Official Gazette of RS", no. 20/09.

<sup>17</sup> "Official Gazette of RS", nos 109/09, 4/10-amendment, 10/10 and 25/11.

<sup>18</sup> "Official Gazette of RS", no. 25/11.

(or passports in case of foreigners), and from birth certificates, and/or marriage certificates. The registrar is obliged to immediately enter the reported data in the register of births.

93. The *Law on Registers of Births, Marriages and Deaths* enables entry of birth data into the register of births after the expiry of the reporting deadline as well. If birth data are reported 30 days after the day of birth, the registrar may enter the data in the register of births on the basis of a decision by the competent authority. At the same time, activities for finding a solution in first degree administrative proceedings in the field of registers of births, marriages and deaths, as well as the procedure of subsequent entry of birth data in the register of births, are conferred to city, and/or municipal administrations, and appeals against the first degree decision are handled by the second degree authority – the Ministry of Justice and Public Administration. The final decision in the administrative proceedings may be opposed by appeal, thus initiating administrative proceedings before the Administrative Court.

94. The normative framework, without a campaign for introducing the Roma to registration procedures and providing legal aid in procedures, is insufficient for overcoming the existing problem wherein a certain number of persons are not registered in the register of births. Based on the fact that the activity focused on providing this aid is vital for members of the Roma national minority not registered in this basic official document, the Directorate of Human and Minority Rights carried out a competition for the implementation of the project aimed at providing legal aid in the procedures of subsequent entry of birth data in registers of births, where eight associations received approximately RSD 5,000,000.00.

95. The adoption of the *Law on Amendments to the Law on Republic Administrative Fees*<sup>19</sup> also contributed to the improvement of exercising the right in accordance with provisions of the regulations on registers of births, marriages and deaths, stipulating exemption from administrative fees for documents and actions related to the entry procedure (subsequent entry) of birth data in the register of births.

96. For the purposes of ensuring consistency in operational practice and easier and faster exercising of the right to registration in the register of births for members of the Roma national minority, all the authorities that perform delegated tasks related to registers of births, marriages and deaths (city and municipal administrations) received the following:

- Opinion on the implementation of provisions of the Law on Registers of Births, Marriages and Deaths and bylaws adopted on the basis of the Law governing the procedure of subsequent entry of birth data in the register of births;
- Instructions on the operation of authorities involved in first degree administrative proceedings in the field of registers of births, marriages and deaths on the basis of applications for subsequent entry of birth data in the register of births, with attachments – an example of a certificate issued to parties upon submission of an application for the subsequent entry of birth data to the register of births for the purposes of exercising the right to exemption from the payment of legally prescribed fees for the documents and actions related to the exercising of the right;
- Notification on the procedure for exercising the right to the subsequent entry of birth data to the register of births which the authority is obliged to submit to the applicant;
- Opinion on activities when presenting evidence before the authority conducting the procedure for the subsequent entry of birth data to the register of births is linked to

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<sup>19</sup> “Official Gazette of RS”, no. 50/11,70/11-adjusted RSD values,55/12-adjusted RSD values, and 93/12.

disproportionate costs (e.g. if a party and/or witnesses do not have permanent or temporary residence within the territory of the local self-government containing the place of birth of the person for whom the procedure of the subsequent registration in the register of births is being carried out for). Roma coordinators in local self-government units are familiar with the above activities for the purposes of engagement in the activities that should enable the persons who still have not been registered in registers of births to be entered into these records.

97. Aiming to undertake the necessary measures and activities that would result in the adoption of amendments and additions to the law that will prescribe appropriate judicial proceedings for determining birth data and entry in the register of births when the data cannot be proved before the administrative authority, the Government proposed amendments to the Law on Extra-Judicial Proceedings.

98. *The Law on Amendments to the Law on Extra-Judicial Proceedings*<sup>20</sup>, adopted on 31 August 2012, provides for a simple and efficient procedure for resolving cases of persons with unrecognized legal status, i.e. the necessary conditions were created for solving the problem of legally invisible persons not allowed to be registered in the registers of births, marriages and deaths. The Law regulates the procedure for determining the time and place of birth, whereby all persons not registered in the register of births and whose time and place of birth cannot be proven in the manner envisaged by the regulations that govern the keeping of registers, can submit a proposal to the court for proving their birth, and based on the final decision regarding the time and place of birth, may enter the birth data to the register of births. The Law regulates the group of persons able to initiate the procedure for proving the birth, the contents of the proposal, the court proceedings pending the decision on the time and place of birth, and submission of the final decision to the competent registrar for entry in the register of births. In addition to the persons whose birth is being proved, the procedure for determining the time and place of birth may be initiated by any person with a direct legal interest, as well as by the guardianship authority. The Law also prescribes that during the process of determining the time and place of birth, the person proposing this shall be exempted from fees and other procedural costs, and costs of the expert's report in the proceedings shall be paid from court funds.

99. The Ministry of Justice and Public Administration has, during the preceding period, actively monitored the situation in the field of exercising the right to registration in the register of births, and established cooperation with competent public authorities and representatives of international institutions and civil society.

100. A Memorandum of Understanding was concluded on 9 April 2012 between the Ministry of Justice and Public Administration, the Protector of Citizens and the Office of the United Nations High Commissioner for Refugees in Serbia, establishing for the first time the grounds for close cooperation, planning and implementation of measures aimed at providing immediate assistance to members of the Roma national minority in the procedure of registration in the register of births. The parties formed the Managing Board which set out the action plan for addressing this issue (training of judges in the application of provisions of the Law on Amendments to the Law on Extra-Judicial Proceedings, training of registrars and deputy registrars in the application of provisions of the Law on Registers of Births, Marriages and Deaths, and training of employees in social welfare centres and organizational units in the Ministry of Interior who carry out activities related to the registration of facts and data in the register of births; the campaign for introducing members of the Roma national minority to the method of exercising the right to registration in the register of births; strengthening capacities for providing free assistance to members of the

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<sup>20</sup> "Official Gazette of RS", no. 85/12.

Roma national minority in the process of subsequent entry of birth data to the register of births and in court proceedings for determining the time and place of birth, etc.). In addition, the Managing Board formed a Technical Group with the task of implementing these activities. The Technical Group, in addition to the above parties, also includes representatives of the Ministry of Interior, Ministry of Labour, Employment and Social Policy, Legislative Secretariat of the Republic of Serbia, Office for Cooperation with Civil Society, City Administration of the City of Belgrade, and the Praxis Association from Belgrade.

101. Legal decisions have simplified the procedure for issuing a health insurance card to members of the Roma nationality, who, due to the traditional ways of life, do not have a permanent or temporary place of residence in the Republic of Serbia, and who obtain this document on the basis of a personal statement and reported temporary place of residence, i.e. on the basis of a personal statement about the place of temporary residence. Thus, persons of Roma nationality with no other grounds for obtaining the right of an insured person acquire the status of an insured person in the Republic Institute for Health Insurance and exercise the rights to healthcare provided from mandatory health insurance funds.

#### **Implementation of planned measures and activities related to the integration of returnees under readmission**

102. The following activities were carried out in the period 2007-2012:

(a) Obtaining identity documents – a travel document, as a one-way document, issued by the competent diplomatic or consular mission of the Republic of Serbia abroad for the purposes of readmission, based on the prior approval of the Ministry of Interior, serves as a valid identification document to a returnee until he/she obtains an identity card. Until then, the returnee should have submitted the travel document to the passport control at the border, and/or to the police station in the place of return, within 48 hours. To obtain birth and citizenship certificates, social welfare centres that had the opportunity approved one-time financial assistance for settling taxes. Most of the assistance in obtaining identity documents was provided by civil society organizations using project funds for financing all expenses related to paying fees or obtaining documents from abroad or other places in the Republic of Serbia, and/or working on initiating administrative proceedings before competent public authorities.

(b) Healthcare protection – the Ministry of Health issued instructions to healthcare clinics and healthcare centres within the territory, stating that returnees may, on the basis of a travel document, enjoy primary, secondary and tertiary healthcare, recommending that a health insurance payer for returnees shall be determined as soon as possible. Since the number of Roma in the returnee population is the largest, they are granted the right to free healthcare as a marginalized social group, supported by facilitated procedures.

(c) Social welfare – a returnee with a travel document may receive psycho-social support and counselling in social welfare centres, and mediation between other services and public authorities relevant for the integration. They can also receive one-time financial assistance in social welfare centres and use soup kitchens if they have a travel document. Families without housing and individual returnees, i.e. persons who have no place to stay in the Republic of Serbia, are accommodated in reception centres where, as a rule, they can stay up to 15 days, however, for humanitarian reasons, particularly when it comes to families with children, their stay may be extended to several months. Returnees have organized transportation from the “Nikola Tesla” airport in Belgrade to the destination in the Republic of Serbia where they want to stay, if they do not have their own funds. Minors without parents returned to the Republic of Serbia under readmission are assigned a legal guardian by the territorially competent social welfare centre.

103. The National Assembly of the Republic of Serbia adopted the *Law on the Ratification of the Convention on the Reduction of Statelessness*<sup>21</sup> on 18 October 2011, and the Republic of Serbia formally acceded to the Convention on 7 December 2011, in Geneva.

**D. Reply to the recommendations contained in paragraph 22 of the concluding observations**

104. By extraditing the accused Goran Hadžić on 22 July 2011, the Republic of Serbia terminated cooperation with the Tribunal in respect to the extradition of those accused. The Republic of Serbia extradited to the Tribunal 45 of the 46 persons accused of war crimes whose extradition the Tribunal required from Serbia, whereas one accused person died before extradition. Among those extradited to the Tribunal are two former presidents of the Republic of Serbia, the former prime minister and deputy prime minister, three former Chiefs of the General Staff of the Yugoslav People's Army, the former head of the State Security Service and a number of military and police generals.

105. Out of the total of 2117 requests for assistance from the International Criminal Tribunal for the former Yugoslavia (ICTY) Office of the Prosecutor, the Republic of Serbia fully responded to almost all received requests, and only more recent requests are pending. We would like to note that in all meetings between representatives of the National Council for Cooperation with the ICTY and the ICTY Office of the Prosecutor that have been held from early 2009 until now, it was concluded that all requests for assistance of the ICTY Office of the Prosecutor were implemented on time. The above was confirmed in the regular semi-annual reports submitted by the Tribunal's Chief Prosecutor to the United Nations Security Council during the last four years. On the other hand, out of the total of 1217 requests for obtaining assistance for the defence of persons accused before the ICTY, which have been submitted to the Republic of Serbia in the period from the end of 2004 until now, nearly all requests were fully executed, with the remaining requests, more recent in date, are under procedure.

106. None of the requests of the Tribunal Office of the Prosecutor and defence of persons accused for insight into the archives were rejected.

107. All witnesses for whom the ICTY Office of Prosecutor and defence of accused before the ICTY requested to be released from the duty of confidentiality, to allow them to testify before the Tribunal, over 750 of them, were released from the duty of confidentiality.

108. Actions were taken in respect to all the requests of the Tribunal for the delivery of legal summons and other written documents to persons in the territory of the Republic of Serbia.

109. Actions were taken in respect of all the requirements of the Tribunal for providing protection to witnesses located in the territory under the competence of the authorities of the Republic of Serbia.

110. The conditions under which the accused were released on provisional liberty were respected impeccably and in all cases the accused were returned to the Tribunal in accordance with decisions of the full court.

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<sup>21</sup> "Official Gazette of RS – International Treaties", no. 8/11.

111. According to the data of the Office of the War Crimes Prosecutor of the Republic of Serbia, a total of 395 persons have been prosecuted for crimes against the international humanitarian law before competent national authorities.

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