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**Replies from the Government of Serbia to the list of issues  
(CCPR/C/SRB/Q/2) to be taken up in connection with the  
consideration of the second periodic report of Serbia  
(CCPR/C/SRB/2)\***

[4 November 2010]

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

## **Constitutional and legal framework within which the Covenant is implemented (art. 2)**

### **Reply to the issues raised in paragraph 1 of the list of issues (CCPR/C/SRB/Q/2)**

1. The Republic of Serbia maintains the position that the Human Rights Committee should invite the United Nations Interim Administration in Kosovo (UNMIK) to submit a supplementary report on the status of human rights in Kosovo and Metohija as defined in the UNMIK regulation No. 1999/24 as of December 12, 1999.

### **Reply to the issues raised in paragraph 2 of the list of issues**

2. In compliance with the Constitution of the Republic of Serbia<sup>1</sup>, the generally accepted rules of international law and recognized international treaties are integral to the legal system of the Republic of Serbia and are directly applied. Ratified international treaties must be in accordance with the Constitution. The laws and other statutory instruments adopted in the Republic of Serbia shall be in compliance with the ratified international treaties and the generally accepted rules of international law.

3. Training on human rights is conducted in the field of judiciary in the Republic of Serbia. The Law on Judges<sup>2</sup> and the Law on Public Prosecutor's Office<sup>3</sup> envisage the right of judges, public prosecutors and their deputies to professional development. Furthermore, the Law on the High Judicial Council<sup>4</sup> and the Law on the State Council of Prosecutors<sup>5</sup> stipulate initial and permanent training which is in the mandate of the High Judicial Council and/or State Council of Prosecutors.

4. The establishment of the Judicial Academy<sup>6</sup> in December 2009 created a distinct institutional framework regulating training conducive to further development of a modern, efficient and unbiased judiciary. Prior to the establishment of the Judicial Academy, the programmes of basic, specialized and permanent training and professional development of judicial officials and judicial staff in the Republic of Serbia was conducted by the Judicial Centre for Training and Professional Development, an organization established by the Ministry of Justice and the Association of Judges of Serbia in 2001. The training on human rights includes topics relating to the institutional protection of human rights and standards envisaged by the conventions of the United Nations and the Council of Europe. Seminars and training for judges and prosecutors have been organized as of 2005 regarding the implementation of international conventions on human rights, practices of United Nations treaty bodies, standards and the case-law of the European Court of Human Rights.

### **Reply to the issues raised in paragraph 3 of the list of issues**

5. The Constitution of the Republic of Serbia<sup>7</sup> prescribes that the Ombudsman shall be an independent state body protecting the rights of citizens and supervising the activities of state administration bodies, the body in charge of legal protection of property rights and interests of the Republic of Serbia, and other bodies and organizations, companies and institutions entrusted with public powers. The Ombudsman is appointed and released from

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<sup>1</sup> Official Gazette of the Republic of Serbia, No. 83/06, Article 16, paragraph 2, 194, paragraph 5.

<sup>2</sup> Official Gazette of the Republic of Serbia, No. 116/08 and 104/09, Article 9.

<sup>3</sup> Official Gazette of the Republic of Serbia, No. 116/08 and 104/09, Article 54.

<sup>4</sup> Official Gazette of the Republic of Serbia, No. 116/08.

<sup>5</sup> Official Gazette of the Republic of Serbia, No. 116/08.

<sup>6</sup> Law on the Judicial Academy (Official Gazette of the Republic of Serbia, No. 14/09).

<sup>7</sup> Article 138.

duty by the National Assembly. The Ombudsman was introduced into the legal system of the Republic of Serbia by the Law on Ombudsman<sup>8</sup>. The Law thereof stipulates that the Ombudsman has four deputies specialized in the fields of the protection of rights of persons deprived of liberty, gender equality, the rights of the child, the rights of persons belonging to national minorities and the rights of persons with disabilities. The Ombudsman started working on July 23, 2007.

6. The Provincial Ombudsman was established in 2002 by the Provincial Assembly Decision on the Provincial Ombudsman<sup>9</sup>. The seat of the Provincial Ombudsman is located in Novi Sad, and two regional offices have also been established in Pančevo and Subotica. The Ombudsman has five deputies (in charge of general issues, gender equality, protection of the rights of national minorities and protection of the child), who are appointed by the Assembly of the Autonomous Province Vojvodina for a period of 6 years.

7. The local level Ombudsman is envisaged by the Law on Local Self-Government<sup>10</sup>. A local self-government unit may appoint Ombudsman mandated to oversee the observance of citizen rights, establish violations executed by instruments, actions or failure to act by administration bodies and public services, in case there is a violation of regulations and general instruments of the local self-government unit<sup>11</sup>. Ombudsmen have so far been established in eleven towns.

### **Discrimination, equality between men and women, and domestic violence (arts. 2, 3, 7 and 26)**

#### **Reply to the issues raised in paragraph 4 of the list of issues**

8. The Constitution of the Republic of Serbia<sup>12</sup> guarantees that the state shall develop the policy of equal opportunities, specific measures to achieve full equality, prohibit sexual abuse, equality in marriage and family and freedom to decide on birth-giving and special protection of the mother. The Law on Gender Equality<sup>13</sup> stipulates the creation of equal opportunities for exercising rights and obligations, the undertaking of measures to prevent and eliminate discrimination based on sex and gender and the procedure of legal protection of persons subjected to discrimination. The Law stipulates the creation of conditions of equal participation of women and men in the public and private sector and envisages a special, urgent civil judicial proceeding in litigations for exercising civil-legal protection against sex-based discrimination, before a court of general local jurisdiction. The Law specifically regulates the creation of equal opportunities in the following fields: employment, social protection and health care, family relations, education, culture and sports, political and public life. The Law envisages the adoption of the following by-laws: the Rules of Procedure on the Set of Measures to Eliminate or Mitigate Unequal Representation of Sexes and the Report on the Implementation Thereof, which employers are obliged to maintain, and the Rules of Procedure on the Registry and Documentation on Protection, relating to the adopted court decisions in litigations on sex-based discrimination.

9. The National Strategy for Improving the Position of Women and the Advancement of Gender Equality<sup>14</sup>, adopted on February 13, 2009, is integral to the overall changes in

<sup>8</sup> Official Gazette of the Republic of Serbia, No. 79/05 and 54/07.

<sup>9</sup> Official Gazette of the Autonomous Province of Vojvodina, No. 23/02, 5/04 and 16/05.

<sup>10</sup> Official Gazette of the Republic of Serbia, No. 129/2007.

<sup>11</sup> Official Gazette of the Republic of Serbia, No. 129/07, Article 97, paragraph 1.

<sup>12</sup> Articles 15, 21, 26, 62, 63, 64, 65, 66.

<sup>13</sup> Official Gazette of the Republic of Serbia, No. 104/09.

<sup>14</sup> Official Gazette of the Republic of Serbia, No. 15/09.

society and is harmonized with strategic documents, in particular with the Poverty Reduction Strategy for Serbia and the United Nations Millennium Development Goals. The document covers, in compliance with the Beijing Declaration and Platform for Action, six key areas for the improvement of the position of women and advancement of gender equality in the Republic of Serbia: observance of the right of women to participate in decision-making equally with men; eradication of economic inequality among men and women; achievement of gender equality in education; improvement of the health of women and advancement of gender equality in health policy; prevention and elimination of all aspects of violence against women and provision of a comprehensive system of protection for all women who are victims of violence; establishment of gender equality in media, elimination of gender stereotypes and elimination of speech of hatred. The realization of strategic objectives is followed upon by the Plan of Action for the Implementation of the National Strategy for Improving the Position of Women and the Advancement of Gender Equality in the Republic of Serbia.

10. The Assembly of the Autonomous Province of Vojvodina adopted the Declaration and the Decision on Gender Equality in August 2004. The Strategy for Protection against Domestic Violence and other Forms of Gender-Based Violence in the Autonomous Province of Vojvodina 2008-2012 was also adopted.

11. The Ministry of Culture opens annual competitions for co-financing projects/programmes in the field of public information whose contents contributes to the advancement of the position of women in society, underlines the issue of domestic violence whose victims are predominantly women and the elimination of gender stereotypes in media. One of the important objectives during the assessment and selection of projects is that they are accessible to a wider group of beneficiaries, so as to make awareness-raising on the necessity to change the role of women in our society available in environments where discrimination is most prominent.

12. The total of RSD 425,000.00 was allocated in 2009 for the project entitled “TV Campaign on Gender Equality” which envisages the preparation of 10 theme programmes dedicated to the issues of gender equality – the rights of women in political and public life, education, labour, marriage and family, fight against all forms of violence against women. The project entitled “Empowerment of Socially Vulnerable Groups from Pčinj and Jablanica Districts” was allocated RSD 408,000.00 envisaging the production of 12 specialized TV/radio/print reports. The project tackles specifically the issues of the position of women in that specific region of Serbia (economic dependence, unemployment, gender stereotypes).

13. Sexual harassment is prohibited by the Labour Law<sup>15</sup>. The Law on Gender Equality stipulates that sexual harassment is an undesired verbal, non-verbal or physical act of sexual character, performed with the aim or with a consequence of an injury to personal dignity, creation of intimidating, hostile, degrading or offensive environment, based on sex<sup>16</sup>; sexual extortion is any form of behaviour of a responsible person who, aiming to seek services of sexual nature, blackmails another person by stating that, in case of refusing to provide the sought services, the person shall state something against them or against a person close to them something that may harm their honour or reputation<sup>17</sup>. The Law on the Prohibition of Harassment at Work<sup>18</sup> prohibits harassment and/or any aspect of harassment at work and relating to work, as well as the abuse of rights to protection against harassment.

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<sup>15</sup> Official Gazette of the Republic of Serbia, No. 24/05, 61/05 and 54/09, Article 21.

<sup>16</sup> Article 10, paragraph 7.

<sup>17</sup> Article 10, paragraph 8.

<sup>18</sup> Official Gazette of the Republic of Serbia, No. 36/10.

### Reply to the issues raised in paragraph 5 of the list of issues

14. With the adoption of the Family Law, the Republic of Serbia started to establish systemic foundations for prosecuting violence against women. One of the novelties of the law is the introduction of measures of protection against domestic violence, primarily the issuance of instructions for eviction from the family apartment or house, irrespective of the property right over the immovable property. The rules of special litigation refer to the litigations on protection against domestic violence. The analysis of court proceedings on domestic violence cases in Belgrade in the period 2006 – 2008 indicate that a prohibition of further harassment was pronounced in 43% of the cases, a restraining order was pronounced in 22% and the measure of eviction was pronounced in 18%.

15. The Law on Gender Equality<sup>19</sup> envisages specific measures and programmes targeting the victims of domestic violence which provide for care, social, legal and other assistance and allowances and measures against domestic violence perpetrators with the aim to prevent further violence. Public authority bodies are obliged to plan, organize, conduct and finance measures conducive to raising awareness of the public on the need to prevent domestic violence.

16. The following national strategic documents relevant for the prevention of domestic violence have been adopted in the Republic of Serbia: the National Strategy for Improving the Status of Women and Advancing Gender Equality 2009 – 2015; the National Strategy for Preventing and Protecting Children against Violence and the Strategy for Protection against Family Violence and Other Forms of Gender-Based Violence in the Autonomous Province of Vojvodina 2008 – 2012. The development of the National Strategy for Preventing and Curbing Violence against Women and Domestic Violence is under way.

17. The total of 3,395 criminal offences of domestic violence was reported in 2009, which is the highest number since 2002 when the criminal offence was introduced into the criminal legislation. The “dark number” of these criminal offences is still high and predominantly results from such factors as fear from the perpetrator, the reaction of environment and housing and economic reasons, whereby the victims of domestic violence fail to report the exposure to this type of violence to prosecution authorities. The total of 7,854 criminal charges were pressed against 7,734 persons for the total of 8,135 criminal offences of domestic violence perpetrated against 8,522 persons (80% of women and 20% of men) in the period between 2008 throughout June 2010. The criminal offence of domestic violence caused severe injuries to 252 persons and mild injuries to 4,114 persons. Five persons were killed.

*Convicted adults for the criminal offence of domestic violence, by pronounced criminal sanctions, Serbia, 2007-2009*

	Total	Imprison- ment	Fines	Suspended sentence	Judicial admonition	Corrective measures	Found guilty and acquitted	Work of public interest
2007	1312	239	148	887	19	4	14	1
2008	1681	300	186	1162	20	4	9	-
2009	1850	372	171	1265	26	4	9	3

18. The Ministry of Justice organized 18 seminars in the period between July 2006 through April 2009 following the entry into force of the Family Law, attended by 525 judges of all courts who received certificates thereof, as well as 45 one-day seminars at the topic “Family Law – Principles and Tenets”, which were attended by 725 judges. The total

<sup>19</sup> Article 29.

of 74 one-day seminars were organized between June 2006 and April 2009 at the topic of “Domestic Violence – Civic-Legal and Criminal-Legal Aspects and Enforcement of Family Law Decisions,” attended by 987 judges and public prosecutors and their deputies. The development of a programme of training for public prosecutors and their deputies on treating victims of domestic violence is under way.

19. The project entitled “Fight against Sexual and Gender-Based Violence” was launched in December 2008 under the auspices of the Ministry of Labour and Social Policy. The goal of the project is to strengthen the capacities of institutions dealing with victims of violence, as well as to establish and implement mechanisms which shall ensure compliance with international obligations linked to human rights in the field of sexual and gender-based violence.

20. The Ministry of Health of the Republic of Serbia prepared a Protocol on the Treatment of Health Workers and Protection of Women Exposed to Violence. The Protocol defines the procedures and roles of health workers in terms of prevention and treatment of violence against women.

21. The Strategy for Protection against Domestic Violence and Other Forms of Gender-Based Violence in the Autonomous Province of Vojvodina 2008-2012, which was adopted by the Assembly of the Autonomous Province of Vojvodina on September 23, 2008, sets a plan of measures which should cover all municipalities (45) in the territory of the Autonomous Province of Vojvodina in the period 2009 – 2011. The implementation of these measures includes raising the capacities of professionals employed in social work centres, the police, health care, education, public prosecutor offices and the judiciary, as well as the representatives of women associations and the associations which represent vulnerable groups of the population, in order to ensure more effective prevention and protection of women victims of violence, and in particular women who are members of vulnerable groups. Specific activities are implemented to ensure an accessible, efficient and effective system of prevention and protection against violence by coordinating the work of institutions, institutes and organizations on the local level.

22. The Executive Council of the Autonomous Province of Vojvodina has provided funds for the construction of women’s safe houses on the territory of the Autonomous Province of Vojvodina. Funds have thus far been provided for the construction of safe houses in the municipalities of Zrenjanin, Sombor, Pančevo, along with the already existing houses in Novi Sad and Subotica.

#### **Reply to the issues raised in paragraph 6 of the list of issues**

23. Of the total of 210,146 registered internally displaced persons in the territory of the Autonomous Province of Kosovo and Metohija, approximately between 2,000 and 3,000 persons and/or 1,5% displaced population have returned thus far. Internally displaced persons are citizens of the Republic of Serbia and they enjoy their rights in the same way as other citizens of the Republic of Serbia. All persons registered as internally displaced persons from the Autonomous Province of Kosovo and Metohija have been issued an identification displaced person document, which is used for registration purposes and is valid with the appropriate personal identification document, which is possessed by all citizens of the Republic of Serbia. Issuing identification documents enables internally displaced persons to enjoy unimpeded rights in their place of residence irrespective of the registered place of residence in the Autonomous Province of Kosovo and Metohija. Internally displaced children are included in the education system and are provided access to health care and social protection (social assistance through child allowances, income support for family and caregiver’s benefits).

24. The Law on Registers<sup>20</sup>, which came into effect on December 28, 2009, stipulates that the activities of maintaining registers and resolving issues in the first instance administrative procedure in the field of registers for the territory of the Autonomous Province of Kosovo and Metohija are conducted by town administrations of the towns of Niš, Kragujevac, Kraljevo, Kruševac, Jagodina, Vranje and Leskovac. The total of 559,379 certificates from registers maintained for the local government units from this region were issued in 2009 and the first half of 2010. Taking into account that a number of registers maintained for the territory of Autonomous Province of Kosovo and Metohija were destroyed or disappeared, the procedures of renewing the entry of facts on birth, marriage and death into registers are still maintained before the competent bodies. The total of 112,594 entries into registers has thus far been renewed according to the data of town administrations maintaining said registers.

25. Internally displaced persons who have appealed for accommodation were provided accommodation in collective centres, where they account for a majority in comparison to refugees. There are 60 collective centres accommodating 3,747 displaced persons in the Republic of Serbia, 17 of which are located in the territory of Kosovo and Metohija and accommodate 657 internally displaced persons.

26. The unofficial collective centres are considered those facilities which are occupied unlawfully. Due to unresolved property-legal relations over said facilities, the Commissariat for Refugees has not been able to conclude the necessary contracts with the owners of these facilities and enter them into the system of official collective centres. In December 2009, the Commissariat for Refugees conducted a research with the United Nations Development Programme (UNDP) entitled "Support for the Implementation of the National Strategy for Resolving the Issues of Refugees and Internally Displaced Persons through an Analysis of Needs of Internally Displaced Persons Accommodated in Collective Centres in the Republic of Serbia", which included a research of 42 informal collective centres in the territory of the Republic of Serbia. The research was conducted with the aim of analyzing the opportunities for improving the conditions of residence of these persons and finding permanent solutions so as to close the facilities and/or terminate its usage for the accommodation of refugees and internally displaced persons. Conductions were met in the previous period for closing one informal collective centre. The Commissariat for Refugees shall continue to find mechanisms for creating conditions for the closing thereof.

27. The Commissariat for Refugees has designed, in cooperation with the Ministry of Labour and Social Policy, adequate housing programmes for internally displaced persons. The existing programmes are intended for all beneficiaries living in inadequate conditions, including persons accommodated in recognized and unrecognized collective centres. Currently, internally displaced persons may dispose of programmes of buying off households with land, a grant scheme for prefabricated facilities which represents a specifically favourable aspect for resolving the housing issues of the residents of unhygienic settlements, a grant for packages of construction materials intended for finalizing the initiated facilities or adapting unsuitable facilities and the provision of apartments intended for social housing in protected conditions for usage by persons who are unable to live without additional forms of support. A number of housing programmes financed by the funds of the European Union, the Republic of Serbia, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Government of the Republic of Germany are being implemented, which have provided housing solutions for some 2,150 families and internally displaced persons.

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<sup>20</sup> Official Gazette of the Republic of Serbia, No. 20/09, Article 6.

28. Since the most common source of income of all internally displaced persons is the so-called Kosovo allowance which is provided by the National Employment Service to persons who lost their jobs due to displacement, the Commissariat for Refugees implements programmes of economic empowerment of internally displaced persons. Professional retraining and additional training for deficit professions on the labour market has been provided, including grants for self-employment, the procurement of tools for craft professions, grants for agricultural machines and tools and grants for cattle for beneficiaries who opt for this type of activity. These activities enabled economic empowerment of some 1,400 families of refugees and internally displaced persons.

29. There are approximately 20,000 Roma in the population of internally displaced persons, 950 of whom are accommodated in collective centres throughout the Republic of Serbia, which account for twenty percent of the total number of accommodated persons. According to the data of the Commissariat for Refugees, there are 1,459 internally displaced persons in the so-called informal collective centres. Considering the number of internally displaced persons of Roma nationality in collective centres, the total of RSD 130,000,000 was allocated for their needs from the budget in 2010.

30. Displaced persons, Roma, Ashkali and Egyptians represents a specifically vulnerable category and have more difficulty in exercising their guaranteed civic rights relating to health care, education, employment, housing, mostly due to the lack of personal documents, a traditional way of life, more difficult access to institutions and distrust therein and the minimum representation at key positions. In order to facilitate access to the rights for this population, the Commissariat for Refugees provides assistance for obtaining personal documents in cooperation with associations. Every internally displaced person who needs documentation may appeal to the Coordinator for Roma Issues of the Commissariat for Refugees, tasked to provide assistance in obtaining relevant documentation or to submit a request for the reconstruction of documentation destroyed during the unrest in the Autonomous Province of Kosovo and Metohija.

#### **Reply to the issues raised in paragraph 7 of the list of issues**

31. The Law on the Prohibition of Discrimination<sup>21</sup> was adopted on March 26, 2009. The Law prescribes general prohibition of discrimination, aspects and cases of discrimination, including the procedures of protection against discrimination<sup>22</sup>. The Commissioner for the Protection of Equality was established by the Law as an autonomous state body, independent in performing activities established by the law thereof. The National Assembly elected the Commissioner for the Protection of Equality in May 2010. The Law regulates court protection against discrimination. The proceedings based on appeal are urgent.<sup>23</sup> The special rule on the burden of proof stipulates that if the plaintiff satisfies the court that the defendant has committed an act of discrimination, the defendant has the burden of proving that such an act did not result in the infringement of the principle of equality, that is to say the principle of equal rights and obligations. Supervision over the implementation of the Law is in the mandate of the ministry in charge of human and minority rights<sup>24</sup>.

32. The Ministry of Labour and Social Policy, in cooperation with the United Nations Development Programme and with financial support of the European Union, has been implementing the project entitled "Support for the Implementation of Antidiscrimination

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<sup>21</sup> Official Gazette of the Republic of Serbia, No. 22/09.

<sup>22</sup> Article 1.

<sup>23</sup> Articles 41 through 46.

<sup>24</sup> Article 47.



Legislation and Mediation in the Republic of Serbia”. The project is implemented in a period of two years, with the budget of EUR 1,999,399. The objectives of the project are to provide institutional support to organizations mandated to enforce antidiscrimination legislation; the development of legislation in the Republic of Serbia in the field of prohibition of discrimination, including an analysis of the level of internal harmonization of legislation and enforcement of international standards, as well as an analysis of legal gaps which should be eliminated; strengthening the role of alternative settlement of disputes as a means of resolving discrimination cases in the Republic of Serbia; awareness raising of the public on the existence of laws and mechanisms of prevention against discrimination, and promotion of the values of equality and equity in the Republic of Serbia. The Fund for Pilot Projects in the field of applying the techniques of alternative dispute settlement has been established to resolve the cases of discrimination in the Republic of Serbia, financing 15 projects in 26 local government units.

33. The Ministry of Labour and Social Policy, in cooperation with the Ministry of Human and Minority Rights, the Association of Prosecutors of Serbia and a number of associations is implementing a one-year project (January–December 2010) entitled “Introducing Antidiscrimination Issues into the Field of Social Policy”.

#### **Reply to the issues raised in paragraph 8 of the list of issues**

34. The Government of the Republic of Serbia adopted the Strategy for Improving the Status of the Roma on April 9, 2009, within the Decade of Roma Inclusion 2005-2015, presided over by the Republic of Serbia in the period between June 2008 and July 2009. The Action Plan thereof was adopted on July 2, 2009. Approximately RSD 500 million was allocated from the budget funds 2009 for the implementation of the priority measures. The Government of the Republic of Serbia established the Council for Improving the Status of the Roma and the Implementation of the Decade of Roma Inclusion.

35. The Republic of Serbia adopted the Law on the Foundations of the Education System in 2009<sup>25</sup> which established the foundations for inclusive education policy. The development of the Rules of Procedure on Cooperation of the Ministry for Human and Minority Rights and the Ministry of Education is under way, which shall define more closely the criteria for recognizing forms of discrimination in education institutions. The Ministry for Human and Minority Rights has initiated, in cooperation with the Ministry of Education and the team led by a Roma civil society organization, a change in the curriculum to introduce contents promoting Roma culture and tradition.

36. The Ministry of Health engaged 60 health mediators who facilitate access to health services for the Roma community, finances projects of health institutions and associations dealing with improvements in public health, as well as projects of analyzing hygienic and epidemiological conditions of housing in Roma settlements.

37. The Ministry of Economy and Regional Development implements the principle of affirmative action during the disbursement of funds targeting active employment measures, defining the Roma as one of the categories with the highest difficulty in finding employment, on which specific criteria are applied.

38. The ministry in charge of housing issues accepted the Guidelines for Legalizing and Improving Informal Roma Settlements, which provide expert instructions for local government units on how to approach the issue.

<sup>25</sup> Official Gazette of the Republic of Serbia, No. 72/09.

39. The Ministry of Culture implemented a set of measures in 2008 and 2009 in order to strengthen the work of media broadcasting programmes in the Romany language and improved reporting for and on the Roma, which is one of the fundamental conditions for gaining a more objective perspective of the Roma population. Financial support has been provided for regular publishing of papers in the Romany language in the following manner: four triple issues of Romano Nevipe were printed – RSD 4,719,912; a child issues department was established; publication of the Chavrikano Nevipe bilingual Roma magazine for children – RSD 2,100,000.00. Information in electronic media was also improved, wherefore financial support was provided through a competition for information of national minorities (RSD 4,563,255.00 in total) on account of producing and broadcasting programmes in the Romany language for 10 electronic media.

40. The Ministry of Labour and Social Policy, in cooperation with the Secretariat for Social Protection of the City of Belgrade, conducted a census of the families residing below the bridge in the “Gazela” settlement in July and August 2009, identifying the total of 53 families, whose members have registered residence in other regions of the Republic of Serbia rather than in the City of Belgrade. The Ministry made a decision, in cooperation with the local communities where families originate from, to provide all the necessary support to families in terms of their returning to the environments they came from and where most own some property. The support is realized in two stages: providing financial assistance for urgent accommodation of the families in their municipalities of origin, which implies the financing of costs of accommodation, food, procurement of necessary furnishing, clothes, shoes, costs of preparing children for entering school and provision of adequate permanent accommodation, improving the existing accommodation, finding employment and providing other forms of assistance, so that the families may (re)integrate in their local communities effectively.

41. The Police Administration of the City of Belgrade, in cooperation with the City Administration of Belgrade and the Secretariat for Social Protection of the City of Belgrade, has been conducting an action of issuing personal documents in urgent procedures for the Roma settled below the Gazelle bridge in Belgrade, and were dislocated to newly established settlements in the territory of the municipalities of Čukarica, Surčin, Rakovica, Mladenovac and Barajevo.

42. The Ministry of Labour and Social Policy signed Protocols on Cooperation with 8 municipalities/towns where families have registered residence. The ministry has thus far disbursed the total of RSD 17,071,238.00 for the realization of the Housing Plan. All families have been received by representatives of local social work centres and municipal representatives in local government units, and families that do not have a resolved housing status in the town of origin are accommodated in admission stations until temporary and/or permanent residence has been provided. Based on the on-the-ground assessments and the reports that municipalities/towns submit to the Ministry of Labour and Social Policy, it has been established that a high number of families use the funds disbursed within the first stage of the Housing Plan for the adaptation of existing facilities, constructing new facilities, procurement of furnishing, the registry of which is maintained in social work centres. Some procurements and construction works have been conducted by the municipalities/towns.

43. Access to personal documents for the Roma in the Republic of Serbia implies the resolution of two issues: providing the application of permanent/temporary residence for persons without a legal basis of residence and entry into the register of birth.

44. The Working Group for Conducting the Action plan for the Implementation of the Strategy for Improving the Status of Roma was established in the Ministry of Internal Affairs which is, inter alia, tasked to provide conditions for registering residence for persons without a legal basis for residence. The implementation of the activity envisages

amendments to the Law on Temporary and Permanent Residence of Citizens which shall enable the establishment of residence for citizens without permanent housing according to some of the legal basis and according to the place of their real settlement. In view of this, the Draft Law on Temporary and Permanent Residence of Citizens which contains the provision which shall facilitate the procedure for applying residence, inter alia, for the Roma.

45. The newly adopted Law on Registers which, inter alia, significantly improves the observance of the right to entering the facts on birth into the Register of Births and/or enables a comprehensive entry of facts on the birth of the child irrespective of whether the child's parents are known or unknown, if the child is without parental care or if the child is adopted. Furthermore, the Ministry of Public Administration and Local Government has established a special working group for implementing the Strategy for Improving the Status of the Roma in the Republic of Serbia which is currently, in line with the activities envisaged in the Action Plan for Implementing the Strategy, establishing the status and number of persons who are not registered in the Register of Births with the aim of launching the procedure of subsequent entry of these persons into registers. According to the data collected thus far, it has been established that a number of persons who have stated that they are not entered into the Register of Births have actually been entered into the register.

#### **Reply to the issues raised in paragraph 9 of the list of issues**

46. Interethnic relations in the territory of the Republic of Serbia have been stable with the tendency of reducing the number of incidents between ethnic and confessional groups, as evidenced by the fact that the lowest number of incidents was reported in the year 2009 since 2004 (a reduction of 60% compared to 2004). The number of incidents was reduced by 30.5% in the first six months of 2010 in comparison to the same period in 2009 (by 28% in the Autonomous Province of Vojvodina and by 34% in the rest of the Republic). The relations between ethnic and confessional groups are characterized by a considerably lower number of most severe incidents motivated by ethnic or religious affiliation and/or the number of physical attacks was reduced from 23 in 2008 to 11 in 2009 and the number of brawls was reduced from 12 in 2008 to 2 in 2009. The number of cases of writing slogans and drawing graffiti was reduced from 155 in 2008 to 92 in 2009, and the number of criminal offences of damaging religious sites was reduced from 54 in 2008 to 42 in 2009.

47. In the period from January 2008 to June 2010, criminal offence reports were filed for a total of 210 criminal offences related to interethnic and inter-confessional incidents. The total of 123 criminal offences and/or 58.6% have been cleared up, wherefore criminal offence reports were submitted against 189 persons. From the specified number of reported criminal offences, 110 were qualified as instigating national, racial and religious hatred and intolerance (60 were cleared up). Criminal reports for the criminal offence of instigating national, racial and religious hatred and intolerance were submitted because of 9 physical attacks, two brawls, 50 cases of writing slogans and drawing graffiti directed against almost all nationalities in the Republic of Serbia, 28 instances of so-called verbal threats, 13 cases of damaging various buildings, six anonymous threats and two other events.

48. There has been a reduction of interethnic incidents relating to the members of all ethnic groups, including the Roma and ethnic Albanians. The number of most severe incidents was significantly reduced – physical attacks against the Roma (from 12 in 2008 to 3 in 2009) and brawls (from 7 to 1). There were no physical attacks against ethnic Albanians in 2008 and 2009, whereas two brawls were registered in 2008 and the year 2009 saw no such incidents. The structure of incidents directed against members of these two ethnic groups mainly consists of writing slogans and drawing graffiti and sporadic cases of breaking windows in their buildings. This was particularly present in February and March

2008, against ethnic Albanians, as a reaction to the unconstitutional and unilateral declaration of independence of the Autonomous Province Kosovo and Metohija. Thereafter, such incidents became sporadic.

49. Significant improvement in interethnic and inter-confessional relations is a result of, inter alia, stronger operational measures taken by the Ministry of Interior in order to protect personal safety and property belonging to national minorities from all forms of threats. In addition to operational measures, the Ministry of Interior is taking a series of measures and activities aimed at improving the relations between the police and minority groups, through various forms of education of police officers, affirmative measures with regard to employment and education of persons belonging to national minority groups, direct dialogue by organizing round-tables, as well as by providing conditions for the fulfilment of legal obligations related to official use of language within procedures before the bodies of internal affairs.

50. In accordance with the Law on Culture<sup>26</sup> and the Law on Information<sup>27</sup>, the Ministry of Culture announces every year competitions in the field of contemporary creativity and information of national minorities. The main criteria in the competition for co-financing programs/projects in the field of cultural creativity of national minorities and ethnic communities, inter alia, are the promotion and development of multiculturalism and contribution to intercultural dialogue, while primary criteria in the competition for co-financing projects/programs in the field of public information in the languages of national minorities include multi-cultural and intercultural activities, aimed at the development of a culture of dialogue, increased familiarity and understanding among different communities, as well as the goals outlined in the plan of the Alliance of Civilizations. Thus, from the total amount distributed in 2008 within the Competition for Co-financing Projects/Programs in the Area of Public Information in Minority Languages and Multi- and Intercultural Projects, the sum of RSD 23,527,056 was awarded, from a total sum of RSD 6,029,772.00. Within the 2009 Competition, totalling RSD 18,118,604, the sum of RSD 3,850,000.00 was earmarked for these projects.

#### **Reply to the issues raised in paragraph 10 of the list of issues**

51. The Law on the Prevention of Discrimination against Persons with Disabilities<sup>28</sup> governs the general regime of prohibiting discrimination on grounds of disability, specific cases of discrimination against persons with disabilities, procedure for protecting persons exposed to discrimination and measures to be taken for encouraging equality and social inclusion of persons with disabilities. This law is based on the following principles: prohibition of discrimination against persons with disabilities; respect of human rights and dignity of persons with disabilities; inclusion of persons with disabilities in all spheres of social life on equal footings; inclusion of persons with disabilities in all decision-making processes pertaining to their rights and responsibilities; equal rights and responsibilities.

52. The provisions of the Law on Prevention of Discrimination against Persons with Disabilities introduced a specific civil procedure for the protection against discrimination on grounds of disability. Procedure in disputes for protection against discrimination on grounds of disability is initiated by a civil action which may be filed by a person with disabilities who was discriminated against and their legal representative, and in certain cases the civil action may also be filed by the escort of the person with disabilities. The following may be claimed by the civil action for protection against discrimination on

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<sup>26</sup> Official Gazette of the Republic of Serbia No. 72/09.

<sup>27</sup> Official Gazette of the Republic of Serbia No. 43/03, 61/05, 71/09.

<sup>28</sup> Official Gazette of the Republic of Serbia, No. 33/06, Article 1.

grounds of disability: injunction of performing an act which threatens to cause discrimination; injunction of further performing act of discrimination, or injunction of repeating an act of discrimination; performing an act for the purpose of eliminating consequences of discriminatory treatment; establishing that the defendant treated the plaintiff in a discriminatory manner; compensation for material and non-material damage. A review is always permitted in a dispute for protection against discrimination on grounds of disability.

53. Experiences in the implementation of the Law on the Prevention of Discrimination against Persons with Disabilities are limited. Only five court proceedings were initiated from the adoption of this law in 2006 until July 2009, two of which were adjudicated.

54. The project of the Belgrade Centre for Advancement of Legal Studies, entitled “Awareness Raising Activities to Implement the Law on Prevention of Discrimination against Persons with Disabilities”, was approved by the European Commission in 2008. This project aims to improve social and legal status of persons with disabilities, as well as to raise awareness of the difficulties that persons with disabilities face in their everyday life, and which are caused by incorrect implementation of positive legislation.

55. The Delivery of Improved Local Services Project is a joint activity of the Ministry of Labour and Social Policy, the Ministry of Health and the Ministry of Education. The goal of the project is to increase the capacity of institutional stakeholders and beneficiaries in order to improve access to and the efficiency, impartiality and quality of the local delivery of health, education and social protection services, in a decentralized environment. Another aim of this project is to motivate service providers at the local level, as well as to increase their capacity by developing services to persons with disabilities.

56. The Law on Employment and Unemployment Insurance<sup>29</sup> and the Law on Professional Rehabilitation and Employment of Persons with Disabilities<sup>30</sup> are based on the principles of non-discrimination and gender equality. The adoption of the following two regulations is underway in the Ministry of Labour and Social Policy: Rules of Procedure on Spatial and Technical Conditions, Professional Skills of Employees and Other Conditions for the Work of the Employment Centre and the Rules of Procedure on the Conditions and Manner of Employment of Persons with Disabilities in Social Care Housing Institutions and with the Employers through the Work Centre.

57. According to the records of the National Employment Service, 2,000 persons with disabilities are already waiting for the assessment of working ability, and more than 10,000 potential candidates are expected to apply for assessment by the end of 2010. From the beginning of 2010, more than 3,000 persons with disabilities have entered employment through diverse programs of the National Employment Service. However, due to a high number of persons with disabilities, this is still a negligible result.

## **Right to life and prohibition of torture and cruel, inhuman or degrading treatment (arts. 6 and 7)**

### **Reply to the issues raised in paragraph 11 of the list of issues**

58. The activities on detecting war crimes were structured within the Ministry of Interior in 2001. Due to new legislation and increased volume of work, the Department for Investigation of War Crimes grew into the War Crimes Investigation Service within the

<sup>29</sup> Official Gazette of the Republic of Serbia, No. 45/91 and 30/10.

<sup>30</sup> Official Gazette of the Republic of Serbia, No. 36/09, both laws.

Criminal Police in November 2005, which is composed of two departments - the Department for Investigation of Crimes against Humanity and International Law and the Search for Missing Persons and the Department for Cooperation with the Hague Tribunal, Analytical and Intelligence Work and Documentation.

59. The Service acts upon requests of the International Criminal Tribunal for the Former Yugoslavia (ICTY) by delivering the required documentation, performing identification, location, serving written summons to and ensuring presence of witnesses important to the ICTY, and also participates in the process of giving consent for the release of duty of potential witnesses to keep state and official secrets. Furthermore, the Service acts upon requests of the defence teams of indicted persons and acts upon requests of the National Central Bureau (NCB) of the International Criminal Police Organization (INTERPOL) - Belgrade, the Commission for Missing Persons, the Embassy of the Republic of Serbia in the Hague, the Coordination Authority for the Autonomous Province Kosovo and Metohija and the citizens. Moreover, the Service conducts the activities of searching for persons accused of war crimes by the ICTY and national courts, collects and submits related documentation, and supervises persons who were temporarily released from custody and their transfer, and provides police protection to witnesses in proceedings before ICTY and their families.

60. In the period between 2008 and June 2010, the War Crimes Investigation Service received a total of 1,997 requests. The total of 17 criminal offence reports were submitted for the criminal offence of war crimes against civilian population, war crimes against prisoners of war, aiding the offender after the commission of criminal offence, illegal manufacturing, possessing, carrying and trade in firearms and explosives. In the same period, search of 78 dwellings and other premises was carried out. Among the most important results of the Service during that time stands out submitting criminal offence report against 25 persons (nine detained) – members of the “Gnjilane Group”, which consisted of members of the so-called Kosovo Liberation Army. Following the withdrawal of security forces from the territory of Kosovo and Metohija and the arrival of the International Security Force in Kosovo (KFOR), this group tortured, imprisoned and killed many civilians – Serbs and other non-Albanians, in municipalities of Gnjilane, Kosovska Kamenica, Novo Brdo and Vitina, in the period between 15 June and 30 September 1999. Another success of the Service was filing criminal offence report against 18 persons (paramilitary unit “Jackals”), who had killed numerous Albanian civilians in the villages of Cuska, Zahac and Pavljan, in the territory of Autonomous Province Kosovo and Metohija, in May 1999. Otherwise, the Service carries out intensive search for the remaining two Hague fugitives - Ratko Mladic and Goran Hadžić.

#### **Reply to the issues raised in paragraph 11 (a) of the list of issues**

61. In the period from November 1, 2008 until August 23, 2010, the Special War Crimes Chamber of the Higher Court in Belgrade received 16 requests from the War Crimes Prosecutor’s Office for instigating investigation against 134 persons, more specifically: criminal offence of war crime against civilian population against 60 persons, criminal offence of war crime against prisoners of war against 12 persons and criminal offence of war crime against wounded and the sick, and deployment of prohibited means of warfare against 13 people.

62. In the same period, 12 indictments were raised against 43 persons, more specifically: the criminal offence of war crime against civilian population against 36 persons and the criminal offence of war crime against prisoners of war against 7 persons.

63. In the same period, a total of 12 judgments were rendered. By these judgments, 34 persons were convicted, eight persons were acquitted of the charge and for two persons was issued the ruling on the dismissal of the proceeding due to the withdrawal of the public

prosecutor from further prosecution. In the Court of Appeals six cases are currently awaiting decisions on appeals lodged by the parties against the judgments. During this period, six verdicts became final: in the “Zvornik” case, conviction against the accused Ivan Korać to imprisonment for a term of nine years, Dragan Slavković to a prison term of 12 years and Siniša Filipović to a prison term of three years; in the “Pašić” case, Pašić Zdravko was sentenced to imprisonment for a term of 10 years; in the “Podujevo” case, Medić Dragan and Borojević Dragan were convicted to imprisonment for a term of twenty years and Šolaja Miodrag to imprisonment for a term of fifteen years; in the “Trbojević” case, the accused Trbojević was sentenced to imprisonment for a term of 10 years; in the “Scorpions” case, Medić Aleksandar was sentenced to imprisonment for a term of five years and in the “Malić” case, Malić Nenad was sentenced to imprisonment for a term of 13 years.

**Reply to the issues raised in paragraph 11 (b) of the list of issues**

64. In the period between 2005 and 2010, the Special War Crimes Chamber did not receive any requests for instigating the investigation, nor raised any indictments for criminal offences related to corpses exhumed from the mass grave in Batajnica.

**Reply to the issues raised in paragraph 11 (c) of the list of issues**

65. With respect to compensation to victims of war crimes and their families, claims for indemnification were directed to a civil action in the proceedings conducted before the Special War Crimes Chamber of the Higher Court in Belgrade, since injured parties had failed to specify their claims within criminal proceedings.

**Reply to the issues raised in paragraph 12 of the list of issues**

66. The Accountability for Human Rights Violations Act<sup>31</sup> has never been implemented in practice.

**Reply to the issues raised in paragraph 13 of the list of issues**

67. State bodies of the Republic of Serbia in charge for cooperation with the ICTY are the National Council for Cooperation with the ICTY, the Office of the National Council for Cooperation with the ICTY and the Team for Implementation of the Action Plan to end Cooperation with the ICTY.<sup>32</sup>

68. The cooperation with the ICTY is characterized by the Republic of Serbia as constructive and successful, due to the following reasons:

69. Out of 46 indicted persons whose surrender had been demanded by the ICTY, the Republic of Serbia handed over 43 persons, and one indicted person died before the transfer. The persons who were handed over to the ICTY include two former Presidents of the Republic, former Prime Minister and Deputy Prime Minister, three former Chiefs of Staff of the Army of Yugoslavia, former Head of the State Security Service, and numerous military and police generals.

<sup>31</sup> Official Gazette of the Republic of Serbia No. 58/2003 and 61/2003.

<sup>32</sup> A very significant role in cooperation with the ICTY is played by the Office of the War Crimes Prosecutor of the Republic of Serbia, the Special War Crimes Chamber of the Higher Court in Belgrade, the War Crimes Investigation Service of the Ministry of Interior, the National Security Council, the Ministry of Foreign Affairs, the Ministry of Justice and the Security Information Agency.

70. The remaining two fugitives are under constant search, and high monetary rewards have been offered for information thereof. In particular, the following actions have been taken:

(a) The Team for the Implementation of the Action Plan to End Cooperation with the ICTY offered a monetary reward for information leading to the detection and apprehension of Ratko Mladić (EUR 1,000,000.00 reward) and Goran Hadžić (EUR 250,000.00 reward);

(b) Warrants for the fugitives have been placed within the premises of all government bodies and at border crossings of Serbia;

(c) A new telephone line (number 9191), which is available 24 hours a day, was established. Information about the fugitives can be communicated through that number, with guaranteed confidentiality for the persons who provide information. All information is checked by the competent government bodies;

(d) Over the last 12 months, several search operations were carried out in facilities in a number of locations for which there were indications that they might be relevant to the arrest of defendant Ratko Mladić. In the course of those actions, a large quantity of material and potential evidence was seized and submitted to the Prosecutor's Office of the ICTY. The above searches were conducted in private homes, business premises and other buildings of potential financiers of fugitives, in order to disrupt their network of supporters;

(e) Large quantities of information gathered by security services are being checked on a daily basis;

(f) The Prosecutor of the ICTY, whose representatives participate in the meetings of the Team for Implementation of the Action Plan to End Cooperation with the ICTY, are being fully and timely informed on all actions taken;

(g) The proceeding is underway before the competent court of the Republic of Serbia against 11 persons accused of having aided in the hiding of Ratko Mladić (Case "Mladić's Accomplices").

71. On the other hand, the National Assembly of the Republic of Serbia passed the Declaration Condemning the Crime in Srebrenica on March 31 2010, which reconfirms the political will of the Republic of Serbia to face the recent past, and which, among other things, provides full support to the work of state authorities in charge of ending the cooperation with the ICTY, in which the detection and arrest of Ratko Mladić is of particular importance. Furthermore, on 11 July 2010, the President of the Republic attended the commemoration of 15 years since the crime in Srebrenica in the Potočari Memorial Centre. On that occasion, the President said that the Republic of Serbia would never give up searching for perpetrators of war crimes, especially Ratko Mladić, so that people could continue living together. All the above mentioned indicates the clear and unambiguous political will of all state bodies of the Republic of Serbia to arrest the remaining two indicted persons who are at large and to transfer them to ICTY, and there can be no doubt that, if they are located in the territory of the Republic of Serbia, they will be brought to justice immediately, that is to say, they will be treated in the same way as other persons indicted before the ICTY.

72. From a total of 1,922 requests for assistance of the ICTY Prosecutor's Office pertaining to the submission of documents and data, visits to the archives of the government bodies of the Republic of Serbia, as well as relieving the witnesses from duty to maintain confidentiality, the Republic of Serbia has fully responded to nearly all received requests, and only relatively new requests are pending. In this regard, we emphasize that at the meetings held during 2009 and 2010, between representatives of the National Council for



Cooperation with the ICTY and the ICTY Prosecutor's Office, during the visits of the Chief Prosecutor and members of his delegation to the Republic of Serbia, it was verified that there were no requests for assistance by the Prosecutor's Office that had not been completed in due time. The above was confirmed in the reports of the Chief Prosecutor of the ICTY to the United Nations Security Council in December 2009 and June 2010. On the other hand, from the total number of 970 requests for assistance by the defence counsels of the accused before the ICTY, in the period from late 2004 to this day, almost all requests have been fully answered, while the remainders, which are relatively new, are in the process of realization.

73. A total of 32 visits of representatives of the ICTY Prosecutor's Office and 28 visits of defence teams to state archives of the Republic of Serbia were achieved. No requests by the ICTY Prosecutor's Office or defence of the accused to have access to the archives were denied. In addition, all witnesses, over 600 of them, for which the ICTY Prosecutor's Office and defence of the accused before the ICTY had requested to be exempted from the duty of secrecy in order to enable them to give their testimony in proceedings before the ICTY, were exempt from the duty to maintain secrecy.

74. On the basis of this data, it can be concluded that the Republic of Serbia cooperates fully with the ICTY, and that it is willing to maintain that level of cooperation in the future. This position corresponds to the one stated by the Chief Prosecutor of the ICTY in his reports to the Security Council in December 2009 and June 2010. Regarding the cooperation of the Republic of Serbia with the ICTY, he underlined in those reports that there were no unrealized requests for the delivery of documents, or any other assistance which is included in the process of cooperation. On the other hand, in terms of locating and transferring the accused who are on the run, in his report from December 2009, the Chief Prosecutor had praised the professional and dedicated approach of security services in charge of locating the fugitives, adding that these services operate efficiently and with increased coordination, while in his report from June 2010, he stated that "in the absence of tangible results and after careful analysis of operational activities undertaken, the Prosecution strongly recommends detailed examination of strategies applied so far." Recommendations made by the Chief prosecutor in that report are already being implemented, and taking into account the achieved level of cooperation that was established between Serbia and the ICTY, this additional improvement in the methods of searching for the fugitives will likely lead to results that are awaited both by the ICTY and the Republic of Serbia.

#### **Reply to the issues raised in paragraph 14 of the list of issues**

75. The Law on Enforcement of Penal Sanctions<sup>33</sup> introduced a two-tier system of the protection of rights of persons deprived of liberty. This law stipulates that every convicted person may file a grievance to the prison governor for violations of his rights or other irregularities committed against him. The prison governor is required to consider the complaint and issue a decision thereupon within 15 days. A convicted person, who does not receive a reply their grievance or is not satisfied with the decision issued, is entitled to file a written complaint to the Director of the Administration for the Execution of Penitentiary Sanctions, within the Ministry of Justice, who is required to decide on the complaint within 15 days. Additionally, the convicted person is entitled to file a petition for judicial recourse against the final decision which limited or infringed his right established by law, during the execution of his sentence, according to which the Administrative Court is required to decide within 30 days. Furthermore, there is the possibility of filing complaints directly to

<sup>33</sup> Official Gazette of the Republic of Serbia, No. 85/2005 and 72/2009.

the Director of the Administration for the Execution of Penitentiary Sanctions if convicted person believes that his right was violated by the Director of the Prison. This model, which has been used since the year 2006, corrected the deficiencies of the law of 1998, which had not envisaged the right to judicial protection of prisoners.

76. In cases of reasonable suspicion that measures of coercion were over-used against a convicted person, disciplinary proceedings may be instigated against the employee, and if there are grounds of suspicion that the conduct of the prison security employees had the characteristics of a criminal offence, a criminal offence report may be submitted to the competent prosecutor's office. Persons deprived of liberty may file a civil suit for damages to the competent court.

**Reply to the issues raised in paragraph 14 (a) of the list of issues**

77. The prevention of torture against persons deprived of their liberty is being ensured through the monitoring carried out by international and domestic human rights organizations, as well as by the work of the Ombudsman, who are allowed to have regular visits to penitentiary institutions. The Administration for the Execution of Penitentiary Sanctions controls lawful and proper treatment within institutions, through regular, control and occasional visits.

78. The Law on Enforcement of Penal Sanctions and Regulations on Measures to Maintain Order and Security, stipulate in detail the conditions under which coercive measures may be used. In using coercive measures, only such measure shall be applied which least threatens the life and health of the person against whom it is applied, and which successfully overcomes resistance and is proportionate to the threat. A medical examination of the prisoner is mandatory after the use of coercive measure against him, which is repeated between the twelfth and twenty-fourth hour of coercion. The medical doctors are required to keep special records on injuries of the convicted person.

79. In cases where coercive measures are applied against convicted persons, separate reports of the prison security and a report on medical examination are submitted to the director of the penitentiary institution, without delay. Mandatory elements of the medical report are prescribed, such as the statement of the person against whom the coercive measures were applied on the manner of injury, as well as the medical opinion on the correlation between the measures applied and the resulting injuries. Furthermore, the director is required to notify the Director of the Administration for the Execution of Penitentiary Sanctions on the use of coercive measure and to simultaneously submit a report of the prison security and a report on medical examinations, within twenty-four hours. Moreover, a continuous training of prison staff in human rights is underway in the Centre for Training and Professional Development of the Administration for the Execution of Penitentiary Sanctions in Niš.

80. In the period between 2008 and June 30, 2010, the Commission of the Ministry of Interior for Monitoring the Implementation of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment visited all territorial organizational units of the Ministry of Interior, where there are facilities for the detention of persons and has made access to the records of detained persons and minors, as well as in 3208 records. The Commission interviewed 794 police officers on their knowledge of procedures which make possible the respect of the fundamental rights of detained persons, and the Commission also interviewed detainees regarding their treatment by police officers. The special control was undertaken regarding the actions of police officers who possess certificates for working with minors, and scrutiny and monitoring have been carried out over the processed cases relating to torture, inhuman or degrading punishment or treatment. In addition to direct control activities, the Commission has developed and introduced the practice of delivering concise brochures under the title "Rights of Persons Deprived of their

Liberty”, “The Rights of Detained Persons”, “The Rights of Minors Deprived of their Liberty”, “The Rights of Minors as Citizens” and “The Rights of Minors as Suspects” and ensured that the detained persons and persons deprived of their liberty must receive these brochures at the time of implementation of measures. In addition, a manual for police officers was drafted, under the title “The Prohibition of Torture in International Documents” as well as “The Collection of Recommendations of International Institutions to the Republic of Serbia in the Field of Human Rights Protection and Prevention of Torture”.

81. In the period between 2008 and June 2010, the measure of arrest was issued against 4,033 persons and the measure of detention against 13,815 persons. In the same period, the Internal Control Division of the Police received a total of 299 complaints against police officers for excess of official powers and other failures in the treatment of detained, brought in and people deprived of their liberty. After examination of the complaints, it was found that the four were founded, 21 partly founded, and 236 unfounded and 33 were forwarded to other organizational units. Work on checking the allegations regarding the five complaints is still underway. In four cases, due to excessive use of police force in the treatment of detained, brought in and people deprived of their liberty, criminal offence reports were submitted against 12 police officers for the criminal offence of abuse and torture and against one officer for the criminal offence of failure to report the crime and the offender. Disciplinary proceedings were instigated against these police officers for serious violations of official duty.

#### **Reply to the issues raised in paragraph 14 (b) of the list of issues**

82. The number of criminal offence reports submitted to the Public Prosecutor by the law enforcement agencies does not always match the number of indictments, because the Public Prosecutor is entitled to dismiss the criminal offence reports for a number of reasons. Concerning the number of judgments, they do not correspond to the number of criminal offence reports per year, because the criminal proceedings in some cases can last for several years.

#### **Reply to the issues raised in paragraph 14 (c) of the list of issues**

83. In the year 2008, 390 complaints were submitted to directors of penitentiary institutions, for violation of law or other irregularities in the institution committed against convicted persons, and the procedure was completed in 314 cases. Of this number, 23 complaints were adopted and 291 dismissed. The total of 89 appeals against these decisions had been submitted, of which 79 were rejected as unfounded, in two cases the appeal was upheld, and other cases were solved in another way. Complaints for judicial protection had been filed against 15 final decisions of the Director of the Administration for the Execution of Penitentiary Sanctions, out of which 13 were rejected, and two complaints were upheld. In 2009, 387 complaints had been submitted to directors of penitentiary institutions, for violation of law or other irregularities in institutions committed against convicted persons, and the procedure was completed in 309 cases. Of this number, 27 complaints were adopted and 282 were rejected. The total of 103 appeals was filed against decisions of directors of penitentiary institutions regarding complaints of convicted persons. In 96 cases, appeal was rejected as unfounded and the previous decision was confirmed. The appeal was upheld in three cases, and thereby the first-instance decisions were annulled and cases returned for reconsideration. In four cases the appeal was rejected. The complaint for judicial protection had been filed against 23 final decisions of the Director of the Administration for the Execution of Penitentiary Sanctions, and all were rejected.

**Reply to the issues raised in paragraph 15 of the list of issues**

84. The general provisions on the statute of limitation of criminal prosecution and enforcement of penalty, prescribed by Articles 103 – 108 of the Criminal Code, are applicable for the criminal offence of ill-treatment and torture under Article 137 of the Criminal Code. The Chapter Thirty-Fourth of the Criminal Code prescribes that there is no statute of limitation for criminal prosecution and enforcement of penalty only for crimes against humanity and other goods protected by international law.

85. Police officers of the Department of Internal Control received a total of 90 applications submitted for excess of official powers in the use of force during “Operation Sabre”. After the allegations had been checked, it was determined that 12 complaints were founded, 33 unfounded, 43 petitions have been resolved in other ways (noted that the checks had already been done), and two were forwarded for further competence in accordance with the law.

**Elimination of slavery and servitude (art. 8)****Reply to the issues raised in paragraph 16 of the list of issues**

86. In addition to other relevant conventions on the fight against trafficking, the Republic of Serbia ratified the Council of Europe Convention on Action against Trafficking in Human Beings. In December 2006, the Government of Serbia adopted the Strategy to Combat Trafficking in Human Beings. The strategic objectives of the Republic of Serbia in fight against trafficking in human beings are grouped into five areas: the institutional framework, prevention, assistance, protection and reintegration of victims, international cooperation and monitoring and evaluation of results.

87. In November 2009, the competent ministries which are engaged in combat against trafficking signed the Agreement on Cooperation to Combat Trafficking in Human Beings. The guidelines for standardized operational procedures for the treatment of victims of trafficking constitute an Annex to this Agreement. On the basis of these guidelines, which stipulate that the professional service providers are required to assist the victims of trafficking in the process of their rehabilitation and reintegration, they undertake the following activities: provision of security, evaluation and treatment of health problems, evaluation and treatment of psychological needs, providing legal assistance and interpretation services. Moreover, the Guidelines prescribe activities that provide assistance and support to victims to obtain damages in civil or criminal proceedings.

88. According to the National Strategy to Combat Trafficking in Human Beings, the Republic team for combating trafficking constitutes an important part of national mechanisms for identification, assistance and protection of victims. In accordance with their respective mandates, members of the National Team implement activities in four working groups. In accordance with the Action Plan to Combat Trafficking in Human Beings, team members and the competent authorities undertake the following activities in the area of prevention and education: raising awareness of the general public, risk groups, clients and potential exploiters of victims of trafficking, government and NGO representatives who work with groups at risk, improving the knowledge of groups at risk on the measures of precaution they can take to reduce the risk of trafficking and improving the social and economic conditions of groups at risk. Once a year, the working group for prevention and education evaluates the achievements in the field of prevention and education and notifies the coordinator of the National Team for Combating Trafficking in Human Beings. The project entitled “Monitoring Trafficking in Human Beings in Serbia” is underway in the Republic of Serbia. With the support of the European Union Delegation in Serbia, this project is being realized by the association “Action against Trafficking in

Human Beings - Astra”, which coordinates the Working Group on Prevention and Education. The basic activity within the project is the preparation of reports on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings.

89. The protection of foreign nationals who are victims of trafficking in human beings is envisaged in the Law on Foreigners<sup>34</sup>. This law stipulates that foreigners who are victims of human trafficking shall be granted temporary residence in the Republic of Serbia, and foreigners who do not have sufficient financial means to sustain themselves shall be provided with adequate accommodation, meals and basic living conditions. Activities related to assisting victims of trafficking are being coordinated by the Service for Coordinating the Protection of Victims of Trafficking. This service is a state agency within the social protection system in the Ministry of Labour and Social Policy.

90. Associations, which, for the purpose of achieving their aims, run the SOS hotlines and shelters for victims, are active in Serbia.

### **Liberty and security of the person and treatment of prisoners (arts. 9 and 10)**

#### **Reply to the issues raised in paragraph 17 of the list of issues**

91. Persons who have been sentenced with detention measures by a court have all the necessary health care which is exerted through the institutions of the Ministry of Health. All institutions under the Administration for the Execution of Penitentiary Sanctions, including detention institutions, are required by law to employ doctors and medical technicians. It is mandatory that each institution provide medical examination to detainees in the first 24 hours from the time of receipt. In the event that a specialized medical examination or treatment is required, the detainee is sent either to the Special Prison Hospital or to hospitals under the Ministry of Health.

92. Detention institution is required to provide wheelchairs and other necessary medical supplies to detainees.

93. Healthcare workers in larger institutions are part of a separate and independent healthcare service, while smaller institutions employ only one doctor and medical technicians.

#### **Reply to the issues raised in paragraph 18 of the list of issues**

94. In the period between 2008 and late June 2010, the Commission of the Ministry of Interior for Monitoring the Implementation of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment visited 157 police stations and offices, as well as 229 detention rooms, in order to gain direct insight into the conditions in facilities and premises used for temporary residence of detained, arrested and brought in persons, and to control hygienic conditions in these premises. During this period, detention rooms were renovated in six police stations.

95. In order to improve the physical conditions of detention, the following projects were drafted in 2010: “Improving Standards and Professional Conduct of Police Officers towards Persons Deprived of their Liberty in Detention Premises” and “Construction, Renovation and Equipping of Detention Facilities under the Authority of the Ministry of Interior of the Republic of Serbia”.

<sup>34</sup> Official Gazette of the Republic of Serbia, No. 97/08.

96. The Administration for the Execution of Penitentiary Sanctions reconstructed one part of prison facilities, and constructed new blocks within the existing institutions in order to harmonize the conditions of life and work of prisoners with European standards. The Service Trust was established within the Administration for the Execution of Penitentiary Sanctions for the execution of alternative sanctions, which are prescribed in the Criminal Code of the Republic of Serbia<sup>35</sup> – measure of caution – a suspended sentence with supervision and punishment of community service. Furthermore, the amendments and modifications to the Criminal Code from 2009, stipulate that the court may decide that a person who is sentenced to imprisonment for a term not exceeding one year, may serve the sentence within their dwelling. The Administration for the Execution of Penitentiary Sanctions will be in charge of executing this criminal sanction. The equipment for the electronic monitoring of convicted person within his dwelling was purchased and regulation on the manner of enforcing that sanction was drafted.

### **Right to a fair trial (art. 14)**

#### **Reply to the issues raised in paragraph 19 of the list of issues**

97. The Constitution of the Republic of Serbia prescribes that the judicial power is unique in the territory of the Republic of Serbia, courts are separated and independent in their work and they adjudicate in accordance with the Constitution, laws and other general acts, generally accepted rules of international law and ratified international treaties.

98. The Law on Judges<sup>36</sup>, which has been implemented as of January 1, 2010, stipulates that judges are independent in their work, that they adjudicate and render judgments on the basis of the Constitution, laws and other general acts, ratified international treaties, and generally accepted rules of international law. Furthermore, judges are required to conduct proceedings impartially, to ensure fair trial and compliance with procedural rights of parties guaranteed by the Constitution, the law and international acts. The law guarantees the right to financial independence to a judge, in accordance with the dignity of judicial function and its responsibility. Moreover, a judge is not accountable for an opinion or vote rendered in performance of judicial office, unless he had committed the criminal offence of violating the law by a judge.

99. The novelty of the Law on Judges is the introduction of disciplinary accountability of a judge, the definition of a disciplinary offence, disciplinary sanctions, the delivery of disciplinary proceedings and establishment of disciplinary bodies. Disciplinary bodies are as follows: Disciplinary Prosecutor, Deputy Disciplinary Prosecutors and Disciplinary Commission, which are established as permanent working bodies of the High Judicial Council. The High Judicial Council appoints the members of disciplinary bodies from among judges. The Disciplinary Commission conducts the disciplinary proceedings following the proposal of the Disciplinary Prosecutor. Disciplinary sanctions are as follows: public reprimand, salary reduction of up to 50% for a period not exceeding one year, prohibition of advancement for a period of up to three years. If the Disciplinary Commission establishes the responsibility of a judge for a serious disciplinary offence, it shall institute dismissal proceedings. The Disciplinary Prosecutor and the judge who is subject to disciplinary proceedings may file an appeal with the High Judicial Council against the decision of the Disciplinary Commission, within 8 days of the delivery of the decision. The decision of the High Judicial Council is final.

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<sup>35</sup> Official Gazette of the Republic of Serbia No. 85/05 and 72/09.

<sup>36</sup> Official Gazette of the Republic of Serbia No. 116/08.

**Reply to the issues raised in paragraph 20 of the list of issues**

100. In the course of performance of their legally established authority, by applying the positive regulations of the Republic of Serbia, employees in the War Crimes Prosecutor's Office are often under pressure and threats from various groups and individuals from home and abroad. Printed media, almost on a daily basis, publish statements of representatives of right-wing organizations who primarily attack the War Crimes Prosecutor by qualifying him as a traitor of the Serbian people and by claiming that he works on behalf of foreign intelligence agencies and domestic traitors. In addition, the War Crimes Prosecutor and the employees in the Prosecutor's Office have so far received 86 letters with death threats and most brutal insults and threats directed against their families. The senders of these threatening letters are usually migrant organizations in Chicago, United States of America, as well as groups from Serbia. The intensity of the threats gets amplified at the time of the arrest of war crimes suspects.

**Reply to the issues raised in paragraph 21 of the list of issues**

101. The Ministry of Justice is working to establish a comprehensive and effective system of free legal aid and thus it formed a working group that is developing the final version of the strategy on Free Legal Aid. Some elements of free legal aid system are already present in our legislative and practice. Within criminal proceedings, the accused is entitled to free legal representation if he cannot afford a defence counsel. The party may request free legal representation in civil proceedings, if that is necessary for the protection of their rights. Regarding the forms of primary legal aid, a simple legal advice may be obtained from the municipal legal aid service, the Bar Association, or a non-government organization. In certain cases, a lawyer may help in drafting more complex filings, such as complaint, counterclaim, reply, and legal remedy, or even represent the individual before the court or other state authority.

**Equality before the law (arts. 16 and 26)****Reply to the issues raised in paragraph 22 of the list of issues**

102. All citizens of the Republic of Serbia, regardless of their national or ethnic background or race, enjoy equal rights and responsibilities in accordance with the Constitution and laws. Therefore, in terms of access to personal documents there are no restrictions for members of the Roma or other national minorities.

103. The new Law on Registers introduces a number of novelties which significantly contribute to easier and faster achievement of rights of citizens in this area. First of all, for the reason of efficient and rational performance of duties and achievement of rights of citizens and meeting their needs, the present system has been retained, so that the activities concerning registers which are within the competence of the Ministry of Administration and Local Self Government have been delegated to municipalities, cities and the City of Belgrade. Furthermore, the procedures for exercising the rights in the area of registers are clearly and precisely regulated by the Law on Registers and by-laws issued under this law, in the manner which allows the constitutional right to equal protection of rights of all citizens before the bodies which perform the delegated tasks. For the purpose of easier access to personal documents, establishing of the central system for electronic processing and data storage is underway, together with storing the second copy of registers to enable the issuance of birth and death certificates, regardless of the fact from which authority it is required to do so, and not only by their place of keeping the registers.

## **Freedom of religion and equal protection (arts. 18 and 26)**

### **Reply to the issues raised in paragraph 23 of the list of issues**

104. The Law on Military, Labour and Material Service<sup>37</sup> stipulates that the military service is general and mandatory for the citizens of the Republic of Serbia, and consist of: conscription, compulsory military service, the obligation of performing civil service duties and reserve military staff training<sup>38</sup>. According to this law<sup>39</sup>, recruits are introduced into military records at the beginning of the calendar year in which they turn 18 years of age, and older recruits, who, for some reason, were not introduced into evidence. Compulsory military service is performed in the Army of Serbia with arms or without arms and lasts six months. The recruit who was considered fit for military service is sent to military service in the calendar year in which he turns 19 years of age, and not later than the end of the calendar year in which he turns 30. As of 1 January 2011, military service in the Army of Serbia will be performed by the principle of voluntarism.

105. The Law on Civilian Service<sup>40</sup> prescribes that the civilian service is permitted to the recruit who wishes to substitute his military service with civilian, for religious, moral or other valid reason of conscience, under conditions and in the manner set out by law. Civilian service lasts nine months. Recruits may perform civilian service within 220 organizations or institutions that are financed from the budget of the Republic of Serbia.

106. Serbian citizens who left the Republic of Serbia during the nineties are not required to perform military service, given that recruits may be introduced into military service within the Army of Serbia by the end of calendar year in which they turn 30. The Amnesty Law<sup>41</sup> relieves of criminal charges all conscripts who, in the period between April 18, 2008 and the date of entry into force of the said law, committed, or are reasonably suspected to have committed, the following criminal offences: evasion of military Service, evasion of registration and inspection, failure to provide material resources, evasion of military service by self-disablement or deceit, as well as unauthorized absence and desertion from the Army of Serbia.

### **Reply to the issues raised in paragraph 24 of the list of issues**

107. The Constitution defines the Republic of Serbia as a secular state, in which churches and religious communities are separate from the state and no religion may be established as state or mandatory. Churches and religious communities are equal and separate from the state, equal and free to organize independently their internal structure, religious matters, to perform religious rites in public, to establish and manage religious schools, social and charity institutions, in accordance with the law<sup>42</sup>.

108. The Law on Churches and Religious Communities<sup>43</sup> prescribes that the subjects of the freedom of religion are traditional churches and religious communities, confessional communities and other religious organisations. Churches and religious communities are separated from the state, equal before the law and free and autonomous in determining their religious identity.

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<sup>37</sup> Official Gazette of the Republic of Serbia No. 88/09, Article 3. item 1.

<sup>38</sup> Official Gazette of the Republic of Serbia No. 88/09.

<sup>39</sup> Official Gazette of the Republic of Serbia No. 88/09.

<sup>40</sup> Official Gazette of the Republic of Serbia No. 88/09, Articles 3, 17 and 2.

<sup>41</sup> Official Gazette of the Republic of Serbia No. 18/10, Article 1.

<sup>42</sup> Articles 11 and 44.

<sup>43</sup> Official Gazette of the Republic of Serbia No.36/06, Articles 4 and 6.



109. According to the Law on Churches and Religious Communities, traditional churches and religious communities are those which have many centuries of historical continuity in the Republic of Serbia and the legal personality of which was gained on the basis of special laws, whereas other religious organizations are divided by the Law into confessional and other religious organizations. Confessional communities are all those churches and religious organizations the legal status of which was regulated in accordance with the laws in force during the socialist Yugoslavia. In addition to traditional and confessional, all other religious organizations are actually newly formed religious organizations.

110. The legal status of churches and religious communities under the Law on Churches and Religious Communities is in no way different. In the provisions of the law which regulate the autonomy, property and financing, liturgical activities, educational activities and cultural activities of churches and religious communities, there is no difference whatsoever between the rights enjoyed by traditional churches and religious communities, on one side, and the other churches and religious communities, on the other side, that is to say, there is no privileged position for traditional churches and religious communities. This is evident in the Article 4 of the Law on Churches and Religious Communities, which stipulates that all subjects of religious freedoms defined in that section, are thereafter referred to as churches and religious communities. Thus, the Law on Churches and Religious Communities is in full compliance with general comment No. 22 (1993) on the right to freedom of thought, conscience and religion of the Human Rights Committee<sup>44</sup>. Therefore, there is no difference in the extent of the rights of churches and religious communities, nor the Law on Churches and religious communities can be considered an act which gives priority to traditional communities in relation to non-traditional in the exercise of certain rights.

111. The differences between traditional churches and religious communities, on the one hand, and other churches and religious communities, on the other, may be perceived in the Law on Churches and Religious Communities in terms of recognizing the continuity of legal personality. The law recognized the continuity of legal personality and therefore there are differences in the process of registration. Distinctions which the law introduces in the registration process are primarily between newly formed and existing churches and religious communities, in the sense that the newly formed religious organization, other than documents or data the traditional churches and religious communities are required to submit in their applications (the name, address of registered office and name and status of the person authorized to represent the church or religious community) are required to submit other documents necessary for registration (the decision on founding the organization, the statute, statement on basic religious teachings, religious ceremonies, religious objectives and basic activities, as well as information about the permanent sources of income). It can be concluded that the difference between traditional churches and religious communities and religious organizations that are just being formed, within the administrative procedure of registration, is a non-discriminatory distinction between the different legal situations<sup>45</sup>.

<sup>44</sup> “[To whom the fact that the religion]is established as ... traditional ... shall not result in any impairment of enjoyment of any right under the Covenant ... nor in any discrimination against adherents to other religions or non-believers” (paragraph 9).

<sup>45</sup> Since the law itself does not recognize the continuity of legal personality for confessional religious communities, the Government of the Republic of Serbia drafted and forwarded to the National Assembly in the year 2010 the proposal of authentic interpretation, by means of which the Law on Churches and Religious Communities is construed in such a way that the entry in the Register recognizes the continuity of legal subjectivity of confessional communities obtained under the laws in force in socialist Yugoslavia. According to proposal for authentic interpretation, the adoption of

## Freedom of expression (art. 19)

### Reply to the issues raised in paragraph 25 of the list of issues

112. In the period between 2008 and June 2010, 19 criminal offences were committed against journalists in the performance of their professional duties. Prevalent criminal offence within the structure of criminal acts is the criminal offence of endangerment of safety – 11 cases. Moreover, there were two criminal offences of violent behaviour and preventing an official in discharge of duty registered, as well as one criminal offence of participation in a group committing an offence, instigating national, racial and religious hatred and intolerance, light bodily injury and causing panic and disorder. For committing these criminal offences, 18 criminal offence reports were filed against 33 persons. From the total number of 19 criminal offences, two remain unsolved (threats to editor of TV “Panonia” in Subotica and editor of the “Glas Podrinja” magazine). Measures were taken to solve these two criminal offences.

113. Typical attacks on journalists, in the performance of their professional activities, were recorded during two major protest rallies, in the course of which more citizens and police officers were injured than usually (because of the unilateral and unconstitutional declaration of independence of the Autonomous Province of Kosovo and Metohija, as well as during the protest against the arrest of the Hague fugitive Radovan Karadžić). Special attention of the media and the public had been drawn to heavily injured cameraman of TV “B92”, which was resolved due to efficient action of the police. The four attackers on the cameraman of this television station had been identified and detained and criminal offence reports against them were submitted for the criminal offence of participating in a group which committed a crime. Concerning other typical crimes against journalists in the performance of their professional duties, there were two cases in which three journalists were prevented in the direct reporting from the scene of the crime of murder, on 13 July 2008, at the city pool in Zaječar. All three offenders had been identified and arrested, and criminal offence reports were submitted against them. Also, in two cases in Novi Pazar, two television journalists and a cameraman were attacked. The motive for the attack was their way of reporting on issues of local character. In both cases, the perpetrators had been discovered and detained and criminal offence report was filed against them for the criminal offence of violent behaviour.

114. In the year 2009, more attention of the public and the media was attracted by serious threats against the journalist of TV “B92”, the author of the “Insider” series, which had been dealing with the theme of violence of sport fans and the involvement of members of extremist fan groups in certain criminal activities. The culmination of threats to the journalist was reached during the football match between FC “Partizan” from Belgrade and FC “Shahtyor” from Ukraine. Efficient action of the police soon resulted in detecting and arresting 11 persons against whom criminal offence reports were filed for the criminal offence of endangering safety. For threats against the same journalist over the Internet, three criminal offence reports were filed against four persons, for the same criminal offence. Police security guards were assigned to the television journalist.

115. In the period between 2008 and end June 2010, two criminal offences were committed against members of human rights associations. In the first case, a criminal

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which is expected, to enter the register confessional communities are not required to adopt the decision of establishment, but should provide evidence that their legal personality was regulated on the basis of the application regulated by laws in force in socialist Yugoslavia, as well as statements of believers who belong to the confessional community, in number which is required to establish a religious organization.

offence of violent behaviour was committed in March 2009 in Belgrade, when a large group of people threw stones breaking the glass at the building which houses the restaurant “Vladana”, which is a place of occasional meetings of members of the LGBT population, in the organization of the “Gay Straight Alliance”. In the second case, the criminal offence of racial and other discrimination was committed by two persons from Belgrade (both were arrested and criminal offence reports were filed against them). By their behaviour, writing graffiti, acquisition, distribution and publishing of propaganda material and statements in the media, in September 2009, those persons were promoting and inciting hatred and discrimination against persons of different sexual orientation in order to prevent the “Pride 2009” manifestation.

116. As part of this, the following events were reported and the police took action: in February 2008, in Belgrade, during the Regional Forum on Mechanisms for Establishing Facts on War Crimes in former Yugoslavia, organized by the Humanitarian Law Centre, there had been a verbal conflict between Nataša Kandić, President of the Centre, and Simo Spasić, president of the Association of Families of Abducted, Murdered and Missing persons from Autonomous Province Kosovo and Metohija, after which Kandić informed Spasić that he is unwelcome in future work. Police officers of the Police Department for the City of Belgrade, warned Spasić, who then left the building. Moreover, in February 2008, employees of the Lawyers’ Committee for Human Rights “YUCOM” in Belgrade received anonymous threats by telephone on several occasions, which were directed against the Director of the Committee. Premises of YUCOM are secured by frequent visits provided through the regular service. In September 2008, during a protest walk organized by activists of the “Movement 1389”, several participants entered the building where “Helsinki Committee for Human Rights” is located, where they hung posters and shouted threats. A representative of this Committee addressed the City of Belgrade Police Department in October 2008, requesting the protection of the president of the Committee, Sonja Biserko, and her property, due to frequent threats against her through telephone and e-mail. The Helsinki Committee for Human Rights received a report on actions taken by the police officers regarding these events. In June 2010, the association “Youth Initiative for Human Rights” received by regular mail a threatening letter from Australia, in which the organization was criticized for the participation at the “Peace March Belgrade – Tuzla”.

117. The Ministry of Interior provides the same security protection to all citizens and, consequently, the police acts on every report received. According to past experience, the applications relating to members of the association show that these cases have been isolated and sporadic.

118. Public Information Act does not recognize the concept of libel. The criminal offence of libel is regulated by the Criminal Code<sup>46</sup>. Modifications and amendments to the Law on Public Information, from August 2009, introduce fines for the founder of the public media, if the public media indicated that a person was a perpetrator of a criminal offence or guilty or responsible for a criminal offence before the final decision of a court or other competent authority. The Constitutional Court of the Republic of Serbia, at its session of 22 July 2010, declared these provisions of the Law on Public Information unconstitutional, because of an excessive amount of fine that the law provided. The provisions are no longer in effect.

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<sup>46</sup> Official Gazette of the Republic of Serbia No. 43/2003, 61/2005 and 71/2009.

**Rights of persons belonging to minorities (arts. 25 and 27)****Reply to the issues raised in paragraph 26 of the list of issues**

119. On August 31, 2009, the National Assembly of the Republic of Serbia adopted the Law on National Councils of National Minorities<sup>47</sup>, which regulates comprehensively the status of national councils within the legal system of the Republic of Serbia and thus ensures a complete legal framework for the promotion and protection of rights of national minorities. This law regulates the election of national councils, competences in the field of education, culture, information and official use of languages and script, relations with state authorities, authorities of autonomous provinces and local self-government units, funding the activities of national councils and other important issues related to minority self-government.

120. This law stipulates that funds for the national councils be earmarked from the budget of the Republic of Serbia, autonomous province and local self-government unit, donations and other incomes. The funds provided from the budget of the Republic are divided so that 30% is distributed in equal amounts to all registered national councils, and the remaining assets of 70% are distributed proportionally to the number of members of a certain national minority and the total number of institutions in culture, education, information and official use of languages and script and the scope of their activities. The funds which are provided from the budgets of local self-governments are distributed in accordance with the decision of the competent body of the local self-government, to national councils which represent national minorities which reach at least 10% of the population or to councils the language of which is in the official use.

121. This law regulates in detail the procedure for the election of national councils of national minorities. Elections for the national councils may be either direct or through the electoral assembly, and national minorities, through the process of creating electoral rolls, determine which of these two ways will get the priority. If the special electoral roll of a national minority, on a day of temporary closure of the polling lists, enrolls more than half of the members of a national minority with voting rights, according to the latest census, direct elections will take place, and if this requirement is not met, the national council will be elected indirectly, through electoral assembly. The mandate of the members of the National Council lasts four years. The elections are simultaneous for all national minorities; they are held every four years and the possibility of early elections is not envisaged.

122. According to the Law on National Councils of National Minorities, the Ministry of Human and Minority Rights is in charge of conducting the elections for the national councils. Elections for members of all national councils were held simultaneously, on 6 June 2010. In these elections, 436,334 members of 16 national minorities (ethnic Albanian, Ashkali, Bosniak, Bunjevac, Bulgarian, Romanian, Greek, Egyptian, Hungarian, German, Roma, Romanian, Ruthenian, Slovak, Ukrainian and Czech national minorities) who had been enrolled in the special electoral roll by May 21, 2010, when the electoral roll was closed, had the opportunity to vote directly for members of national councils of national minorities. Direct elections were conducted in 858 polling stations. On the same day, three national minorities - Macedonian, Slovenian and Croatian - were electing their national council through electoral assembly.

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<sup>47</sup> Official Gazette of the Republic of Serbia, No. 72/2009.

**Reply to the issues raised in paragraph 27 of the list of issues**

123. The Human Resources Office of the Government of the Republic of Serbia possesses no information on minority representation in the Government of the Republic of Serbia and public service, since there is no legal basis for collecting and processing the data on the ethnic background of employees in state administration. However, internal records on the representation of national minorities are being kept in some government bodies. Thus, the Ministry of Interior currently employs: 0.8% Hungarians, 0.8% Muslims (Bosniaks), 0.2% Croats, 0.2% Slovaks, 0.2% Macedonians, 0.1% Roma, 10.6% of employees of other nationalities, 3.8% Yugoslavs and 0.6% ethnic Albanians, who constitute 56.2% of the total number of employees in the police station in Preševo, and 32.3% of the total number of employees in the police station in Bujanovac. It should be underlined that these figures do not reflect the exact numbers regarding the ethnic background of employees, as the declaration of ethnic affiliation is a personal right, but not the obligation of citizens of the Republic of Serbia.<sup>48</sup>

124. In the area of justice, during the election of judges to a permanent judicial office in the year 2010 and while nominating candidates to the National Assembly for election to a three-year term, the High Judicial Council took into consideration the ethnic composition of the population in the area of the court to which the candidates were elected. In the Autonomous Province of Vojvodina, 42 judges are members of the Hungarian national minority in the territory of the Court of Appeals in Novi Sad, while their largest representation is in the Higher Court in Subotica. 40% of judges are Hungarians in the Basic Court in Subotica, 60% of judges are Hungarians in the Commercial Court in Subotica, and 50% of judges are Hungarians in the Magistrates Court in Senta. Furthermore, Hungarians make up 25% of the total number of judges in the Higher Court in Zrenjanin, 20% in the Commercial Court in Sombor, and 60% of judges in the Magistrates Court in Bečej. In the area of the Higher Court in Novi Pazar, 52% of judges are members of the Bosniak minority. In the territory of the Higher Court in Vranje, the Albanian ethnic minority is represented with 13% of judges in the Basic Court in Vranje and 50% of judges in the Magistrates Court in Preševo.

**Reply to the issues raised in paragraph 28 of the list of issues**

125. The Initial report on the implementation of the International Covenant on Civil and Political Rights was distributed to competent state bodies and relevant associations shortly upon its adoption by the former Council of Ministers in 2003. The concluding remarks of the Committee for Human Rights related to that report were distributed immediately upon their adoption.

126. The Second Periodic Report on the Implementation of International Covenant on Civil and Political Rights was prepared within the Service for Human and Minority Rights on the basis of the relevant contributions from state bodies and associations, however without active participation of associations and representatives of minority groups in the drafting thereof.

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<sup>48</sup> This is pointed out by the positive legislative, and above all the Constitution of the Republic of Serbia, since the provision of Article 47 stipulates that “No person shall be obliged to declare his national affiliation.” Moreover, the Law on Police of the Republic of Serbia, and in particular the provisions which regulate employment (Articles 110 to 115) promote the principle of consent and voluntary permission of the candidates regarding the declaration of ethnic affiliation.