

MINISTRY OF HUMAN AND MINORITY RIGHTS

**INITIAL REPORT ON THE IMPLEMENTATION OF THE
INTERNATIONAL CONVENTION ON THE ELIMINATION
OF ALL FORMS OF RACIAL DISCRIMINATION**

Belgrade, June 2009

Contents

1. INTRODUCTION	3
2. GENERAL INFORMATION.....	3
HISTORY	3
STATE POLITY AND TERRITORIAL ORGANIZATION	4
POPULATION.....	4
LANGUAGES	5
RELIGION.....	5
3. NORMATIVE AND INSTITUTIONAL FRAMEWORK.....	6
CONSTITUTIONAL PROTECTION OF HUMAN RIGHTS	6
THE PROTECTION OF NATIONAL MINORITIES	6
RELATION BETWEEN INTERNATIONAL AND NATIONAL LAW	7
INSTITUTIONAL FRAMEWORK FOR THE IMPLEMENTATION OF THE ANTI-DISCRIMINATION POLICY	8
4. IMPLEMENTATION OF ARTICLES 2 - 7 OF THE CONVENTION.....	9
ARTICLE 2	9
<i>Prohibition of Discrimination</i>	9
<i>Measures for Achieving Full and Effective Equality</i>	12
<i>Specific Measures Undertaken to Achieve Full Equality</i>	14
<i>Measures for Achieving Effective Equality of the Roma</i>	23
ARTICLE 3	29
ARTICLE 4	29
<i>Criminal-legal Protection against Discrimination and Violence</i>	29
<i>Prohibition of Organizations and Activities Inciting Racial Discrimination</i>	31
<i>Cooperation with the International Criminal Tribunal for the former Yugoslavia</i>	33
<i>The War Crimes Panel of the District Court of Belgrade</i>	35
ARTICLE 5	36
<i>Right to Equal Treatment in Court and Other Court Bodies</i>	36
<i>Right to the Security of Persons, Protection against Violence and Abuse</i>	37
Human Trafficking.....	40
<i>Political Rights</i>	41
The Right to Vote and Run for Candidacy	41
Electorate Right.....	42
<i>Civic Rights</i>	44
The Right to Free Movement and Residence	44
Status of Foreigners.....	44
Travel Documents	46
Refugees and Internally Displaced Persons.....	46
Return under Readmission Agreements	47
The Right to Citizenship	47
The Right to Marry and Choose a Spouse	49
The Right to Property and the Right to Inheritance	50
Freedom of Thought, Conscience and Religion	50
Freedom of Thought and Expression	52
Freedom of Peaceful Assembly and Association	53
<i>Economic, Social and Cultural Rights</i>	54
Right to Work.....	54
The Right to Establish Trade Unions	55
Right to Housing	56
Right to Health Care and Social Insurance.....	56
Right to Education and Vocational Training	57
Right to Participate in the Cultural Activities on Equal Terms	63
Right of Access to All Venues and Services Intended for Public Use.....	66
ARTICLE 6.....	67
ARTICLE 7.....	69
ANNEX 1.....	76
ANNEX 2.....	1

1. INTRODUCTION

1. The Republic of Serbia is the legal successor of the state union of Serbia and Montenegro and the Federal Republic of Yugoslavia, and is accordingly the member of all international treaties ratified by the predecessor states.
2. Pursuant to Article 9, paragraph 1 of the International Convention on the Elimination of all Forms of Racial Discrimination (hereinafter: Convention), the Initial Report on the Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination has been drafted, containing legislative, judiciary, administrative and other measures relevant to the implementation of the provisions set forth in the Convention. The Report spans the period between 1992 and 2008.
3. The Initial Report on the Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination comprises three sections. The first section outlines the information relating to individual articles of the International Convention on the Elimination of All Forms of Racial Discrimination; the second section contains statistical data relating to specific areas covered by the Convention; the third section relates to the implementation of the Convention on the territory of the Autonomous Province of Kosovo and Metohija, prepared by the Ministry for Kosovo and Metohija.
4. The Report has been prepared by the Ministry of Human and Minority Rights. The following institutions took part in the development of the Report: the Ministry of Justice, the Ministry of Internal Affairs, the Ministry of Public Administration and Local Self-Government, the Ministry of Labor and Social Policy, the Ministry of Education, the Ministry of Culture, the Ministry of Health, the Ministry of Religion, the Ministry for Kosovo and Metohija, the Commissariat for Refugees, the Coordination Body for the Municipalities of Preševo, Bujanovac and Medveđa, the Office of the National Council for Cooperation with the International Criminal Tribunal for Former Yugoslavia, the Provincial Secretariat for Regulations, Administration and National Minorities, the Provincial Secretariat for Education, the Provincial Secretariat for Information and the Provincial Secretariat for Culture.
5. The Ministry of Human and Minority Rights published a public call for the participation of non-government organizations in the drafting of the Report hereof. The non-government organization Praxis from Belgrade was the only organization to send its input for the development of the Report.

2. GENERAL INFORMATION

History

6. Serbia is an ancient European state which emerged in the middle ages. The country became a kingdom in 1217 and an empire in 1346. Following the incursion of Turks into the Balkan Peninsula, Serbia lost its independence and was placed under Turkish authority in 1459. The development of modern Serbia started in 1804 with the First Serbian Uprising. Independence from the Ottoman Empire was acquired during the Serbian-Turkish wars of 1876-1878, which was reaffirmed at the Congress of Berlin in 1878. The Kingdom of Serbs, Croats and Slovenes was created in 1918 and

was later named the Kingdom of Yugoslavia. The Federative National Republic of Yugoslavia (*Federativna Narodna Republika Jugoslavija – FNRJ*) was created after the Second World War, later to be called Socialist Federative Republic of Yugoslavia (*Socijalistička Federativna Republika Jugoslavija – SFRJ*) with the Republic of Serbia as one of the federal units.

7. Following the dissolution of the SFRJ, the Federal Republic of Yugoslavia was created in 1992 comprising two federal units – the Republic of Serbia and the Republic of Montenegro. The constitutional reorganization of relations between the federal members led to the creation of the state union of Serbia and Montenegro in 2003, which was dissolved after the referendum held in Montenegro in 2006. The citizens of the Republic of Serbia endorsed the new Constitution at the referendum held on October 2006. The Republic of Serbia is the legal successor of all the predecessor states.

State Polity and Territorial Organization

8. The Republic of Serbia is a parliamentary democratic state founded on the rule of law. The Constitution of the Republic of Serbia guarantees the division of power into legislative, executive and judiciary. The legislative power shall be vested in the National Assembly, the unicameral body of 250 deputies elected for the mandate of four years. The executive power shall be vested in the Government of the Republic of Serbia, which currently comprises 24 ministries. The President of the Republic shall express the state unity of the Republic of Serbia and shall represent the Republic of Serbia in the country and abroad. The President shall be elected directly, by secret ballot, to a mandate of five years. The judiciary shall be independent and the power shall be vested in courts of general and specific competencies and the Constitutional Court.

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

Population

10. There are 7,498,001 citizens living in the Republic of Serbia according to the results of the latest Census conducted in 2002. Women account for 3,852,071 (51.4%) and men account for 3,645,930 (48.6%) citizens.¹

11. The national composition of the population according to the results of the Census held in 2002 is outlined in the following Table.

	Republic of Serbia	Central	AP Vojvodina
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¹ All statistical data refer to the territory of the Republic of Serbia excluding AP Kosovo and Metohija, since the Census could not be conducted in the territory thereof. Annex 1 of the Report contains Table 1 which provides an overview of the population disaggregated by sex and age for each national community.

			Serbia	
	Number	%		
Serbs	6212838	82.86	4891031	1321807
Montenegrins	69049	0.9	33536	35513
Albanians	61647	0.8	59952	1695
Ashkali	584	0.01	413	171
Bosniaks	136087	1.8	135670	417
Bulgarians	20497	0.3	18839	1658
Bunjevci	20012	0.3	246	19766
Vlachs	40054	0.5	39953	101
Gorani	4581	0.1	3975	606
Greeks	572	0.01	352	220
Egyptians	814	0.01	685	129
Jews	1158	0.02	706	452
Yugoslavs	80721	1.1	30840	49881
Hungarians	293299	3.9	3092	290207
Macedonians	25847	0.3	14062	11785
Muslims	19503	0.3	15869	3634
Germans	3901	0.05	747	3154
Roma	108193	1.44	79136	29057
Romanians	34576	0.5	4157	30419
Russians	2588	0.03	1648	940
Ruthenians	15905	0.21	279	15626
Slovaks	59021	0.8	2384	56637
Slovenians	5104	0.07	3099	2005
Turks	522	0.01	385	137
Ukrainians	5354	0.1	719	4635
Croats	70602	0.9	14056	56546
Aromanians	293	0.004	248	45
Czechs	2211	0.03	563	1648
Šokaci	717	0.01	38	679
Total Population		7498001	5466009	2031992

Languages

12. According to the results of the latest Census conducted in 2002, the minority languages spoken in the Republic of Serbia are: Albanian, Bosnian, Bulgarian, Vlach, Hungarian, Macedonian, German, Romani, Romanian, Ruthenian, Slovak, Ukrainian, Croatian and Czech. In addition to the Serbian language and the Cyrillic script, the Latin script and the following languages are in official use in a number of local government units in the Republic of Serbia: Albanian, Bosnian, Bulgarian, Hungarian, Romanian, Ruthenian, Slovak and Croatian.

Religion

13. According to the results of the latest Census conducted in 2002, the religious structure in Serbia is as follows: Orthodox 6,371,584 (84.98%), Roman Catholic 410,976 (5.48%), adherents of the Muslim community 239,658 (3.19%), Protestant 80,837 (1.078%), Jewish 785 (0.01046%), adherents of pro-oriental cults 530 (0.0071%), adherents of religions not stated 18,768 (0.25%), believers who do not

adhere to any particular religion 473 (0.0063%), persons who are not believers 40,068 (0.53%), undeclared 197,031 (2.63%) and unknown 137,291 (1.83%).

3. NORMATIVE AND INSTITUTIONAL FRAMEWORK

Constitutional Protection of Human Rights

14. *The Constitution of the Republic of Serbia*² was endorsed at the referendum conducted in October 2006. Pursuant to Article 1 of the *Constitution*, the Republic of Serbia is the state of Serbian people and all citizens living therein, founded on the rule of law and social justice, the principles of civic democracy, human and minority rights and freedoms and the commitment to European principles and values.

15. The Second Chapter of the *Constitution* is dedicated to the issue of human and minority rights. The provisions set forth in Articles 23 to 74 guarantee the dignity and free development of individuals; right to life; inviolability of physical and mental integrity; prohibition of slavery, servitude and forced labor; right to freedom and security; humane treatment of persons deprived of liberty; right to a fair trial; right to rehabilitation and compensation; right to equal protection and legal remedy; right to citizenship; freedom of movement; inviolability of home; confidentiality of letters and other means of communication; protection of personal data; freedom of thought, conscience and religion; churches and religious communities; conscientious objection; freedom of thought and expression; freedom of expressing national affiliation; promotion of respect for diversity; prohibition of inciting ethnic, racial and religious hatred; right to information; electoral right; right to participate in the management of public affairs; freedom of assembly; freedom of association; right to petition; right to asylum; right to property; right to inheritance; right to work; right to strike; right to enter into marriage and equality of spouses; freedom to procreate; rights of the child; rights and duties of parents; special protection of the family, mother, single parent and child; healthcare; social protection; pension insurance; right to education; autonomy of university; freedom of scientific and artistic creativity; healthy environment. The state guarantees the equality of women and men and develops the policy of equal opportunities. The provisions of Articles 75 to 81 of the *Constitution* guarantee a set of collective rights of persons belonging to national minorities.

The Protection of National Minorities

16. Article 14 of the *Constitution of the Republic of Serbia* guarantees the protection of the rights of national minorities. The state guarantees special protection for national minorities to help them exercise full equality and maintain their identity. Article 47 of the *Constitution* stipulates that national affiliation may be expressed freely and that no person shall be obliged to declare their national affiliation.

17. The provisions of Article 75 of the *Constitution of the Republic of Serbia* stipulate that persons belonging to national minorities shall be guaranteed additional individual and collective rights in addition to the rights guaranteed to all citizens by the *Constitution*. Persons belonging to national minorities shall take part in decision-making or decide independently on certain issues related to their culture, education, information and official use of languages and script through their collective rights in

² Official Gazette of the Republic of Serbia, No. 98/06

accordance with the law. Persons belonging to national minorities may elect their national councils in order to exercise the right.

18. The national councils of national minorities represent a form of cultural autonomy of national minorities and functional decentralization introduced into the legal polity by the Law on the Protection of Rights and Freedoms of National Minorities. Pursuant to Article 19, paragraph 1 of the Law thereof, persons belonging to national minorities may elect national councils to exercise the right to self-governance in the field of the official use of languages and script, education, information and culture. The national councils shall be financed from the budget of the Republic of Serbia and AP Vojvodina, as well as individual local governments.

19. Articles 76 to 80 of the *Constitution of the Republic of Serbia* guarantee the prohibition of discrimination against national minorities, equality in administering public affairs, prohibition of forced assimilation, right to preservation of specificity, right to association and cooperation with compatriots.

20. The provision of Article 81 of the Constitution stipulates that in the field of education, culture and information, the Republic of Serbia shall give impetus to the spirit of tolerance and intercultural dialogue and undertake efficient measures for the enhancement of mutual respect, understanding and cooperation among all people living on its territory, regardless of their ethnic, cultural, linguistic or religious identity.

21. Article 24, paragraph 1 of the *Anti-discrimination Law*³ prohibits discrimination of national minorities and their members based on national affiliation, ethnic origin, religious beliefs and language.

22. *The Law on the Protection of the Rights of Freedoms and National Minorities*⁴ regulates the status of national minorities in the Republic of Serbia. The term is defined in Article 2, paragraph 1 of the Law – a national minority is any group of citizens which is numerically sufficiently representative and, although representing a minority in the territory of the state, belonging to a group of residents having a long term and firm bond with the territory of the state and possessing characteristics such as language, culture, national or ethnic affiliation, origin or religious affiliation, differentiating them from the majority of the population and whose members are distinguished by care to collectively nurture their common identity, including their culture, tradition, language or religion.

Relation between International and National Law

23. Article 16, paragraph 2 of the *Constitution of the Republic of Serbia* stipulates that the generally accepted rules of international law and ratified international treaties shall be an integral part of the legal system in the Republic of Serbia and applied directly, which must be in accordance with the Constitution. Article 194, paragraph 5 of the *Constitution* stipulates that laws and other general instruments adopted in the Republic of Serbia must be in compliance with ratified international treaties. Article 18, paragraph 2 of the *Constitution* stipulates that the Constitution shall guarantee and, as such, directly implement human and minority rights guaranteed, *inter alia*, by ratified international treaties.

³ Official Gazette of the Republic of Serbia, No. 22/09

⁴ Official Journal of the Federal Republic of Yugoslavia, No. 11/2002, 57/2002

Institutional Framework for the Implementation of the Anti-discrimination Policy

24. The Ministry of Human and Minority Rights, established in mid-2008, has been performing public administration activities relating to the protection and promotion of human and minority rights and anti-discrimination policy.

25. The Provincial Secretariat for Regulations, Administration and National Minorities, established in 2002 within the Executive Council of the Autonomous Province of Vojvodina, has been conducting activities relating to the exercise of collective and individual rights of national minorities in the AP Vojvodina.

26. The Ombudsman of the Republic of Serbia was introduced in the legal system of the Republic of Serbia in 2005 as an independent state body protecting citizen rights, mandated to control the work of public administration agencies, as well as other agencies and institutions endowed with public authorities. The Ombudsman of the Republic of Serbia has four deputies specialized in the fields of the protection of rights of persons deprived of liberty, gender equality, the rights of the child, the rights of persons belonging to national minorities and the rights of persons with disabilities. The Provincial Ombudsman was established in 2002 for the territory of the AP Vojvodina. Ombudsmen have also been instituted at the local level, in 11 towns thus far.

27. The Council for National Minorities of the Government of the Republic of Serbia was established in 2004 and is mandated, *inter alia*, to monitor and consider the status of the rights of national minorities and relationships between nations in the Republic of Serbia, as well as to put forward measures to promote full and effective equality of persons belonging to national minorities.

28. The Gender Equality Council of the Government of the Republic of Serbia was constituted in 2004, as well as the Anti-Trafficking Council. The Council for the Rights of the Child has been operational since 2002.

29. The Government of the Republic of Serbia established the Council for the Promotion of the Status of Roma in March 2008 and has 22 members, including representatives of the ministries of finance, health, education, public administration and local self-government, as well as other sectors which may have impact on the promotion of the status of the Roma minority. The Roma Inclusion Office was established by the Decision of the Assembly of the AP Vojvodina in 2006 to implement the Roma integration action plans and to develop and implement programs for the promotion of the status of Roma in the field of education, health, employment, housing, human and other rights. The Roma Integration Council of AP Vojvodina was established in 2005.

4. IMPLEMENTATION OF ARTICLES 2 - 7 OF THE CONVENTION

Article 2

Prohibition of Discrimination

30. Article 21, paragraphs 1, 2 and 3 of the *Constitution of the Republic of Serbia* stipulate that all citizens are equal and that everyone shall have the right to equal legal protection, without discrimination. All direct or indirect discrimination based on any grounds, particularly on race, sex, national affiliation, social origin, birth, religion, political or other opinion, property status, culture, language, age, mental or physical disability shall be prohibited.

31. The adoption of the *Anti-Discrimination Law* in March 2009 is highly important in terms of the anti-discrimination legislation in the Republic of Serbia. Article 1, paragraph 1 of the Law stipulates the general prohibition of discrimination, the forms and cases of discrimination, as well as the procedures of protection against discrimination. Paragraph 2 of the Article thereof establishes the Commissary for the Protection of Equality as an autonomous state body, independent in conducting activities set forth in the Law thereof.

32. The provision of Article 2, paragraph 1, item 1 defines the terms of “discrimination” and “discriminatory treatment” as any unjustified differentiation or unequal behavior and/or omission (exclusion, limitation or giving preference) with regard to persons or groups and members of their families, or persons close to them, in an open or covert manner, based on race, color of skin, predecessors, citizenship, national affiliation or ethnic origin, language, religious or political beliefs, sex, gender identity, sexual orientation, property status, birth, genetic characteristics, health status, disability, marital and family status, criminal record, age, appearance, membership in political, labor union or other organizations and other real and/or assumed personal characteristics.

33. The forms of discrimination are defined in Article 5, as direct and indirect discrimination, the violation of principles of equal rights and obligations, holding persons accountable, association to commit discrimination, hate speech and harassment and humiliating treatment. The severe forms of discrimination stipulated in Article 13 of the Law, *inter alia*, include: incitement and instigation of inequality, hatred and intolerance on the basis of national, racial or religious affiliation, political affiliation, sex, gender identity, sexual orientation and disability; slavery, human trafficking, apartheid, genocide, ethnic cleansing and the instigation thereof, as well as the instigation or discrimination by public authorities and in procedures maintained before public authorities.

34. The provisions of Articles 41 to 46 regulate judicial protection against discrimination, stating that every person exposed to discriminatory treatment is entitled to submit an appeal to the court. The procedure instituted according to the appeal is urgent. The supervision over the enforcement of the *Anti-Discrimination Law* is conducted by the ministry competent for human and minority rights, pursuant to Article 47 of the Law.

35. Discrimination is criminally sanctioned and prohibited in various fields of social life, primarily in the field of education, labor, information and healthcare. The

provisions of the *Criminal Code* relating to the prohibition and sanctioning of discrimination are stated when reporting against Article 4 of the Convention, in the section entitled Criminal and Legal Protection against Discrimination and Violence.

36. Article 46 of the *Law on the Fundamentals of the Education System*⁵ prohibits activities endangering or demeaning groups or individuals on the basis of their racial, national, language and religious affiliation, as well as the instigation of such activities. The Law thereof envisages pecuniary penalties for persons endangering or demeaning groups and individuals on the basis of racial, national, language, religious affiliations or sexual orientation. The discrimination of children and/or pupils includes all direct or indirect differentiation, their favoring, exclusion or limitation aiming to prevent the exercise of rights of the child and/or pupil. Physical violence is prohibited, as well as the insulting of children, pupils and employees. Partisan organization is also prohibited.

37. The provisions of Article 18 of the *Labor Law*⁶ prohibit direct and indirect discrimination of persons seeking employment, as well as those employed, regardless of sex, birth, language, color of skin, age, pregnancy, health care and/or disability, national affiliation, religion, marital status, family obligations, sexual orientation, political or other opinions, social origin, property status, membership in political organizations and labor unions or another personal characteristic. Pursuant to Article 20 of the Law thereof, discrimination is prohibited in terms of employment conditions and the selection of candidates for performing a specific job, working conditions and all labor-related rights, education, professional training and advancement, promotion, cancellation of labor contract. A provision of the labor contract discriminative on some of the grounds hereof shall be considered null and void.

38. In the field of public information, Article 3, paragraph 6 of the *Law on Broadcasting*⁷ stipulates that the regulation of relations in the field of broadcasting shall be founded, *inter alia*, on the principles of impartiality, the prohibition of discrimination and the transparency of procedures for issuing broadcasting permits. The prohibition of discrimination is more thoroughly regulated by other provisions outlined by the Law. Pursuant to Article 38, paragraph 2, the permit for broadcasting radio and TV programs shall be issued under equal conditions. The provisions of Article 77, paragraph 3 of the Law stipulate that the realization of general interests in the field of public broadcasting shall be achieved by ensuring versatility and mutual harmonization of contents in the programs produced and broadcasted within the public broadcasting service, supporting democratic values of modern society, in particular the respect for human rights and cultural, national, ethnic and political pluralism. The provisions of Article 78 of the Law thereof stipulate that the representatives of the public broadcasting service, *inter alia*, shall produce and broadcast programs oriented towards all segments of society, without discrimination, keeping in mind in particular the specific social groups such as children and youth, minority and ethnic groups, persons with disabilities, vulnerable population from the viewpoint of social welfare and healthcare.

39. Article 16 of the *Law on Public Information*⁸ stipulates the prohibition of discrimination in media distribution and/or stipulates that the person dealing with

⁵ Official Gazette of the Republic of Serbia, No. 62/03, 58/04 and 62/04

⁶ Official Gazette of the Republic of Serbia, No. 24/05 and 61/05

⁷ Official Gazette of the Republic of Serbia, No. 42/02, 97/04, 76/05, 62/06, 85/06 and 86/06

⁸ Official Gazette of the Republic of Serbia, No. 43/03 and 61/05

media distribution shall not refuse to distribute someone's media without a justified commercial reason, nor shall set conditions contrary to market principles in terms of media distribution.

40. Pursuant to Article 6 of the *Law on Free Access to Information of Public Interest*⁹, the rights stipulated by the law shall apply to all persons under equal conditions, irrespective of their citizenship, permanent or temporary residence and/or central premises, or personal characteristics such as race, religion, national and ethnic affiliation, sex, etc.

41. One of the main principles of the *Law on Healthcare*¹⁰, set forth in Article 20 of the Law thereof, is the principle of equity of healthcare achieved through the prohibition of discrimination when providing healthcare services, *inter alia*, on the bases of race, national affiliation, religion, culture or language.

42. Article 2 of the *Law on Churches and Religious Communities*¹¹ sets forth the prohibition of religion-based discrimination. The provisions of the Article thereof stipulate that no person shall be subject to duress which may impair their freedom of religious belief, or be forced to declare themselves on their faith and religious beliefs or the non-existence thereof. No person shall be harassed, discriminated or privileged due to their religious beliefs, belonging or failure to belong to a religious community, participation or failure to participate in worshipping or religious ceremonies and observing or failure to observe the guaranteed religious freedoms and rights.

43. Article 1 of the *Law on the Prevention of Discrimination against Persons with Disabilities*¹² stipulates the general principles of the prohibition of disability-based discrimination, special cases of discrimination against persons with disability, the procedure for protecting persons subjected to discrimination and measures undertaken to stimulate equality and social inclusion of persons with disabilities. The provisions of Articles 39 to 45 of the Law thereof stipulate the special terms of litigations in disputes for protecting against disability-based discrimination. The procedure is instituted by an appeal filed by a person with disability that has been discriminated against or their legal representative. The appeal may be, under specific law-envisaged conditions, filed by the companion of the person with disability. The appeal for protection against disability-based discrimination may call for: the prohibition of the execution of an action which may cause discrimination, the prohibition of further discrimination and/or the prohibition of the repetition of discrimination; the execution of an action to eliminate the consequences of discriminatory action; determining that the defendant has discriminated against the plaintiff; the compensation of material and non-material damage. Revision in a dispute for protection against disability-based discrimination is always allowed.

44. The provision of Article 7 of the *Law on Civil Servants*¹³ prohibits favoring or denying the civil servant of their rights or duties, in particular due to racial, religious, sex, national or political affiliation, or due to another personal characteristic.

45. Article 12 of the *Law on Police*¹⁴ stipulates that the police shall abide by, *inter alia*, international treaties and conventions adopted by the Republic of Serbia,

⁹ Official Gazette of the Republic of Serbia, No. 120/04

¹⁰ Official Gazette of the Republic of Serbia, No. 107/05

¹¹ Official Gazette of the Republic of Serbia, No. 36/06

¹² Official Gazette of the Republic of Serbia, No. 33/06

¹³ Official Gazette of the Republic of Serbia, No. 79/05

international standards on police conduct and requirements set forth in international instruments relating to the observance of human rights and non-discrimination when executing police activities. The provision of Article 35 stipulates that, when executing police competencies, the authorized official shall act without bias and shall provide equal law-stipulated protection to all persons without discrimination on any grounds.

Measures for Achieving Full and Effective Equality

46. Article 21, paragraph 4 of the Constitution of the Republic of Serbia stipulates that special measures which the Republic of Serbia may introduce to achieve full equality of individuals or group of individuals in a substantially unequal position compared to other citizens shall not be deemed discriminative. A similar solution relating to the members of national minorities is contained in the provisions of Article 76, paragraph 3 of the Constitution of the Republic of Serbia.

47. Article 14 of the *Anti-Discrimination Law* stipulates that special measures introduced to achieve full equality, protection and advancement of individuals and/or group of individuals in unequal position shall not be deemed discrimination.

48. Article 4 of the *Law on the Protection of Rights and Freedoms of National Minorities* stipulates that authorities may, pursuant to the Constitution and law, adopt regulations, individual legal instruments and undertake measures to ensure full and effective equality among persons belonging to national minorities and persons belonging to the majority of the population. Authorities shall adopt legal instruments and undertake the measures with the aim of improving the position of persons belonging to the Roma national minority. Regulations, individual legal instruments and undertaken measures shall not be considered an act of discrimination.

49. Article 31 of the *Law on Employment and Unemployment Insurance*¹⁵ envisages that the Government and/or competent authorities at the level of territorial autonomy and local self-government may adopt active employment policy programs regulating the priorities, measures, means and competencies for their realization, in particular for the employment of specific categories of unemployed persons, employment of refugees and displaced persons, employment of members of national minorities with a more prominent unemployment rate. The provisions of Article 34 of the Law thereof stipulate that the employer who enters employment with a first-job seeker, long-term job seeker, person over 50 years of age, with a refugee and displaced person, with a member of a national minority with a more prominent unemployment rate, with a person with disabilities and a person with decreased labor capacities shall be entitled to a subsidy of contributions on account of pension and disability insurance, health insurance and unemployment insurance, which is effected through the National Employment Service.

50. Article 8, paragraph 1 of the *Law on the Prevention of Discrimination of Persons with Disabilities* envisages that the provisions of laws, regulations or decisions and special measures adopted to improve the position of persons with disabilities, members of their families and associations of persons with disabilities provided special support necessary to enjoy and exercise their rights under equal conditions applicable for other persons shall not be deemed a violation of the principles of equal rights and obligations, nor shall they be deemed discriminative.

¹⁴ Official Gazette of the Republic of Serbia, No. 101/05

¹⁵ Official Gazette of the Republic of Serbia, No. 71/03

51. Affirmative actions are envisaged in by-laws adopted at different public authority levels. *The Conclusion on the Measures for Increasing the Participation of Members of National Minorities in Public Administration Bodies*, adopted by the Government of the Republic of Serbia in May 2006, stipulates that the public administration bodies envisaged to have more than one third of the total number of systematized employees working in regional units established at the territory in which, pursuant to decisions of competent bodies of local self-government units, the language of one or more national minorities is in use, shall undertake measures to envisage a specific number of working positions in the Rulebook on internal organization and job classification which shall condition the execution of tasks for specific employees with the knowledge of at least one of the languages and the script of the national minority which is in official use at the territory at which the local self-government unit has been established. Furthermore, in case when the selection procedure in a public competition for filling in a vacant position in regional units envisages a written verification of professional capacities, knowledge and skills of candidates, the candidates shall be provided with tests or other aspects of written examination in the appropriate language of the national minority. The most significant aspect of affirmative actions envisages that, when composing the selection list and the list of candidates in the conducted public competition, the competition committee and/or the head of the public authority body shall pay special attention to the representation of the members of national minorities in the total structure of employees in the body as a main criterion of selection among equal candidates within the application of the principle of professionalism which envisages professional qualifications, knowledge and skills of candidates to perform tasks of the public administration body.

52. By-laws setting forth affirmative actions have also been adopted by local authorities. The statutes of individual local self-government units contain provisions stipulating that the municipal administration and public enterprises established by the municipality shall take care of the national composition and/or specify the minimum number of employees belonging to national minorities in their respective instruments on job classification.

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

54. When it comes to the position of women, special measures for a prompt achievement of gender equality in the field of political rights were introduced for the first time in the *Law on Local Elections* in 2002. Article 20, paragraph 3 of the Law thereof stipulates that the electoral list shall comprise at least 30% of candidates of the less represented sex. The said provision is also contained in Article 20, paragraph 3 of the new *Law on Local Elections*¹⁶ adopted in 2007. Special measures were introduced

¹⁶ Official Gazette of the Republic of Serbia, No. 129/07

in 2004 by the amendments to the *Law on the Election of Deputies*¹⁷. Namely, Article 40a stipulates that each electoral list shall comprise at least 30% of candidates of the less represented sex. The *Decision on the Election of Deputies in the Assembly of AP Vojvodina* introduced the same rule in 2004. The 30% election quotas for the representatives of the less represented sex indicate that the participation of women among deputies increased to 20.4% in the elections since 2007. The representation of women increased to 21.3% in the assemblies of municipalities and towns after the local elections held in 2004. The Government of the Republic of Serbia endorsed the *Draft Law on Gender Equality* in May 2009.

Specific Measures Undertaken to Achieve Full Equality

55. Measures are undertaken in the sphere of economy to improve equality in the regions of Serbia which are inhabited by members of national minorities, and which are less developed in comparison to other regions in the country. Measures undertaken in three municipalities in the South of Serbia inhabited by the Albanian national minority should be underlined. The Coordination Body for the Municipalities of Preševo, Bujanovac and Medveđa (established in 2000) has invested substantial funds, predominantly in the infrastructure of the region, projects of construction and reconstruction of roads, bridges, water supply, sewage, electrification, etc. Funds were also invested into education – construction and reconstruction of schools and kindergartens, culture, information, sports, health, religious communities, the work of local authorities and the reconstruction of homes of internally displaced persons.¹⁸

56. The Government of the Republic of Serbia adopted the *Strategy of Long-Term Economic Development of the South of Serbia – Preševo, Bujanovac and Medveđa Municipalities* in January 2007, as the first strategic document of the Government relating to the three municipalities inhabited by Serbs, Albanians and the Roma. The Development Fund of the Republic of Serbia involved the municipalities of Preševo, Bujanovac and Medveđa in the Program of Distribution and Utilization of Funds for the Development of Enterprises and Entrepreneurship in the Most Underdeveloped Municipalities of the Republic of Serbia. The Republic Agency for the Development of Small and Medium-Sized Enterprises has ensured start-up loans amounting to EUR 5,000 - 15,000 for the development entrepreneurship in the municipalities of Southern Serbia. The state overtakes almost the entire risk in order to stimulate people to start their own businesses. In its program for 2007, the Ministry of Agriculture, Forestry and Water Management gave the municipality of Preševo the status of a devastated municipality and special conditions and terms for the program of using rural development subsidies through investments into agricultural equipment and appliances, the program of using rural development subsidies through investments into rural tourism and the program of using rural development subsidies through investments into base herds and fodder. The Municipality of Preševo was given the status of a devastated region by Government Decision.

57. The *Agreement of Cooperation in the Field of Local Economic Development* was signed in November 2008 by the Coordination Body, the United States Agency for International Development (USAID) and the municipalities of Preševo, Bujanovac and Medveđa. These municipalities thus entered the Municipal Economic Growth

¹⁷ Official Gazette of the Republic of Serbia, No. 35/00, 69/02, 57/03, 72/03, 75/03, 18/04, 85/05, 101/05 and 109/06

¹⁸ The overview of investments per years and municipalities is enclosed in Annex 1 of the Report, Table 2.

Activity Program (MEGA). Municipal offices in charge of local economic development were opened in Preševo, Bujanovac and Medveđa, as well as the Economic Councils which gather the representatives of local self-governments and the private sector. Aiming to develop the economic potentials of the region, the Coordination Body involved the representatives of Preševo, Bujanovac and Medveđa in the training on marketing and municipal promotion conducted by the World Bank in cooperation with the Serbia Investment and Export Promotion Agency (*SIEPA*), followed by additional training on the presentation of economic potentials for investors in cooperation with the USAID. The Coordination Body reached an agreement with the Ombudsman of the Republic of Serbia to open the first office outside of Belgrade in the municipalities of Preševo, Bujanovac and Medveđa.

58. For the first time the 2009 budget of the Coordination Body envisages resources for activities targeting youth of all ethnic communities totaling RSD 21.5 million, which shall be used to implement youth and civil society projects. The budget rebalance approved additional RSD 6 million for the Coordination Body to be used for projects of non-government organizations from the three municipalities. Furthermore, the budget of the Coordination Body envisages RSD 25 million for social welfare projects including assistance to cultural projects, pupil and student scholarships and assistance for vulnerable categories of the population. The Coordination Body cooperates with the Ministry of Education on opening a faculty in the Serbian and Albanian languages in Medveđa and the first generation is expected to enroll the faculty in the 2009/2010 school year. The Working Group on Education has been established to resolve issues of the Albanian national minority at all levels of education. In the field of culture, the Coordination Body organizes plays for children from all ethnic communities and the preparation of a multiethnic and multilingual play is under way in Bujanovac.

59. The Ministry of Internal Affairs has been implementing the project entitled *The Police in the Community*, in the South of Serbia apart from other territories. The project deals with the development of communication and trust between the police and the local community, trainings targeting the police, representatives of the local community, citizens and special categories of the population, establishment and development of partnerships between the police and the community and the advancement of activities resolving security issues in specific regions. A particularly important component of the development of police work at the community level is the adaptation of police activities to the security needs of the members of minority, marginalized and socially vulnerable population, in order to provide an efficient security service. Thus the model of *the police in community* is developed at the South of Serbia in the municipalities of Preševo, Bujanovac and Medveđa with support of the OSCE Mission, in order to approach the citizens of Albanian nationality and regain their trust in the work of the police. The model is implemented through the work of municipal security councils comprising representatives of local self-government, police, judiciary, health sector, education sector, minority communities and the media. Police officers and community representatives have been trained on the issue of democratic values and models of cooperation between community actors in ensuring security in the community.

60. The measures for achieving effective equality in the field of culture include primarily the co-financing of projects and activities maintaining and developing the culture of the members of national minorities and the preservation of their cultural identity. The Ministry of Culture of the Republic of Serbia has been introducing

competitions as of 2002 as a means of providing financial assistance for cultural projects. A special competition on the culture of national minorities was introduced in 2007 and a separate field of creativity of persons with disabilities has been introduced in 2009. The main criteria for the selection of applications are: relevance for the improvement of the cultural and language identity; relevance for the advancement of arts and culture; the promotion and development of multiculturalism; contribution to the inter-cultural dialogue; high quality of projects; realistic opportunities for the implementation of the program/project; realistic financial plan; cooperation with official institutions and individuals, as well as the national councils of national minorities. Furthermore, the general competition of the Creativity Department also evaluates the contribution to inter-cultural dialogue as one of the priorities of the ministry. The Ministry of Culture – Media Department co-finances projects/programs in the field of public information in the languages of national minorities based on the competitions opened since 2003. The main project selection criteria are: the quality, originality, relevance and significance of the projects in terms of improving the right to information, as well as the language and cultural identity of the members of national minorities, the introduction of new communication technologies, accessibility for a larger number of beneficiaries, programs for children and youth, programs of multicultural and intercultural contents and building professional capacities in the field of informing minorities. The competition procedure stipulates that an opinion from national councils shall be sought on projects in their respective languages. The competition conducted in 2008 awarded RSD 24,693,037.84 for these purposes. The 2009 budget earmarks RSD 16,000,000.00 for the competition. Furthermore, the Ministry of culture regularly co-finances four printed media in the minority languages. The amount of RSD 24,500,000.00 has been earmarked in 2009 for these purposes.

61. The overview of funds allocated in the 2008 competition is given in the table below.

MINORITY	PROGRAMS (events)	MAGAZINES	PUBLISHING	LITERARY EVENTS	TOTAL
Ashkali			70,000.00		70,000.00
Bosniaks	2,100,000.00	400,000.00	50,000.00	400,000.00	2,950,000.00
Bulgarians	650,000.00	80,000.00	60,000.00	50,000.00	840,000.00
Bunjevac	500,000.00	150,000.00	80,000.00	50,000.00	780,000.00
Vlachs	500,000.00				500,000.00
Greeks					
Jews	380,000.00		310,000.00		690,000.00
Hungarians	1,200,000.00	650,000.00	360,000.00	310,000.00	2,520,000.00
Macedonians	650,000.00	50,000.00	50,000.00		750,000.00
Multicult.	1,530,000.00	200,000.00			1,730,000.00
Germans	200,000.00				200,000.00
Roma	1,415,000.00		240,000.00	230,000.00	1,885,000.00
Romanians	600,000.00		80,000.00	60,000.00	740,000.00
Ruthenians	400,000.00		130,000.00	60,000.00	590,000.00
Slovaks	650,000.00	200,000.00	200,000.00		1,050,000.00
Ukrainians	300,000.00	100,000.00			400,000.00
Croats	750,000.00	250,000.00		135,000.00	1,135,000.00

Aromanians			200,000.00		200,000.00
Czechs	100,000.00				100,000.00
	11,925,000.00	2,080,000.00	1,830,000.00	1,295,000.00	17,130,000.00

62. The Ministry of Culture finalized the training of members of national minorities on applying for the competition of the ministry at the end of 2007 and at the beginning of 2008. The following publications were printed: *The Guidelines on the Procedure of the Competition for National Minorities* and *The Guidelines on the Procedure of the Competition for Improving the Position of Persons with Disabilities*.

63. The protection of cultural heritage and the advancement of the cultural identity of minority communities are the most developed in Vojvodina, where the rich tradition of the cultural creativity of minorities is either institutionalized or is performed through the work of amateur associations. The Provincial Secretariat for Culture is mandated to co-finance programs contributing to the cultivation and development of cultural creativity of members of national minorities and ethnic communities in the AP Vojvodina. The funds of the Province are used to:

- Finance the work of eleven cultural institutions established by the AP Vojvodina. Seven institutions implement projects of the protection of cultural heritage of all national communities and ethnical groups; one institution – Cultural Institute of Vojvodina – implements programs in all cultural fields in Serbian and in the minority languages, as well as the multi-cultural and multi-language programs; the “Forum” Publishing Institute - *Forum könyvkiadó intézet* publishes books and magazines *Híd* and *Üzenet* in the Hungarian language; the National Theatre – *Népszínház* – of Subotica performs theatre plays in Serbian, Hungarian and Croatian;
- Co-finance program activities of inter-municipal archives at the territory of the AP Vojvodina and/or nine regional archives, while the Archive of Vojvodina in Novi Sad is financed completely. The activities of the archives include the collection, processing, preservation, presentation and ensuring the accessibility of archive materials. The funds of the Province are used to implement the following activities: digitalization of archive materials, archive networking, publication of archive materials and information means to facilitate access to the materials (guides, analytical inventories, etc.), exhibitions presenting the most valuable archive materials in the languages of national minorities represented in Vojvodina;
- Co-finance the professional and amateur theatre creativity of national minorities. There are 14 professional theatres active in the territory of the AP Vojvodina, seven of which are theatres of national communities: Hungarian, Slovak, Romanian and Ruthenian. There are 196 amateur theatres active in Vojvodina, 30 of which perform plays in the Hungarian language, 20 in the Slovak language, 12 in the Romanian language, 15 in the Ruthenian language, as well as two Croatian theatres, three Bunjevac theatres, three Roma theatres and one Ukranian amateur theatre.
- Co-finance programs of museums and galleries. Twelve museums and some fifteen galleries in Vojvodina present tangible and spiritual cultural heritage of national minorities and ethnic groups through programs presenting the cultural heritage of individual minority communities and multi-cultural programs, such as the exhibition entitled “Living Together” of the Museum of Vojvodina; program activities of the Museum of Vojvodina and the Museum of Contemporary Arts of Vojvodina promoting the creativity of minority communities are fully financed from budget resources. The work and programs of a gallery that nurtures naïve arts of Slovaks (in

Kovačica) and a gallery nurturing naïve arts of Romanians (in Uzdiue) are co-financed on an annual level, representing galleries of particular significance in terms of the presentation of minority visual creativity.

- Co-finance publishing activities in minority languages (books and other publications) of professional publishing houses, namely: two publishing houses in Hungarian, two publishing houses in Slovak, one publishing house in Romanian, one publishing house in Ruthenian, one publishing house in Croatian and one publishing house in Romani. Furthermore, one publishing house of Ukrainian, Macedonian and Bunjevac national communities are co-financed as well. The average number of co-financed publications is 51 magazines dealing with literature, culture and arts and children magazines in languages of national minorities and ethnic communities;

- Co-finance the program of activities of five institutes for the culture of national communities: the Institute for the Culture of Vojvodina Hungarians in Senta, the Institute for the Culture of Vojvodina Slovaks in Novi Sad, the Institute for the Culture of Vojvodina Romanians in Zrenjanin, the Institute for the Culture of Vojvodina Ruthenians in Ruski Kostur and the Institute for the Culture of Vojvodina Croats in Subotica. These institutes were established by the Autonomous Province of Vojvodina in cooperation with national councils of these national minorities to preserve, advance and develop the culture of these national communities;

- Co-finance projects of minority cultural institutes and the non-government sector contributing to the creation of connections between minority communities and their mother countries in the field of culture (visits of theatre, music, music-performance, amateur and other plays, the exchange of experts, professional advancement, joint cultural projects, etc.);

- Co-finance the purchase of books for libraries in multilingual environments in the minority languages;

- Co-finance the ongoing repairs and the procurement of equipment in cultural institutes in multilingual environments and underdeveloped municipalities.

64. The 2008 Financial Plan of the Provincial Secretariat for Culture earmarked the total funds on account of culture of RSD 511,127,580.00 and/or RSD 135,215,298.00 on account of the culture of national minorities in the AP Vojvodina. Resources for the programs of cultural and artistic creativity of national minorities account for 26.45% of the overall resources earmarked for the culture and arts in the AP Vojvodina. The overview of funds earmarked on account of culture and artistic creativity of national minorities in 2008 is given in the following table:

National minority	Books, magazines, publishing support	Cultural and artistic events	Theatres	Galleries	Cultural Heritage Preservation	Cultural Institutes	Total	Share in %
Hungarians	13,297,298.00	6,002,000.00	35,914,000.00		1,004,000.00	12,000,000.00	68,217,298.00	50.45%
Slovaks	5,615,000.00	3,250,000.00	2,650,000.00	450,000.00	368,000.00	10,000,000.00	22,333,000.00	16.52%
Romanians	2,220,000.00	2,250,000.00	2,650,000.00	400,000.00	40,000.00	8,000,000.00	15,560,000.00	11.51%
Ruthenians	2,170,000.00	1,250,000.00	2,650,000.00			6,500,000.00	12,570,000.00	9.30%
Croats	775,000.00	560,000.00			100,000.00	5,500,000.00	6,935,000.00	5.13%
Ashkali	90,000.00	180,000.00					270,000.00	0.20%
Bulgarians		100,000.00					100,000.00	0.07%
Bunjevac	209,000.00	560,000.00					769,000.00	0.57%

Czechs		168,000.00					168,000.00	0.12%
Egyptians		10,000.00					10,000.00	0.01%
Jews	40,000.00	120,000.00			140,000.00		300,000.00	0.22%
Macedonians	90,000.00	1,040,000.00					1,130,000.00	0.84%
Germans	40,000.00	168,000.00					208,000.00	0.15%
Roma	509,000.00	560,000.00	1,200,000.00				2,269,000.00	1.68%
Slovenians		22,000.00					22,000.00	0.02%
Ukrainians	90,000.00	240,000.00					330,000.00	0.24%
Multilingual	674,000.00	750,000.00	2,600,000.00				4,024,000.00	2.98%
TOTAL:	25,819,298.00	17,230,000.00	47,664,000.00	850,000.00	1,652,000.00	42,000,000.00	135,215,298.00	100.00%

(The column *Cultural Institutes* relates to the five new cultural institutes established in 2008 by the Assembly of the Autonomous Province of Vojvodina in cooperation with national councils of national communities, namely: the Institute for the Culture of the Hungarians of Vojvodina, the Institute for the Culture of the Slovaks of Vojvodina, the Institute for the Culture of the Romanians of Vojvodina, the Institute for the Culture of the Ruthenians of Vojvodina and the Institute for the Culture of the Croats of Vojvodina with the aim to preserve, advance and develop the culture of these national communities. The establishment and the launch of the institutes' activities marked the beginning of extensive and significant cultural–artistic and scientific-research programs relevant to the culture of these national communities).

65. The Provincial Secretariat for Culture holds regular competitions to:

- Protect cultural heritage – co-financing projects contributing to registering, preserving, nurturing, promoting and presenting tangible and intangible heritage of all nations and national minorities in AP Vojvodina. These competitions co-finance the programs of protection and presentation of intangible cultural assets, conservation and restoration of artistic objects, ethnographic research, publication of valuable books in this field in all languages represented in Vojvodina, professional advancement, permanent museum exhibitions (for example: programs of the Ethnographic Museum of Romanian Spirituality in Torak, etc.);
- Co-finance the contemporary and national creativity of national minorities and ethnic groups. In view of decentralization and the enforcement of the Law on the Protection of Rights and Freedoms of National minorities, the national councils of specific national communities make decisions on the submitted applications and forward suggestions to the Secretariat on which programs should be co-financed;
- Publish new books in the languages of national minorities and translate books from Serbian into the languages of national minorities, or from these languages into Serbian;
- Make feature, documentary, documentary-feature, short and animated films. The Province has been supporting and co-financing the film industry since 2002. Film workers from the national minority communities enter these film competitions with topics of cultural events held in places they live in and famous artists from their culture, thus nourishing their language and preserving the cultural heritage of their people;
- Publish magazines in the field of culture and arts in the languages of national minorities. The Province has been annually co-financing the publishing of 75 culture and arts magazines on average, with 51 of the magazines in national minority

languages, namely: 14 in Hungarian, 6 in Slovak, 6 in Romanian, 5 in Ruthenian, 3 in Croatian, 2 magazines of the Ashkali, Bunjevac, Macedonian and Ukrainian national minority each, 1 magazine of the German, Jewish and Roma national minority each, 2 bilingual magazines and 4 multilingual magazines;

- Cultural-artistic amateur activities of the members of all national communities and ethnic groups. There are 420 cultural-artistic associations active in Vojvodina, 236 of these being associations of national minorities. There are diverse artistic sections within these associations which nurture the traditional and contemporary cultural creativity of their national communities. The Hungarian national minority is active through 120 cultural-artistic associations, the Slovak and Romanian national minorities are active in 32 associations each, the Ruthenian national minority is active in 12 associations, the Croat minority in 6 association, the Bunjevac national minority is active in 8 associations, the Roma national minority is active in 12 associations, and other minorities are active in 12 cultural-artistic associations.

66. The construction of the Regional Center Jožef Nađ in Kanjiža was co-financed, while the co-financing of the construction of the National Theatre – *Népszínház* in Subotica is underway, as well as the adaptation of a number of cultural centers in multilingual environments.

67. An important component in the protection of the national identity of minority communities is freedom of religion. The Republic of Serbia undertakes specific measures for the protection of this right. The Ministry of Religion allocates funds for: religious instruction, student boarding schools, scholarships for talented theology students, cultural programs, publishing activities, co-financing subsidies on account of pension-disability and health insurance of priests and religious officials, and predominantly for investing into religious facilities. The overview of assistance earmarked by the Ministry of Religion for churches and religious communities is given in the following table:

Churches and Religious Communities	2005	2006	2007	2008
Roman Catholic Church	10,219,000.00	31,955,000.00	16,031,000.00	40,602,000.00
Islamic Community in Serbia	5,850,000.00	8,701,000.00	14,653,000.00	10,193,000.00
Islamic Community of Serbia	5,237,000.00	7,247,400.00	8,300,000.00	8,338,000.00
Slovak Evangelical Lutheran Church	250,000.00	2,400,000.00	1,823,000.00	2,498,000.00
Christian Reformed Church	600,000.00	3,272,000.00	2,009,000.00	2,686,000.00
Evangelical Christian Church	894,000.00	1,918,000.00	2,329,000.00	402,500.00
Jewish Community	681,000.00	10,795,000.00	1,260,000.00	1,600,000.00
Romanian Orthodox Diocese of Dacia Felix	410,000.00	1,465,000.00	820,000.00	2,724,000.00
Podvorye of the Moscow Patriarchate in Belgrade	259,000.00	140,000.00		48,000.00

68. In view of the development of the report hereof, the Ministry of Human and Minority Rights was addressed by the National Council of the Bunjevac National Minority, stating that there have been cases of negating the national identity of the Bunjevac people in the Republic of Serbia, as well as the attempts of assimilation and covert discrimination of individuals belonging to the community. The Bunjevac language and cultural holidays are treated as the Croatian language and Croatian holidays. Insufficient funds are earmarked to finance, primarily, information in the Bunjevac language.

69. The Ministry of Human and Minority Rights financed the work of the National Council of the Bunjevac National Minority totaling RSD 7,599,516.00 in 2008. The overview of funds allocated on account of the national councils of national minorities in 2008 is given in the following table:

	NATIONAL COUNCIL OF NATIONAL MINORITY	
1.	National Council of the Hungarian National Minority	21,097,566.00
2.	National Council of the Bosniac National Minority	15,060,516.00
3.	National Council of the Roma National Minority	12,982,716
4.	National Council of the Croatian National Minority	11,334,666
5.	National Council of Slovak National Minority	10,176,666.00
6.	National Council of the Vlach National Minority	8,478,216.00
7.	National Council of the Romanian National Minority	8,238,066.00
8.	National Council of the Macedonian National Minority	7,854,966
9.	National Council of the Bulgarian National Minority	7,62,816.00
10.	National Council of the Bunjevac National Minority	7,599,516.00
11.	National Council of the Ruthenian National Minority	7,094,316.00
12.	National Council of the Ukrainian National Minority	6,631,866.00
13.	National Council of the Egyptian National Minority	6,432,816.00
14.	National Council of the Greek National Minority	6,422,166.00
15.	National Council of the German National Minority	6,568,116.00
16.	Jewish community	6,407,010.00
	TOTAL	150,000,000.00

70. According to the data of the Provincial Secretary for Regulations, Administration and National Minorities, the total of RSD 3,175,000.00 was allocated on account of financing regular activities of the National Council of the Bunjevac National Minority in the period of 2006 to 2008. The overview of additional funds for all national councils at the territory of the AP Vojvodina is given in the following table:

NATIONAL COUNCIL OF NATIONAL MINORITY	2006	2007	2008
National Council of the Hungarian National Minority	4,130,000.00	3,880,000.00	11,880,000.00
National Council of the Croatian National Minority	1,000,000.00	1,140,000.00	3,375,000.00
National Council of the Ruthenian National Minority	640,000.00	660,000.00	1,880,000.00

National Council of the Bunjevac National Minority	440,000.00	705,000.00	2,030,000.00
National Council of the Romanian National Minority	750,000.00	832,000.00	2,415,000.00
National Council of the Ukrainian National Minority	430,000.00	530,000.00	1,480,000.00
National Council of the Slovak National Minority	1,000,000.00	1,140,000.00	3,375,000.00
National Council of the Roma National Minority	330,000.00	-	-
National Council of the Macedonian National Minority	350,000.00	613,000.00	1,740,000.00
National Council of the Bulgarian National Minority	330,000.00	-	-
National Council of the German National Minority	-	-	1,425,000.00
TOTAL	9,400,000.00	9,500,000.00	29,600,000.00

71. The Provincial Secretariat for Regulations, Administration and National Minorities paid the total of RSD 3,590,000.00 through competitions in the period of 2006 to 2008 to organizations of Bunjevac national minorities, on account of financing activities of national minority organizations whose activities are based on preserving and nourishing the national and cultural identity and on preserving and advancing international tolerance. The overview of total funds allocated in this period is given in the following table:

NATIONAL MINORITY	2006.	2007.	2008.
HUNGARIANS	6,790,000.00	9,700,000.00	20,220,000.00
SLOVAKS	1,290,000.00	2,320,000.00	5,278,480.00
CROATS	1,200,000.00	2,296,082.00	2,890,000.00
ROMANIANS	1,240,00.00	2,070,000.00	3,450,000.00
BUNJEVAC	520,000.00	970,000.00	2,100,000.00
RUTHENIANS	1,000,000.00	1,645,000.00	3,255,000.00
UKRAINIANS	320,000.00	668,000.00	760,000.00
MACEDONIANS	135,000.00	600,000.00	980,000.00
GERMANS	-	850,000.00	1,655,000.00
OTHER	4,935,000.00	3,010,000.00	3,555,726.00
MULTICULTURAL PROJECTS	714,997.52	1,080,000.00	1,178,000.00
TOTAL	18,144,997.52	25,209,082.00	45,322,206.00

72. The Ministry of Human and Minority Rights supported the following scientific conferences: *Ethno-Linguistic and Historic Research on the Bunjevac People* held in Subotica in October 2008 and the symposium *On the Bunjevac People* held in Subotica in December 2006.

Measures for Achieving Effective Equality of the Roma

73. According to the Census 2002, there were 108,193 citizens living in Serbia who declared themselves members of the Roma national minority. However, a number of researches indicate that the number is substantially higher, estimated between 250,000 and 500,000 Roma. The main issue of the Roma population is the high poverty rate, which is multiple to that of the rest of the population in Serbia. The causes thereof are, predominantly, linked to education, employment and housing conditions. According to the statistical data of 2002, 27% Roma over 25 years of age have not completed any schooling in comparison to fewer than 6% of the general population; the number of the population which have not completed primary school is twice higher among the Roma than among the other population; primary school has been completed by 28% of the Roma, while secondary school has been completed by 9% of the Roma only, which is a four times lower rate in comparison to other population. As much as 27% of the overall number of the Roma is economically active, while there are 58.2% able-bodied. The unemployment rate is high, and there are almost no Roma employed in public institutions. There are some 600 Roma settlements in Serbia and/or over 100 in Belgrade only. These are mostly illegal and non-hygienic settlements and/or without a legal basis and in severely bad conditions.

74. The *National Strategy for the Promotion of the Position of Roma* adopted by the Government of the Republic of Serbia in April 2009 represents the policy implementation direction in terms of the promotion of the position of the Roma. The strategic aim of the document is to improve the position of the Roma national minority in Serbia and/or decrease the differences present between the Roma population and the majority of the population. The document contains specific chapters dealing with the issues of education, housing conditions, employment, displaced persons, readmission issues, accessibility of personal documents, social insurance and social protection, health care, the position of women, information, culture, political participation and presentation of the Roma, discrimination and other issues. Each chapter outlines an international and national legal framework underlying the Strategy, the description of the status in the given field, an overview of ongoing and earlier initiatives in this field, recommendations for further activities and priority activities. The National Strategy for the Promotion of the Position of Roma is founded on the following main principles and values: the obligation of the state to take care of the observance, protection and achievement of the legal rights of Roma; a full and efficient inclusion of Roma in all social life spheres; respect for, recognition and promotion of differences; equal opportunities based on equal rights; gender equality; prevention and combat against all forms of discrimination; implementation of affirmative actions.

75. The Republic of Serbia overtook the one-year mandate of presidency over the Decade of Roma in June 2008. The *Decade of Roma Inclusion* is an international initiative, a first of this kind, in which the Governments of 11 countries of Central and South-East Europe took over the liability to take actions to improve the social and economic status and the inclusion of Roma in regional frameworks. The Decade has gathered Governments, public administration bodies, non-government organizations, including Roma associations, with the aim to accelerate the process of the promotion of the position of Roma, decrease unacceptable differences between Roma and other population, as well as transparent and measurable reporting on the achieved progress. The Decade covers education, employment, health and housing, and the key aspects

of the promotion of the position of Roma are poverty, discrimination and gender equality.

76. The specific measures undertaken to prevent the discrimination of Roma include:

- In view of housing, the adoption of the *Action Plan on the Housing of Roma* in 2005 defined the main activities relating to resolving the housing issues of Roma in Serbia. The *Guidelines for Promoting and Legalizing the Roma Informal Settlements* 2007 provided professional instructions to local self-governments on how to approach this issue. The Ministry which was competent for the issue of housing drafted the Draft Study of the Housing Sector in Serbia in 2006, which recognized the issue of informal Roma settlements as one of the priority issues of the future national housing policy.

- In view of education, the Ministry of Education, the Ministry of Human and Minority Rights and the National Council of the Roma National Minority have been implementing affirmative actions for the enrolment of Roma students in secondary schools, colleges and faculties since 2005, in line with the *Unified Action Plan on Education*. The Ministry of Education launched the project of introducing assistants supporting the education of Roma in cooperation with the OSCE Mission, thus far engaging 28 assistants in primary schools. The project entitled “The Development of Capacities of School Administrations to Implement Local Action Plans for Promoting the Education of the Roma” was also implemented, providing training for 16 education councilors from 16 school administrations to monitor projects for the promotion of the education of the Roma. Non-government organizations, with support of the *Roma Education Fund*, in cooperation with competent institutions implement projects with the following objectives: expand access to pre-school education; functional primary education of adult Roma; protection of Roma children against discrimination; find systemic solutions for the introduction of Roma history, culture and tradition into the programs of general education of teachers; resolve problems of the Roma children of internally displaced persons and returnees; create better conditions for attending secondary school; increase the capacity and motivation to continue education.

- In view of employment, the Government of the Republic of Serbia adopted the *National Employment Strategy 2005 – 2010* and the *National Employment Action Plan 2006 – 2008*, based on which specific national and local Roma employment initiatives are implemented. Affirmative actions are implemented during the disbursement of resources of the National Employment Service on account of self-employment and business start-up. Roma are involved in the active employment measures – public works, job-seeking clubs, active job-search program and foreign languages trainings for the registered unemployed Roma.

- In view of social insurance and social protection, the *Social Welfare Development Strategy of Serbia* identifies the protection of marginalized individuals and groups who need organized assistance of the community and the state as one of the main priorities. The Social Innovations Fund within the Ministry of Labor and Social Policy has been supporting a number of projects aiming to improve the position of Roma since 2003. The budget of the Republic of Serbia provided funds to engage Roma issues coordinators in 40 social work centers (approximately RSD 4 million by the end of 2008). Coordinators should contribute to a higher awareness of the Roma population on their rights and enable a better access to all public services, in cooperation with schools, health institutes and local self-government bodies.

- In view of health, the *Poverty Reduction Strategy* identifies health care of the most vulnerable groups of population, including Roma, as one of its priorities. The objectives of the Strategy include equal access to health care, decreased inequality in terms of accessibility and the provision of financially accessible services. The Second Progress Report on the Implementation of the Poverty Reduction Strategy underlines the indicators of the Roma population health care and provides recommendations for the promotion of the health of Roma. The *Strategy for the Promotion of the Health of Youth* and the *Strategy for Combating HIV* envisage specific interventions to promote the health status of the Roma population. There is a number of ongoing initiatives aiming at promoting the health status of Roma, for example the project entitled "Implementation of the Plan on the Health Care of Roma", implemented within the Program of Promoting Health of Specific Groups of Population. The project has been implemented as of 2006 by the Ministry of Health, health care centers, health care institutes and public health institutes in cooperation with the Roma non-government organizations. The program includes: the engagement of 45 Roma health care mediators; an analysis and improvement of the hygienic and epidemiologic conditions in Roma settlements; the implementation of projects promoting the health status of Roma (cooperation of health care institutions and Roma associations); the implementation of projects of training and protection of the health of secondary raw material gatherers; the establishment of a system for project monitoring and evaluation; capacity building in health care institutes and NGOs to develop, monitor and evaluate projects; support for the project for collecting the data required to issue health documents; support for the project of promoting the status of nutrition of babies and infants, in cooperation with the UNICEF and the World Health Organization. The goals of the projects are to improve the health status and living conditions, improve access and the rate of health care beneficiaries, raise awareness and knowledge of the rights in the field of health care and health insurance and adopt a healthy lifestyle among the Roma population. Sixty four projects were implemented in 2006 covering 6,628 Roma, while thirty nine projects were implemented in 2007 covering approximately 10,000 Roma.

77. The data collected during the development of the *National Plan of Action for the Promotion of the Position of Women in the Republic of Serbia* indicate multiple types of discrimination against the Roma women. There are no Roma women holding decision-making positions either in the public or private sector. Property registered to Roma women account for less than 0.2% of the total property owned by families. Jobs that Roma women perform are among the most difficult and least paid jobs. Women account for approximately 70% of the illiterate Roma population. There are approximately 65% of women among the unemployed and among individuals seeking a job for longer than two years. Over 70% of these women are Roma women, internally displaced persons, refugees from former Yugoslavia and returnees according to the readmission agreement and/or women from the most vulnerable categories of the population. The *National Strategy for the Promotion of the Position of Women and the Promotion of Gender Equality* envisages a set of measures relating to the promotion of the position of Roma women, in terms of increasing their involvement in decision-making processes, promoting their economic status, access to education and health care, prevention of violence against Roma Women, as well as combating stereotypes.

78. The non-government organization Roma Women's Center *Bibija* has launched the promotion of the rights of Roma women by organizing seminars for women and

girls in Roma communities on the issues of female identity, attitudes towards tradition, sexuality, smoking, abuse of alcohol and drugs, nourishment, etc. A set of round tables were organized on the human rights of Roma women, as well as their participation in elections. Non-government organizations dealing with similar activities have established the Informal Women's Network.

79. The project of the Ministry of Culture of the Republic of Serbia entitled *Affirmation of Contemporary Production in the Field of Visual Arts of Roma* has been implemented in cooperation with the non-government organization *Anonymous said* of Belgrade. The aim of the project is to position the contemporary production of Roma in relation to the contemporary artistic production in Serbia and Europe, by altering the already set hierarchical matrix of the organization itself, working jointly on the implementation of projects (preparation, workshops, classes, exhibition) and participation of artists from Serbia and abroad with 51% of participants from the Roma national minority. The objectives of the projects are: the affirmation of the contemporary visual creativity of the Roma national minority, training in the field of contemporary visual arts, professional training in the field of production, organization of marketing and PR activities relating to the organization of visual manifestations, organization of an international visual manifestation and involvement in the work of national cultural institutions. In order to advance the position of Roma in the field of information, the Ministry of Culture – the Media Department has been co-financing a bulleting in the Roma language. The Ministry of culture has allocated RSD 8,000,000.00 on account of the Decade of Roma from its budget in 2009. A part of this amount shall be disbursed for projects/programs in the Roma language in a competition for information dissemination in the minority languages. The Ministry of Culture implemented the projects of training and engaging Roma media representatives at the end of 2008 and at the beginning of 2009, in cooperation with the Ministry of Human and Minority Rights and the National Council of the Roma National Minority. Their role is to raise awareness of Roma, in particular outside of the capital, on the significance and opportunities provided by the Decade of Roma. The aim of the project is also to raise awareness of the Serbian public on the issues relating to the position of the Roma population and the problems Roma face in all segments of daily life. The Ministry of Culture earmarked RSD 1,000,000.00 for these purposes.

80. Substantial resources are allocated on account of the promotion of the position of Roma from the budget of the Republic of Serbia. The Ministry of Labor and Social Policy earmarked RSD 150 million in 2008, the Ministry of Health earmarked RSD 138 million in the period between 2006 to the beginning of 2009, and the Commissariat for Refugees earmarked as much as RSD 330 million in 2008 and 2009. The Republic of Serbia has allocated RSD 1 billion and two hundred million in the 2009 on account of the promotion of the position of Roma in the fields of health, education, employment and social status. Furthermore, AP Vojvodina and local self-government also disburse funds on account of Roma issues.

81. Measures undertaken in AP Vojvodina to prevent the discrimination of Roma are:

- In view of education, students of Roma nationality were enrolled in secondary schools by means of affirmative measures in cooperation with the National Council of the Roma National Minority, the Council for the Integration of Roma, Matica Romska and the Roma student organizations. 156 students of Roma nationality in total were

enrolled in secondary schools in Vojvodina in 2007, while 27 students were enrolled in schools and faculties. 220 students entered secondary schools and 94 students entered colleges and faculties in 2008. Accommodation was provided for a number of pupils and students.

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

- In view of housing, the Roma settlement in the Municipality of Kula was dislocated by purchasing houses in Sivac. Namely, the Assembly of the Municipality of Kula, the Executive Council of Vojvodina and the SPOLU Dutch Foundation purchased rural households in the populated area for all Roma families from this settlement. At the request of the Office for the Inclusion of Roma to provide resources for resolving the issue of infrastructure in Roma settlements in more than 20 municipalities of AP Vojvodina, the Steering Committee of the Funds for Capital Investments approved of RSD 300,000,000.00, which has been the largest and most significant investment for the Roma population.

82. In the period between 1990 and 2008, there were 153 Roma associations registered in AP Vojvodina, with as few as 10 associations registered prior to 2000. Active associations (52 of 153) have thus far implemented 147 projects, with 28 ongoing projects. The majority of associations have been implementing projects in the field of education aiming to: conduct classes in the Roma language with elements of national culture in primary schools, include children in pre-school institutions, provide additional classes, purchase school accessories, spread literacy, conduct adult education, etc. In the field of employment, projects are largely targeted at empowering the members of the Roma population for active job-seeking and self-employment through institutional programs, as well as for professional training for deficient professions. In the field of housing, projects have been implemented to resolve housing issues of the Roma by repairing the houses and landscaping Roma settlements. In the field of healthcare, projects dealt primarily with the training on diverse health topics, and were implemented by health care institutes in cooperation with Roma associations. Projects for the promotion of the position of women: a hot-line was established in the languages of national minorities including the Roma language, for women victims of violence and legal and psychological assistance was organized for the victims of violence; young Roma women were educated about human rights, the significance of voting in elections, etc.

83. The donor conference on the promotion of the position of Roma in AP Vojvodina was held on February 14, 2009 in Novi Sad. The project was implemented by the Provincial Secretariat for Regulations, Administration and National Minorities and was coordinated by the Office for the Inclusion of Roma and the Matica Romska. The Conference was attended by representatives of the embassies of the Federal Republic of Germany, the Republic of Hungary, Finland, the Republic of Italy, representatives of international organizations – UNHCR, UNDP, OSCE, UNICEF, representatives of Roma non-government organizations and local self-governments. The conference presented five projects in the field of insurance, six projects in the field of self-employment, three projects in the field of housing, two projects in the field of health, two projects in the field of community development and one project in the field of sports.

84. The Secretariat for Education of the AP Vojvodina implements the four-year project entitled the *Inclusion of Roma Students in Secondary Schools on the Territory of AP Vojvodina*. The project is supported financially by the Roma Education Fund and the project partners are the Council for the Integration of Roma and the Association of Roma Students. The project ensures material and mentor support for students of regular secondary schools in the period 2007-2011. The project shall include 855 students in total as direct beneficiaries, while indirect beneficiaries shall include their parents, Roma families, the Roma community and the local and wider social community. The goal of the project is to increase the number of Roma students enrolled in and completing secondary schooling, improve their overall secondary school achievements by way of a mentor support system, as well as continued scholarships for students.

85. The analysis of results after the first project year indicated that the percentage of Roma student drop-outs was 7.32% and/or was lower than the rate envisaged in the project (10%). The rate was lower than in the three preceding school years, when the drop-out rate among these students was 26%. The analysis of the overall achievements of the students indicated that 44 students achieved excellent grades and accounted for 12.39%, with nine students scoring a 5.00 average. As many as 167 students achieved excellent or very good grades, amounting to 47.07% of all scholarship recipients, which is commendable. As compared to the start of the school year, the decline in general grades is minimal and amounts to 1.12% (relative to the 171 students - 48.16%, that have completed the previous year with excellent or very good grades). Students of the final, fourth grade have retained their grade level, students of the second and third grade have improved their grades by 3.38% (of the 85 students – 23.94% had excellent or very good grades at the beginning of the school year, with 97 students – 27.32% at the end of the school year). Only the first grade students had a slight decline in their general grades by 4.51%, meaning that of the 68 students (19.15%) 52 of them (14.64%) kept their excellent or very good grades, which is likewise commendable, especially in view of the fact that the transition from the primary to secondary school is frequently followed by a large decline in general grade levels.

86. The total number of Roma high school students increased by 103% in the second project year (from 298 to 606 students). The number of first-grade Roma students increased by 98.34% (from 121 to 240). The number of Roma students continuing vocational education in colleges or faculties also increased by 171.87% (from 31 to 87 students).

87. An overview of the number of Roma students in AP Vojvodina in 2004-2009 at all education levels is given in the following table:

	2004/05	2005/06	2006/07	2007/08	2008/09
Pre-school Programs	Data Not Available	Data Not Available	544	820	881
Primary Education	5216	5565	5888	6284	6544
Secondary Education	235	258	292	395	606
Higher Education Schools/Higher Education Schools of Professional Studies	12	12	19 (first year)	10 (first year)	54 (first year)
University education	16	27	12 (first year)	17 (first year)	33 (first year)

TOTAL	5479	5862	6775	7526	8118
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Article 3

88. The Republic of Serbia condemns racial segregation and apartheid. Segregation and apartheid practices and policies are most severely prohibited. The provision of Article 13, paragraph 1, item 4 of the Anti-discrimination Law defines apartheid as a severe form of discrimination. Detailed information on positive norms, as well as measures undertaken by competent bodies to prevent and prosecute discrimination and segregation activities are laid out in the appropriate sections of the report hereof.

Article 4

Criminal-legal Protection against Discrimination and Violence

89. Article 128 of the *Criminal Code*¹⁹ envisages a punishment of three years of imprisonment for any individual who deprives or limits another person's individual or civil rights set forth in the Constitution, laws or other regulations or general instruments and ratified international treaties, or favors these individuals and gives them benefits based on their national or ethnic affiliation, racial or religious affiliation or absence of affiliation, or based on differences in terms of political or other beliefs, sex, language, education, social position, social origin, property status or another personal characteristic. If the act is committed by an official when performing their official duties, the official shall be punished by a term of imprisonment of three months to five years.

90. Pursuant to Article 317 of the Criminal Code, the person that instigates or exacerbates national, racial or religious hatred or intolerance among the peoples and ethnic communities living in Serbia, shall be punished by imprisonment of six months to five years. If the offence specified in paragraph 1 of this Article is committed by coercion, mistreatment, compromising safety, exposure to derision of national, ethnic or religious symbols, damage to goods, desecration of monuments, memorials or graves, the offender shall be punished by imprisonment of one to eight years. Should the offense occur by abuse of official position or authority, or if these offenses result in riots, violence or other grave consequences to the co-existence of peoples, national minorities or ethnic groups living in Serbia, the prescribed punishment is imprisonment of one to eight years and/or imprisonment of two to ten years.

91. The provisions of Article 387 of the *Criminal Code* stipulate that the person who violates fundamental human rights and freedoms guaranteed by universally accepted rules of international law and international treaties on the grounds of race, color, nationality, ethnicity or other personal characteristic shall be punished by imprisonment of six months to five years. The penalty specified in paragraph 1 of this Article shall be imposed on whoever persecutes organizations or individuals due to their commitment to the equality of people. Whoever propagates ideas of superiority of one race over another or propagates racial intolerance or instigates racial discrimination shall be punished by imprisonment of three months to three years.

¹⁹ Official Gazette of the Republic of Serbia, No. 85/2005, 88/2005 and 17/2005

92. In the period from 1992 through 2008, the Ministry of Internal Affairs of the Republic of Serbia filed indictments against 572 individuals for having committed 366 criminal offenses of discrimination. The majority of the criminal offenses was reported in 2008 – 62, followed by 2005 – 54, 2007 – 52, 2006 – 49, 2004 – 34, 2002 – 18, 2003 – 14, 1999 and 2001 – 13, 2000 – 12, 1992 – 9, 1993 – 8, 1995 and 1998 – 7, 1996 and 1997 – 5 and 1994 – 4 criminal offenses.

93. The majority of the criminal offenses reported include criminal offenses identified under Article 317 of the *Criminal Code* – incitement of national, racial and religious hatred and intolerance – 268 and/or 73.2% of the total number of criminal offenses incriminating any form of discrimination. These are followed by the criminal offenses identified under Article 131 of the *Criminal Code* – infringement of the freedom of religion and religious ceremonies – 70; criminal offences identified under Article 129 of the *Criminal Code* – infringement of the right to language and script – 20; criminal offences identified under Article 174 of the *Criminal Code* – public ridicule of a nation, national and ethnic groups – 5; criminal offences identified under Article 387 of the *Criminal Code* – racial and other discrimination – 2 and one criminal offence identified under Article 128 of the *Criminal Code* - violation of equality. Indictments were raised against 572 individuals on account of the said criminal offences, 378 of which were indicted for having committed the offence of inciting national, racial and religious hatred and intolerance.

94. The number of indictments on account of the criminal offences of discrimination increased after 2004, after the Ministry of Internal Affairs instructed all regional police administrations to file indictments in all cases of even the smallest indications of offences motivated by national, racial or religious hatred (even when committed by *NN* persons), in order to step up the security protection of minority groups and religious facilities. In all cases of incidents motivated by ethnic affiliation of the plaintiff, priority measures are undertaken to resolve the case as urgently and comprehensively as possible, according to the specific plan compiled for each individual case. Its realization involves the joint participation of the members of criminal police and police in uniform. This means that police officers, in the course of the pre-criminal procedure and per instructions of the public prosecutors and with the enforcement of police authorities, undertake measures to resolve incidents, find, bring in and report suspects to the competent prosecutor's office.

95. The statistical data on the reported, indicted and convicted adults in the Republic of Serbia in the period 2004 – 2008 for the following criminal offences is given in the table below:

- Violation of equality

	2004	2005	2006	2007	2008
Petitions	14	7	12	5	6
Indictment	-	3	-	1	12
Convictions	-	-	-	1	-

- Violation of the right to use language and script

	2004	2005	2006	2007	2008
Petitions	-	-	1	1	1
Indictment	-	2	4	-	-
Convictions	-	-	-	-	-

- Violation of the freedom to express national or ethnic affiliation

	2004	2005	2006	2007	2008
Petitions	-	-	1	3	2
Indictment	-	-	1	-	1
Convictions	-	-	1	-	1

- Violation of the freedom of confession and religious ceremony

	2004	2005	2006	2007	2008
Petitions	3	2	-	16	15
Indictment	2	1	1	2	1
Convictions	2	1	-	-	-

- Incitement of national, racial and religious hatred and intolerance

	2004	2005	2006	2007	2008
Petitions	23	73	84	80	82
Indictment	1	2	6	8	26
Convictions	1	1	6	6	16

- Racial and other discrimination

	2004	2005	2006	2007	2008
Petitions	-	-	-	15	4
Indictment	-	-	-	-	-
Convictions	-	-	-	-	-

Prohibition of Organizations and Activities Inciting Racial Discrimination

96. Article 5, paragraph 3 of the *Constitution of the Republic of Serbia* prohibits activities of political parties aiming at the forced overthrow of the constitutional system, the violation of guaranteed human or minority rights and inciting racial, national or religious hatred. Article 55, paragraph 4 stipulates that the Constitutional Court may ban only those associations whose activities are aimed at the violent overthrow of the constitutional order, violation of guaranteed human or minority rights, or inciting of racial, national and religious hatred. The Constitutional Court shall decide on the prohibition of the work of a political party, labor organization, citizen association or religious community at the motion of the Government of the Republic of Serbia, the republic public prosecutor or the body competent to maintain the registry of political parties, labor organizations, citizen associations or religious communities (Article 80, paragraph 1 of the *Law on the Constitutional Court*²⁰).

97. The *Law on the Association of Citizens*²¹ (Articles 9 and 10) envisages that the competent body shall temporarily ban the organization of a public gathering aiming to violently overthrow the Constitutional order, impair the territorial integrity and independence of the Republic of Serbia, infringe the Constitution-guaranteed individual and citizen freedoms and rights, incite and instigate national, racial and

²⁰ Official Gazette of the Republic of Serbia, No. 109/2007

²¹ Official Gazette of the Republic of Serbia, No. 51/1992, 53/1993, 67/1993, 48/1994, 12/1997, 21/2001 and 101/2005

religious intolerance and hatred. The District Court shall decide on the temporary ban or a ban of a public gathering.

98. Pursuant to the provision of the Article 37, paragraph 2 of the *Law on Political Parties*²², the work of the political party whose activities are not in compliance with Article 4, paragraph 2 of the Law thereof, or who enter wider political alliances in the country or abroad and/or join a political party whose activities are not in compliance with Article 4, paragraph 2 of the Law thereof, shall be banned. The provision of Article 4, paragraph 2 of the Law thereof stipulates that the activities of a political party may not aim at the forced overthrow of the constitutional order and impair the territorial integrity of the Republic of Serbia, infringe the guaranteed human or minority rights or incite and instigate racial, national or religious hatred. The Constitutional Court shall decide on the prohibition of the work of a political party (Article 37, paragraph 1), and the procedure for prohibiting the work of a political party shall be instituted at the motion of the Government, the Republic Public Prosecutor and the ministry in charge of administration issues (Article 38, paragraph 1).

99. Article 2 of the *Law on the Association of Citizens in Associations, Social Organizations and Political Organizations Founded on the Territory of the SFRY*²³, which was revoked only in relation to the provisions on political parties when the Law on Political Parties came into force in 2009, stipulates that organizations may not be established whose program or statutory objectives are aimed at the violent overthrow of the Constitutional order, impairing territorial integrity and independence of the country, infringement of the Constitutionally guaranteed individual and citizen freedoms and rights, incitement of national, racial and religious hatred and intolerance. The provision of Article 20, paragraph 1 of the Law thereof stipulates that the work of an organization or its internal organizational sectors shall be banned if their activities aim at achieving objectives set in Article 2 of the Law thereof, if they conduct activities in a manner which is not in compliance with law and objectives for which the organization was founded, or if the organization enters an international organization or an association whose work includes some of the activities set in Article 2 of the Law thereof. The decision on the prohibition of the work of an organization shall be adopted by the Minister in charge of the administration issues (Article 20, paragraph 2 of the Law).

100. No political organization, citizen association or social organization was banned from their activities by the decision of the Constitutional Court in the reporting period.

101. The legal framework relevant to the establishment and operations of a citizen association is regulated by: *Law on Social Organizations and Citizen Associations*²⁴ adopted in 1982, with amendments and additions adopted by 2005 and the *Law on the Association of Citizens in Associations, Social Organizations and Political Organizations Established at the Territory of the SFRY* adopted in 1990, with the

²² Official Gazette of the Republic of Serbia, No. 51/1992, 53/1993, 67/1993, 48/1994, 12/1997, 21/2001 and 101/2005

²³ Official Journal of SFRY, No. 42/1990 and Official Journal of SRY, No. 16/1993, 31/1993, 41/1993, 50/1993, 24/1994, 28/1996, 73/2000

²⁴ Official Gazette of the Social Republic of Serbia, No. 24/1982, 39/1983, 17/1984, 50/1984, 45/1985 and 12/1989 and the Official Gazette of the Republic of Serbia, No. 53/1993, 67/1993, 48/1994 and 101/2005

latest amendment enacted in 2000. Since the said laws originate from the period of the Socialist Republic of Serbia and the Socialist Federative Republic of Yugoslavia, there are certain issues with the disharmony with the provisions set in the Constitution of the Republic of Serbia and the Law on the Constitutional Court, which proscribe that the Constitutional Court shall decide on the prohibition of the work of a political party and an association based on the motion of the Government, Republic Public Prosecutor or a body competent for entering into the relevant registry. When the Constitutional Court prohibits the work of a political party, the political party is deleted from the registry on the day of the submission of the decision of the Constitutional Court.

102. Article 8, paragraph 2, item 3 of the *Law on Broadcasting* shall authorize the Broadcasting Agency to undertake measures in the field of broadcasting to prevent the broadcasting of a program containing information inciting discrimination, hatred or violence against individuals or groups of individuals based on their belonging or failure to belong to a specific race, religion, nation, ethnic group or sex. Article 21 of the Law stipulates that the Agency shall ensure that the programs of broadcasters do not contain information inciting discrimination, hatred or violence against individuals or groups of individuals based on different political affiliation or belonging or failure to belong to a specific race, religion, nation, ethnic group, sex or based on sexual orientation. If the broadcaster acts contrary to the ban, the Agency shall issue measures stipulated by Law, irrespective of the legal means at the disposal of the damaged party.

103. The provision of Article 38 of the *Law on Public Information* prohibits the publishing of ideas, information and opinions inciting discrimination, hatred or violence against individuals or groups of individual based on their belonging or failure to belong to a race, religion, nation, ethnic group, sex or based on their sexual orientation, irrespective of whether the publishing implied the committal of a criminal offence (hate speech). The appeal to the competent court against the author of the information and against the responsible editor of the media in which the information was published, which represents the infringement of the prohibition of hate speech, may be filed by: the individual that the information refers to, who may request the prohibition of the repeated publishing of the information and the proclamation of the court decision at the expense of the defendants; a legal person who aims to protect the individual and citizen freedoms and rights, as well as an organization that aims to protect the interest of groups mentioned in Article 38 of the Law thereof (Article 39).

Cooperation with the International Criminal Tribunal for the former Yugoslavia

104. The cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) is conducted based on the *Law on the Cooperation with the International Tribunal for the Prosecution of Persons Responsible for Severe Violations of International Humanitarian Law Committed on the Territory of the Former Yugoslavia since 1991*²⁵. The Republic of Serbia thus accepted the competency of the international court for the prosecution of the offences of genocide and crimes against humanity, including persecution based on political, racial or religious grounds.

²⁵ Official Journal of the Federal Republic of Yugoslavia, No. 18/02 and the Official Journal of Serbia and Montenegro, No. 16/03

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

106. The cooperation is established by: submitting documentation to the Tribunal; relieving persons of the obligation to keep secrets to be able to testify in the proceedings held before the Tribunal, submitting summons and other writ to persons in the territory of the Republic of Serbia, providing protection to witnesses and members of their families, control over the defendants who are temporarily set free and are resident in the territory of Serbia, correspondence and direct contact with the Prosecutor's Office, the Secretariat and the Chair of the Tribunal, including all required technical assistance; providing support and cooperation in searching for defendants at large and their transfer to the Tribunal; other forms of cooperation, such as direct cooperation between the Prosecutor's Office for War Crimes and the ICTY Prosecutor's Office by exchanging the data contained in the electronic databases of these institutions and other activities.

107. So far twelve defendants indicted before the ICTY have been arrested in the Republic of Serbia. In view of the cooperation of national security agencies with foreign agencies, four defendants have been arrested in Argentina, Russia, Bosnia and Herzegovina and Montenegro. Twenty seven defendants have turned themselves in on a voluntary basis. One defendant committed suicide in Belgrade. Two defendants are still at large. It should be underlined that, out of the 46 defendants indicted before the ICTY, the Republic of Serbia has handed over 43 defendants to the Tribunal, including the persons who performed the duty of the President of the Federal Republic of Yugoslavia, the President of the Republic of Serbia, the Deputy Prime Minister of the Federal Government, the Deputy Prime Minister of the Government of the Republic of Serbia, three former Heads of the General Staff of the Yugoslav Army, the Head of the National Security Council, as well as a number of army and police generals.

108. In order to track down and arrest the fugitives, the Law on Freezing the Assets of the Fugitive Defendants Indicted before the ICTY as of 2006 is enforced, as well as the Law on Amendments and Additions to the Law on the Organization and Competencies of State Bodies in Proceedings for War Crimes as of 2007, which transfers the competency in the proceedings against persons accused of having participated in helping to hide persons indicted before the ICTY to the institutions specialized to investigate war crimes (the Service for Disclosing War Crimes of the Ministry of Internal Affairs of the Republic of Serbia, the Prosecutor's Office for War Crimes of the Republic of Serbia and the War Crimes Council of the District Court of Belgrade). In this sense, the competent judicial bodies of the Republic of Serbia are running the proceedings against the persons accused of having helped to hide two defendants.

109. From the period when cooperation was established between the Republic of Serbia and the ICTY, the Republic of Serbia has received more than 1800 requests for assistance from the ICTY Prosecutor's Office. The subject of the requests was to submit documents necessary for the ICTY Prosecutor's Office to prepare for the proceedings maintained before the Tribunal, as well as the insight into the archives of the state bodies of the Republic of Serbia, as well as to relieve witnesses from the obligation to preserve secrets. The Republic of Serbia responded fully to almost all the requests, and only the most recent requests are still in the process of realization.

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

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

The War Crimes Panel of the District Court of Belgrade

112. The War Crimes Panel was established as a special department of the District Court of Belgrade in October 2003, after the Law on the Organization and Competencies of State Bodies in the Proceedings against War Crimes Perpetrators was enacted in July 2003. The law is enforced to disclose and prosecute the perpetrators of crimes against humanity and international law, as well as to disclose and prosecute the perpetrators of crimes stipulated by Article 5 of the Statute of the International Criminal Tribunal for former Yugoslavia. The amendments and additions to the Law on the Organization and Competencies of State Bodies in the War Crimes Proceedings as of November 2007, *inter alia*, expanded the competencies of the War Crimes Prosecutor's Office of the Republic of Serbia and the War Crimes Panel of the District Court of Belgrade to the perpetrators of the criminal offence of providing help to the perpetrators after the committed criminal offence, in case of the criminal offences stipulated in Articles 370 to 386 of the Criminal Code, as well as the severe violations of international humanitarian law committed on the territory of the former Yugoslavia since January 1, 1991, as envisaged by the Statute of the ICTY.

113. The War Crimes Panel reached four verdicts which became effective and which convicted six persons to a total of 73 years in prison. First instance verdicts were made in five cases for 22 persons (10 persons were acquitted), and the total number of years in prison per first instance verdicts is 297. Including the verdicts in the Sjeverin cases (five persons sentenced to 95 years in prison in total), the total number of verdicts is 11 and/or 465 years in prison for 33 persons. The main hearings are under way for 9 cases before the War Crimes Panel. There are a total of 62 cases instituted

against 291 persons, 32 cases against 132 persons being in the hearing stage. The total number of processed persons is 362 and/or 69 convicted persons in total. The total number of victims is 2216.

Article 5

Right to Equal Treatment in Court and Other Court Bodies

114. Article 32 of the *Constitution of the Republic of Serbia* stipulates the right to a fair trial. Everyone shall have the right to a public hearing before an independent and impartial tribunal established by the law within reasonable time which shall publicly discuss and declare judgment on their rights and obligations, grounds for suspicion resulting in the initiated procedure and accusations brought against them. Everyone shall be guaranteed the right to free assistance of an interpreter if the person does not speak or understand the language officially used in the court and the right to free assistance of an interpreter if the person is blind, deaf, or mute. Article 67 of the Constitution guarantees the right of legal assistance for everyone under the conditions set forth by law. Legal assistance shall be provided by legal professionals, as an independent and autonomous service, and legal assistance offices established in the units of local self-government in accordance with the law. The law shall stipulate conditions for providing free legal assistance. Article 199 of the Constitution stipulates that everyone shall have the right to use their language in the proceedings before the court, other state body or organization exercising public authority, when their right or duty is decided upon. The unfamiliarity with the language of the proceedings may not be an impediment for the exercise and protection of human and minority rights.

115. Article 9 of the *Criminal Procedure Code* stipulates that the criminal proceedings shall be conducted in the language which is in official use in the court. The parties, witnesses and other persons participating in the proceedings shall have the right to use their own language in the proceedings. If the proceeding is not conducted in the language of the person, interpretation shall be provided for anything that the person may state, or anyone else might state, as well as the translation of personal documents and other written evidence. The person shall be advised of their rights regarding translation/interpretation, and the person may waive that right if the person speaks the language of the proceedings. The records shall note that the advice has been given, as well as the statement of the participant. The interpretation/translation shall be entrusted to a Court Interpreter. Article 10 stipulates that the court shall send summons, decisions and other briefs in the Serbian language. If the language of the national minority is in official use in the court, the court shall send court briefs in that language to the persons who are members of the national minority and which they spoke during the proceedings. The persons may require that briefs be sent in the language in which the proceedings are conducted. The defendant who is held in custody, serving a sentence or being detained for safety reasons in a health institution shall be submitted the translation of the brief in the language the person speaks in the proceedings.

116. Article 2 of the *Law on Litigation*²⁶ stipulates that the parties have the right to legal, equal and equitable protection of their rights. Article 6 of the Law stipulates that the litigation shall be conducted in the Ekavian dialect of the Serbian language and the

²⁶ Official Gazette of the Republic of Serbia, No. 125/04

Cyrillic script, while the Latin script shall be used in compliance with the Constitution and law. In areas in which the language of a national minority is in official use in compliance with law, the proceedings shall be conducted both in the language and in the script of the national minority. The parties and other participants in the proceedings shall have the right to use their language and script, in compliance with the provisions of the Law thereof. Article 96 stipulates that the parties and other participants to the procedure shall have the right to use their language at the hearing and during oral procedural activities. If the proceedings are not conducted in the language of the party and/or other participants in the proceedings, at their request they shall be provided interpretation into their language of everything stated during the hearing, as well as the oral translation of personal documents used at the hearing as verification. The parties and other participants in the proceedings shall be informed on their right to follow the oral procedure before the court in their own language by means of interpretation. The records shall note that the advice has been given, as well as the statement of the parties and/or participants. The interpretation/translation shall be entrusted to a Court Interpreter. The court shall send summons, decisions and other briefs in the Serbian language. If the language of a national minority is also in official use in the court, the court shall send court briefs in that language to the persons and participants in the proceedings who are members of the national minority and who speak that language during the proceedings. The parties and other participants in the proceedings shall file the charges, appeals and other petitions in the language which is in official use in the court. The parties and other participants in the proceedings may also submit to the court their petitions in a language of national minorities which is not in official use in the court if stipulated by law. The expenses of translation to the language of a national minority, incurred due to the enforcement of the provisions of the Constitution and the law hereof on the rights of the members of national minorities to using their language, shall be paid by court resources. Article 361 stipulates the right to appeal for serious violations of the litigation procedure. Paragraph 8 of the Article thereof stipulates that there is a serious violation of the Law on Litigation whenever the court refuses the request of the party to freely use their language and script contrary to the provisions of the law.

117. Article 23, paragraph 1 of the *Law on the Protection of the Rights and Freedoms of National Minorities* envisages that, in order to protect their rights, members of national minorities and national councils of national minorities as their representatives, may file a petition for compensation to the competent court. Pursuant to the provision of Article 83, paragraph 1 of the *Law on the Constitutional Court*, a constitutional appeal may be filed by any individual who believes that their human or minority right and freedom guaranteed by the Constitution has been infringed upon or deprived by an individual act or activity of a state body or an organization endowed with public authority. The constitutional appeal on behalf of the individual defined in paragraph 1 of the Article thereof, based on their written authorization, may be filed by another natural person and/or a state or another body competent to monitor and exercise human and minority rights and freedoms.

Right to the Security of Persons, Protection against Violence and Abuse

118. The *Constitution of the Republic of Serbia* stipulates that human dignity is inviolable and that everyone shall be obliged to respect and protect it. Everyone shall have the right to free development of their personality if this does not violate the rights of others guaranteed by the Constitution. Article 24 of the *Constitution*

stipulates that human life is inviolable. Furthermore, the Constitution guarantees the protection of physical and mental integrity as inviolable. Nobody may be subjected to torture, inhuman or degrading treatment or punishment, nor subjected to medical and other experiments without their free consent.

119. Article 137 of the *Criminal Code* defines the criminal offence of ill-treatment and torture. The criminal offence in its basic form envisages the ill-treatment of another or treating such person in a humiliating and degrading manner, envisaging a punishment of imprisonment up to one year. For a more severe form of the criminal offence – coercion, threat or any other illegal conduct, causing pain or anguish to another with the aim to obtain a confession, statement or information from them or another person, or to intimidate them or a third party or to exert illegal punishment, or if done from motives based on any form of discrimination – the punishment of imprisonment is envisaged from six months to five years. The subject of committing such a criminal offence is defined more broadly, wherefore paragraph 3 stipulates that if the offence specified in paragraphs 1 and 2 of this Article is committed by an official while performing their duty, such person shall be punished for a basic offence by imprisonment from three months to three years, and for the more severe offence by imprisonment of one to eight years. Article 136 of the *Criminal Code* defines the criminal offence of the extortion of confession. The article stipulates that an official using force or threat or other inadmissible means or inadmissible manner with the intent to extort a confession or another statement from a defendant, a witness, an expert witness or other person, shall be punished with imprisonment of three months to five years.

120. The *Police Ethics Code* stipulates that no employee of the Ministry of Internal Affairs may order, execute, incite or tolerate torture or any other cruel or inhumane treatment degrading the dignity of a person, or any other action which may jeopardize the right to life, freedom, personal security, respect for private and family life, assembly or association or any other right of freedom guaranteed by the European Convention on Human Rights. Any member of the Ministry present in the committal of a forbidden activity shall report such a case to their superior and the bodies of internal and external civilian supervision over the work of the Ministry. As of the day when it came into force in October 2006, the instructions have been an integral part of the professional advancement program for the members of the Ministry of Internal Affairs.

121. The control over the work of the police in the Republic of Serbia is regulated by Articles 170 – 181 of the *Law on Police*, both as external and internal control. The Department of Internal Control of the Police is mandated to control the legality of the work of the police, in particular with regard to respecting and protecting human rights when executing police tasks and enforcing police competencies. The department also implements the provisions of international conventions ratified by our country, relating to the issue of human rights.

122. The Department of Internal Control of the Police acts based on the proposals, complaints and petitions of natural persons and legal entities relating to the written notifications by members of the police and at their own initiative and/or based on the collected notices and other information relating to the work and treatment of the police officers when enforcing their official competencies. In this context, the Department verifies the statements and information speaking in favor of potential

misuse or violations of the competencies of police officers against suspects issued a specific measure of depriving them of freedom and detention.

123. There are other forms of internal control of the police represented in the Ministry of Internal Affairs of the Republic of Serbia, namely: control by means of disciplinary accountability, control as to the use of force (the Rulebook on the Technical Characteristics and Methods of Use of Force was developed, envisaging the creation of the Commission for Examining the Justification for the Use of Force), hierarchy and other types of control. The discovery and reporting of such cases is the obligation and duty of every police official, while representing one of the elements of the management system, implying the permanent monitoring of the behavior of individuals and their work performance, along with the application of prescribed disciplinary measures to those acting in ways detrimental to the reputation of the profession.

124. An important segment of the internal control of the police has been established by regulating the area of complaint resolution procedures, representing a novelty which has altered the practice significantly – the introduction of a component of transparency in controlling the actions of the police. Pursuant to the adopted *Rulebook on the Procedure of Complaint Resolution*, the work of committees and the second instance body deciding on the justifiability of complaints shall involve a representative of the public – local government, professional public, non-government organizations. The Minister of Internal Affairs adopted the decision to establish 27 committees as second instance bodies in the procedure of complaint resolution, which became operational in January 2007. Complaints in the mandate of the Ministry are decided upon by the committee of three members, namely: Head of the Department of Internal Control of the Police or another official from the department authorized by the Head of the department, a representative of the police authorized by the Minister and a representative of the public. The representative of the public is nominated for a four year period, with the possibility of repeated nomination. The Bureau for Complaints and Petitions within the Office of the Minister is competent for ensuring regular and unimpeded work and harmonization of the practice and acting with regard to deciding upon complaints, as well as for eliminating all the obstacles and uncertainties during the relevant work.

125. Article 10, paragraph 1 of the *Family Law*²⁷ prohibits family violence. The provisions of Article 197, paragraph 1 of the Law define family violence as the behavior of one family member that is endangering the physical integrity, mental health or tranquility of another family member. Pursuant to Article 198 of the Family Law, the following measures may be undertaken against a violent family member: issuing the order to move out of the family apartment or house irrespective of the ownership rights and/or lease of the property; issuing the order to move into the family apartment or house, irrespective of the ownership rights and/or lease of the property; the prohibition of approaching a family member closer than a specific distance; the prohibition of access to the environment of the place of residence or the place of work of a family member; the prohibition of further harassment of a family member. As there is a new legal institute within the field of family – legal protection, separate provisions of Articles 283 through 289 of the Family Law envisage the procedure for the enforcement of the measures. The characteristics of the procedure

²⁷ Official Gazette of the Republic of Serbia, No. 18/05

are special urgency, deviation from the disposition principle and that an appeal to the ruling shall not halt its execution.

126. The document entitled *National Millennium Development Goals in the Republic of Serbia* was adopted in 2007. Eight national objectives/tasks were identified for each Millennium Goal, which should be achieved by 2015. Within the Third Millennium Goal relating to the enhancement of gender equality and improvement of the position of women, one of the defined specific objectives is to reduce violence against women and children, with the recommendation that the National Action Plan against Violence be adopted and implemented on a daily basis, as well as to introduce the maintenance of gender-sensitive statistics on violence victims. The *National Strategy for the Prevention and Protection of Children against Violence* was adopted in December 2008, and the development of the relating Action Plan is under way.

127. According to the data contained in the *National Strategy for the Improvement of the Position of Women and the Promotion of Gender Equality* (adopted in 2008), women from marginalized and multiply discriminated groups (Roma women, women with disabilities, refugees and displaced women, war victims, women living in the same-sex community, women with behavioral disorders, women addicted to alcohol, drugs and medicaments, women living with the HIV virus, women with chronic illnesses, migrant women, poor women, girls, elderly women, women from rural regions) are particularly subject to violence.

128. Social exclusion, discrimination, disrespect for human rights, life outside social trends in unhealthy and cramped conditions, poverty and hunger lead to insecurity reflected in Roma families as well. The findings of a pilot survey conducted in the Niš region indicated that more than 47% Roma women were victims of family violence, most often together with their children who were both witnesses and victims. Evidence of violence against children can also be found in the survey on parental habits in Serbia. Almost one third of Roma respondents (30%) thought that corporal punishment was an appropriate means to raise children, as well as 11% of non-Roma respondents. Almost two thirds (64%) of Roma parents responded that they punished their children physically on a daily basis. Adopted legislation, which identifies family violence as a criminal offence, still fails to ensure that social norms and tradition do not prevail in these communities. Prejudice on the Roma and prominent “invisibility” of Roma children are reasons that many children are deprived of the necessary support, care and protection they need.

Human Trafficking

129. Pursuant to Article 388 of the Criminal Code, whoever by force or threat, deception or maintaining deception, abuse of authority, trust, dependency relationship, difficult circumstances of another, retaining identity papers or by giving or accepting money or other benefit, abuses, recruits, transports, transfers, sells, buys, acts as intermediary in sale, hides or holds another person with intent to exploit such persons for labor, forced labor, commission of offences, prostitution or other forms of sexual exploitation, mendacity, pornography, slavery or similar relationships, removal of organs or body parts or service in armed conflicts, shall be punished by imprisonment of two to ten years. When the offence specified in paragraph 1 of this Article is committed against a minor, the offender shall be punished by the penalty prescribed for that offence even if there was no use of force, threat or any of the other mentioned methods of perpetration. If the offence specified in paragraph 1 of this Article is

committed against a minor, the offender shall be punished by imprisonment of minimum three years. If the offence specified in paragraphs 1 and 3 of this Article resulted in grave bodily injury of a person, the offender shall be punished by imprisonment of three to fifteen years. If the offence specified in paragraphs 1 and 3 of this Article resulted in the death of one or more persons, the offender shall be punished by imprisonment of minimum ten years. Whoever engages in offences specified in paragraphs 1 and 3 of this Article or if the offence is committed by an organized group, shall be punished by imprisonment of minimum five years.

130. The provision of Article 241, paragraph 6 of the *Law on Healthcare* stipulates that foreign nationals who are victims of trafficking shall be provided healthcare from the budget of the Republic of Serbia.

131. The Government of Serbia adopted the *Anti-trafficking Strategy* in December 2006. The strategic goals of the Republic of Serbia in anti-trafficking are grouped in five areas: institutional framework, prevention, assistance, protection and reintegration of victims, international cooperation and monitoring and evaluation of results.

132. The Section for Combating Human Trafficking is operational in the Ministry of Internal Affairs, within the Criminal Police Administration of the Department for Combating Organized Crime. The Section for Combating Illegal Migrations and Human Trafficking within the Unit for Combating Cross-Border Crime and Criminal-Informative Tasks is operational within the Border Police Administration. Furthermore, special police teams for combating human trafficking have been established within police administrations, regional centers next to the bordering countries and at the Belgrade Airport.

133. The Anti-Trafficking Council of the Government of the Republic of Serbia was constituted in December 2005, as the expert and advisory body of the Government of the Republic of Serbia in this field. The Council was established to coordinate national and regional activities for combating human trafficking, analyze the reports of the relevant bodies of the international community on human trafficking, as well as to declare views and put forward measures for the enforcement of recommendations given by international anti-trafficking bodies.

Political Rights

The Right to Vote and Run for Candidacy

134. The *Law on the Election of Representatives* stipulates that the right to vote and run for candidacy shall be vested in the citizen with residence in the Republic of Serbia, who holds a citizenship of the Republic of Serbia, has turned 18 years of age and is able-bodied (Article 10). The same provision is set forth in the *Law on Local Elections*, yet both the voter and the candidate shall have residence on the territory of the local government constituency where the right to vote is exercised (Article 7).

135. Article 2 of the *Law on the Election of the President of the Republic*²⁸ stipulates that the right to elect the President of the Republic shall be vested in every able-bodied citizen of the Republic of Serbia that has come of age. The provision of Article 3, paragraph 1 of the Law stipulates that the citizen of the Republic of Serbia who has turned 18, who is able-bodied and has had residence on the territory of the Republic

²⁸ Official Gazette of the Republic of Serbia, No. 111/07

of Serbia for at least one year can be nominated to run for the President of the Republic.

136. The voters who are not able to vote at their polling station (blind persons, persons with disabilities or illiterate persons) have the right to bring a person who shall vote in their place and in the manner prescribed (Article 72 of the Law on the Elections of Representatives). Article 72 provides for voting at home, in the procedure prescribed by Law, in case of voters who are not able to vote in the polling station (infirm or prevented person), if the person notifies the polling board on their intention to vote by 11 AM on the day of voting.

137. Chapter Fifteen of the Criminal Code stipulates the criminal offences against electoral rights. Articles 154 to 162 stipulate the punishment of imprisonment from three months to five years for violations of the right to run for election, the right of suffrage, giving or taking bribes with regard to voting, abuse of the right to vote, compiling inaccurate voters registers, prevention of voting, violation of the secrecy of voting, falsification of voting results and destroying of documentation on voting.

Electorate Right

138. Article 52 of the *Constitution of the Republic of Serbia* guarantees the electorate right. Every able-bodied citizen of age of the Republic of Serbia shall have the right to vote and be elected. Suffrage shall be universal and equal for all, the elections shall be free and direct and voting shall be carried out by secret ballot in person. Election right shall be protected by law and in accordance with the law. Article 100 of the Constitution of the Republic of Serbia stipulates that the National Assembly shall consist of 250 deputies, who are elected in direct elections by secret ballot, in accordance with the Law. Equality and representation of different genders and members of national minorities shall be provided in the National Assembly, in accordance with law.

139. Article 9 of the *Law on the Election of Deputies* regulating the election of deputies of the National Assembly of the Republic of Serbia stipulates that the electorate right includes the right of citizens to vote and be elected; to candidate and run for candidacy; to decide on the proposed candidates and electorate lists; to ask the candidates questions in public; to be informed timely, truthfully, fully and impartially on the programs and activities of the actors submitting electorate lists and the candidates on the lists, as well as to exercise other rights stipulated by the Law hereof. The right to vote and be elected as deputy shall be given to every citizen holding residency in the Republic of Serbia and who is the citizen of the Republic of Serbia, who has come of age and has working ability.

140. The Law thereof stipulates that the general supervision over political parties, candidates and public information means during the election activities shall be vested in the supervision committee. The supervision committee shall comprise ten members, half of which shall be nominated by the National Assembly of the Republic of Serbia at the motion of the Government and the other half at the motion of the deputy groups of the National Assembly selected among the reputed public workers, under the condition that they are not members of the bodies of political parties taking part in the elections. If any person who takes part in the election campaign incites violence, national, religious or racial hatred or gender inequality by their behavior, the supervision committee in charge of the election campaign shall without delay initiate

the institution of the proceedings before the competent bodies (Articles 99 and 100 of the Law).

141. The provision of Article 81, paragraph 1 of the *Law on the Election of Deputies* stipulates that the mandates shall be distributed between the electoral lists which have collected at least 5% of votes of the total number of voters who have voted in a constituency. However, the census does not apply to the political parties of national minorities and the coalitions of such political parties and/or the parties whose primary goal is to represent and advocate for the interests of a national minority and to protect and promote the rights of members of a national minority, pursuant to international legal standards. Pursuant to Article 81, paragraph 2 of the Law, political parties of national minorities and the coalitions of such political parties shall participate in the distribution of mandates even when they have collected less than 5% of votes of the total number of voters who have voted. The Republic Electoral Commission shall decide whether the submitter of the electoral list shall have the status of a national minority political party and/or a coalition of such political parties upon announcing the electoral list, at the motion of the submitter of the electoral list which is to be made at the time of submitting the electoral list.

142. Article 40.a of the Law prescribes that the electoral list needs to contain one candidate – member of the sex less represented on the list – per every four candidates in the order as shown on the list (first set of four places, second set of four places, etc. down to the end of the list). The electoral list shall have a minimum sum total of 30% of candidates of the sex less represented.

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

144. The *Law on Local Elections* regulates the election of councilors of local government unit assemblies. The citizens shall elect councilors on the basis of their free universal and equal franchise. The citizens shall exercise this right in person and through secret ballot. No one has the right, on any reason whatsoever, to prevent or force a citizen to vote, to hold them accountable for their vote or request of them to reveal their vote or state the reasons for failure to vote. The right to elect a councilor shall be vested in every citizen of the Republic of Serbia who has turned 18 with working ability and who resides in the territory of the electoral unit where they exercise their franchise. A councilor may be a citizen of the Republic of Serbia who has turned 18 years of age with working ability and resides in the territory of the electoral unit where they have been nominated for a councilor.

145. The *Law on Local Elections* envisages the implementation of the proportional electoral system and the appropriate corrective methods in the stage of nomination and distribution of mandates, in order to prevent the favoring of those political parties, party coalitions and groups of citizens who enjoy a relatively low support of the electorate.

146. Article 9 of the *Law on Local Elections*, also relating to Article 180 of the *Constitution of the Republic of Serbia*, stipulates that in those local self-government units with the population of mixed nationalities, a proportional representation of national minorities in assemblies shall be provided for. It is easier to achieve such

proportion in the proportional electorate system, and the Law envisages that the so-called natural threshold – the number of collected votes be applied in case of the parties of national minorities and their coalitions in the distribution of mandates, without an implementation of eliminatory census as a condition for the participation in the distribution of mandates.

147. Pursuant to Article 20, paragraph 3 of the *Law on Local Elections*, the electoral list shall comprise at least 30% of candidates of the less represented sex.

Civic Rights

The Right to Free Movement and Residence

148. Pursuant to Article 39 of the *Constitution of the Republic of Serbia*, everyone shall have the right to free movement and residence in the Republic of Serbia, as well as the right to leave and return. The freedom of movement and residence, as well as the right to leave the Republic of Serbia, may be restricted by law if necessary for the purpose of conducting criminal proceedings, protection of public order, prevention of spreading contagious diseases or defense of the Republic of Serbia.

149. The issue of permanent and temporary residence of citizens is regulated by the provisions of the *Law on Permanent and Temporary Residence*²⁹. The provision of Article 4 of the Law thereof defines permanent residence as the residence inhabited by the citizen with the intent to live there on a permanent basis. Citizens of age are obliged to register and unregister their permanent residence and report the change of the address. The registering of residence of foreigners is conducted according to special regulations. When registering their permanent residence and/or the change of the address, citizens of age are obliged to register their minor children as well. Temporary residence is the place where the citizen lives on a temporary basis outside their permanent residence (Article 4, paragraph 2 of the Law on Permanent and Temporary Residence). Citizens shall register their permanent residence in person in the organizational unit of the Ministry of Internal Affairs competent for the settlement they inhabit with the intent to live there on a permanent basis. Citizens shall register their temporary residence in the organizational unit of the Ministry competent for the settlement in which they live on a temporary basis.

150. The legal provisions regulating the issue of permanent and temporary residence do not discriminate on the basis of entity, race, sex or any other personal characteristic, in terms of the rights and obligations relating to permanent and temporary residence and/or all citizens are equal with regard to these rights and obligations.

Status of Foreigners

151. Pursuant to Article 17 of the *Constitution of the Republic of Serbia* foreign nationals, in accordance with international agreements, enjoy all the rights guaranteed by the Constitution and the law in the Republic of Serbia except for the rights that belong only to the citizens of Serbia under the Constitution and the law.

152. The new *Law on Foreign Nationals*³⁰ was adopted in October 2008 as part of the process of harmonization of national and the European legislation, which was one

²⁹ Official Gazette of the Socialist Republic of Serbia, No. 42/1977 and 25/1989

³⁰ Official Gazette of the Republic of Serbia, No. 97/2008

of the primary preconditions for our country's entering the White Schengen list. The Law regulates the issues of entry, movement, and stay of foreign nationals on the territory of the Republic of Serbia in keeping with adopted and recognized practices and international standards that apply to this category of individuals. Among other things, the Law stipulates that a foreigner is allowed to enter and stay in the Republic of Serbia if they possess a valid travel document containing a visa or a permission to stay (Article 4); on the other hand, their movement or stay on a part of the territory of the Republic of Serbia can be restricted or prohibited should this be required on the grounds of protection of public order or security of the Republic of Serbia and its citizens, or in accordance with an international agreement (Article 5). The provisions of the law regulating the issues of residence and stay of citizens of the Republic of Serbia apply to the registration and/or deregistration of residence and the change of address, as well as to the registration and deregistration of stay and the change of address of a foreigner unless otherwise specified by this law (Article 7, Paragraph 2).

153. Pursuant to Article 24 of the *Law on Foreign Nationals*, the stay of foreign nationals falls into three categories: a stay of up to 90 days, temporary stay, and permanent residence. Temporary stay, lasting up to one year, shall be granted on the following grounds: work, employment or performing an economic or other professional duty; schooling, studying or specialization in a field, scientific or research activities, practical training, participation in international exchange programs for pupils or students or other scientific and educational activities; family reunion; other legitimate reasons in accordance with the law or an international agreement (Article 26, paragraph 1). A foreign national may be granted permanent residence under the following conditions: if by the day of submitting the request they have continuously stayed in the Republic of Serbia for longer than 5 years on the basis of a permission for temporary stay; if they have been married to a citizen of the Republic Serbia or a foreign national with permanent residence for at least 3 years; if they are a minor on a temporary stay whose one parent is a citizen of the Republic of Serbia or a foreigner with an approved permanent residence provided that the other parent consents; and if they are from the territory of the Republic of Serbia by origin (Article 37).

154. The *Law on Asylum*³¹ adopted in November 2007 regulates the issue of granting a foreign national asylum in the Republic of Serbia. Article 6, paragraph 1 of the Law lays down that no one can be expelled from the country or returned against their will to the territory where their life or freedom would be threatened because of their race, gender, language, religion, nationality, association with a social group, or political views. No one can be expelled from the country or returned against their will to the territory where they are at risk from being subject to torture, inhuman or humiliating treatment, or punishment (Article 6, Paragraph 3). As for the procedure for approving asylum in the Republic of Serbia, all kinds of discrimination on any grounds are prohibited, and in particular on the grounds of race, color, gender, nationality, social background or a similar status, birth, religion, political or other views, financial standing, culture, language, age, and intellectual, sensory or physical disability.

³¹ Official Gazette of the Republic of Serbia, No. 109/2007

Travel Documents

155. The procedure for issuing travel documents is regulated by the *Law on Travel Documents*³² and pertaining by-laws. The passport is issued with a validity term of 10 years, and to persons below 14 years of age with a validity term of 2 years (Article 12). The passport can be issued with a shorter validity term if a competent court and/or public prosecutor allows this in cases specified by law (Article 23, Paragraph 1).

156. Pursuant to Article 35 of the *Law on Travel Documents*, a request for issuing a travel document can be rejected in the following cases: if a decision has been brought on conducting an investigation or if charges have been pressed against the person seeking the issuing of a travel document – on request of a competent court and/or the public prosecutor's office; if the person seeking the issuing of a travel document has been condemned to unconditional imprisonment longer than three months and/or until they have served their sentence; if the person seeking the issuing of a travel document is banned from travelling in accordance with valid international acts; if, in accordance with valid regulations, a person seeking the issuing of a travel document is banned from movement so that the spreading of contagious diseases and/or an epidemic could be prevented; if, on grounds of the country's defense, the prescribed permit for traveling abroad has not been issued or there is some other impediment envisaged by the law regulating military service in case of a proclaimed state of war or state of emergency.

Refugees and Internally Displaced Persons

157. Pursuant to the *Law on Refugees*³³ and regulations that stipulate the manner of care for refugees and displaced people, refugees enjoy full freedom of movement and stay on the territory of the Republic of Serbia. Being citizens of the Republic of Serbia, internally displaced persons also enjoy the freedom of movement and stay.

158. The Republic of Serbia is still faced with the issue of a large number of refugees from the territory of former Yugoslavia. According to the data obtained through Registration of Refugees in the Republic of Serbia that took place at the end of 2004 and in early 2005, the total number of refugees was 104,246, by almost 273,000 fewer than in 2001 when the previous registration had been conducted. However, the significant reduction in the number of refugees can largely be put down to the possibility of obtaining the citizenship of the Republic of Serbia or returning to the country of origin. In early 2009 there were still 97,354 refugees in Serbia. Estimates say that around 200,000 refugees have obtained the citizenship of the Republic of Serbia. By the country of origin, the structure of refugees is as follows: 73.43% from Croatia (96.14% of which are Serbs); 26.42% from Bosnia and Herzegovina (94.43% of which are Serbs); 0.15% from Slovenia, and 2 refugees from Macedonia. When it comes to the return to the country of origin, the total of 62,636 refugees returned to the Republic of Croatia and 72,451 to Bosnia and Herzegovina over the period 1995-2008.

159. The total number of internally displaced persons from the AP of Kosovo and Metohija in the Republic of Serbia is 209,722, but around 20,000 Roma are assumed not to have been registered at all. The structure of internally displaced persons by the

³² Official Gazette of the Republic of Serbia, No. 90/2007 and 116/2008

³³ Official Gazette of the Republic of Serbia, No. 18/92 and 45/2002

nationality is as follows: 75.2% of Serbs, 10.9% of Roma, 3.9% of Montenegrins, 2.5% of Muslims, 1.5% of Gorani, 0.4% of Egyptians, 0.2% of Albanians, 0.2% of Macedonians, 0.2% of Yugoslavs, 0.1% of Croats, and 0.1% of Turks. The total of 4.8% did not declare their nationality.

160. A number of internally displaced persons of the Roma nationality are not registered in birth registries, affecting their exercising of the right to health care and social protection, education, employment and property rights. For this reason the Ministry of Human Rights in cooperation with the OSCE Mission to Serbia, Office of the UN High Commissioner for Refugees in Serbia and non-government organizations *Centre for the Promotion of Legal Studies (CPLS)* and *Praxis* has started implementing activities aimed at addressing the problem of the status of “legally invisible persons” through the adoption of the Law on the Recognition of Legal Personality, on the basis of the Model Law developed by the *CPLS* and *Praxis*.

Return under Readmission Agreements

161. In view of international cooperation, the Republic of Serbia has concluded 17 bilateral agreements on readmission. The *Single Readmission Agreement* between the European Union and the Republic of Serbia entered into force on January 1, 2008. Bilateral agreements and the Single Readmission Agreement prescribe conditions and instruments for the return of people whose legal grounds for stay have expired, and upon request of one of the contracting parties. In 2003 the Council of Europe estimated that 50,000-100,000 Serbian citizens would be returned from the West Europe countries. International organizations operating in Serbia and the civil sector believe the figure could be as high as 150,000 since according to data of the Government of the Republic of Germany, for instance, as much as 100,000 of the total of 600,000 citizens of Serbia residing in this country only have an illegal status. The Ministry of Internal Affairs of the Republic of Serbia estimates that so far 18,000 our citizens have been repatriated.

162. The Strategy for the Reintegration of Returnees under the Readmission Agreement was adopted in February 2009.

163. The Ministry of Human and Minority Rights has established a Readmission Office at the *Nikola Tesla* Airport in Belgrade. The Office deals with: the identification of deported persons and volunteer returnees and their information on the process of readmission to the Republic of Serbia, the identification of major problems that readmitted persons encounter, the provision of basic legal assistance and advice in the area of regulation of personal status, social welfare, health care and employment, the collection of data and reporting to the Ministry of Human and Minority Rights about the state of human and minority rights of readmitted persons, as well as the collection of other relevant data that are significant for the process of reintegration of returned persons. The *Guidebook for Persons Returned under Readmission* and the *Handbook for the Representatives of Local Institutions Involved in the Integration of Persons Returned under Readmission* have been issued in the Serbian, Roma, German, Dutch, and English languages.

The Right to Citizenship

164. Citizenship is a relation between a country and an individual in the domain of public law which involves a series of rights and obligations of a citizen. The right to citizenship is a right of citizens of the Republic of Serbia guaranteed by the

Constitution, and it is acquired and terminated in the manner stipulated by the *Law on Citizenship*³⁴. Citizenship is a major prerequisite for the establishment, change or termination of many specific legal relations such as inheritance, electoral registries, trade of land and buildings, copyright, etc.

165. The basic way to acquire citizenship of the Republic of Serbia is to acquire the citizenship by descent (*ius sanguinis*). This is often combined with the system of acquiring the citizenship by birth on the territory of the Republic of Serbia (*ius soli*). Namely, the law prescribes that a child acquires the citizenship of the child's parents at the moment of birth irrespective of the place of birth of the child. Only if both parents are unknown or of unknown citizenship or without citizenship does a child born or found on the territory of the Republic of Serbia acquire the citizenship of the Republic of Serbia by the child's birth on the territory of the Republic. What is in practice ensured by combining these two systems is that every child whose one or both parents are citizens of the Republic of Serbia, i.e. every child born or found on the territory of the Republic whose both parents are unknown or of unknown citizenship or without citizenship, shall acquire the citizenship of the Republic of Serbia. Additional ways of acquiring the Yugoslav citizenship is by means of admission (naturalization) and acquisition of the citizenship under international agreements.

166. The issue of granting citizenship of the Republic of Serbia to foreigners is regulated by virtue of Article 14 of the *Law on Citizenship* which stipulates that a foreigner who is granted permanent residence in the Republic of Serbia under regulations on the movement and stay of foreigners and who are released from a foreign citizenship, or who submits evidence that they will obtain the release if they are admitted to the citizenship of the Republic of Serbia, shall be admitted to the citizenship of the Republic of Serbia. By acquiring citizenship on grounds of marriage, without the release from the previous citizenship, a foreigner acquires the right to dual citizenship. In addition, Article 18 regulates that an emigrant, their descendant, as well as the emigrant's spouse can be admitted to the citizenship of the Republic of Serbia under less stringent conditions. The citizenship of the Republic of Serbia can be reacquired under less stringent conditions and without a release from a foreign citizenship by a person whose citizenship of the Republic of Serbia has terminated upon request of their parents, as well as by any other person to whom citizenship of the Republic of Serbia has terminated through release and who has acquired a foreign citizenship (Article 34 of the Law on Citizenship).

167. The citizenship of the Republic of Serbia may be acquired in accordance with international agreements as well. These agreements may stipulate dual citizenship under conditions of reciprocity. On October 29, 2002 an agreement was signed in Belgrade on dual citizenship between the then Federal Republic of Yugoslavia (FRY) and the Federation of Bosnia and Herzegovina. Negotiations between delegations of ministries of internal affairs of the Republic of Serbia and the Republic of Montenegro (which started on October 1, 2008) on the conclusion of the agreement on dual citizenship are expected to be ended soon. Although negotiations have so far indicated that approaches to the issue are different – Serbia proposes that dual citizenship should be granted to everyone who desires it without their having to renounce the existing citizenship, whereas the position of Montenegro is more

³⁴ Official Gazette of the Republic of Serbia, No. 135/2004

restrictive – a consensus has been reached on the definition of categories of likely dual nationals. Therefore it is expected the Agreement will be signed shortly.

168. Having in mind the situation the FRY was in after the separation of the former SFRY republics and/or the situation a large number of the SFRY citizens found themselves in, it has been ensured that a rule on succession of citizenship be integrated into the legal system through transitory provisions of this Law that are mainly of a protective nature in terms of the rights of citizens. Pursuant to Article 52 of the *Law on Citizenship*, a citizen of the SFRY is deemed a citizen of the Republic of Serbia if on the day the Law comes into effect the citizen possesses citizenship of another republic of the former SFRY and/or citizenship of another state formed on the territory of the former SFRY, and a residence on the territory of the Republic of Serbia registered for at least nine years, but they have to submit a written statement that they consider themselves a citizen of the Republic of Serbia, and a request for registration in the registry of citizens. By virtue of Article 23 of the Law, the acquisition of citizenship of the Republic of Serbia is ensured for persons belonging to the Serbian people, other peoples, or an ethnic community on the territory of the Republic of Serbia whose residence is not on the territory of the Republic of Serbia, as well as refugees, persecuted or displaced persons staying in the territory of the Republic of Serbia or having fled abroad provided that they submit a request for the admission of citizenship of the Republic of Serbia and a written statement saying that they consider the Republic of Serbia their state.

169. At the session of the National Assembly of the Republic of Serbia held on September 24, 2007 the *Law on Amendments to the Law on Citizenship of the Republic of Serbia* was adopted for the purpose of effectuating international and legal subjectivity of the Republic of Serbia as a legal successor of the state union of Serbia and Montenegro. This Law ensures that all members of the Serbian people, regardless of where they live, can acquire the citizenship of the Republic of Serbia without the release from a foreign citizenship; that the right can be exercised by members of other peoples or ethnical community from the territory of the Republic within two years as of the day this Law takes effect. The Law also ensures that the citizenship of the Republic of Serbia can be acquired by Montenegrin citizens under less stringent conditions and without the release from the Montenegrin citizenship, through which the position of Montenegrin citizens has been made equal to that of the citizens of other former SFRY republics within the process of acquisition and termination of the citizenship of the Republic of Serbia, etc.

The Right to Marry and Choose a Spouse

170. Pursuant to Article 62 of the *Constitution of the Republic of Serbia*, everyone has the right to decide freely on conclusion or dissolution of marriage; marriage is concluded on the basis of a free consent of man and woman given before the state body; conclusion, duration, and dissolution of marriage rest on equality between man and woman; marriage, and marital and family relations are regulated by the law; extramarital community is equal with marriage, in accordance with the law.

171. The legal nature, contents and major goals of marriage are regulated by means of the *Family Law*³⁵. The thing that makes marriage, as a *sui generis* contract of family law, different from other contracts is the fact that this contract, under the Law, may be concluded only by two persons of different sexes who intend to live together.

³⁵ Official Gazette of the Republic of Serbia, No. 18/2005

Marriage is concluded by giving declarations of intention freely before a registrar. The right to marry is denied to: a person who is already married; a person who is incapable of sound judgment; a minor; persons who are related to each other; persons in a guardian-dependant relationship. Pursuant to Article 30, paragraph 1 of the Family Law, marriage ceases by death of a spouse, annulment, and divorce.

172. National legislation does not recognize any legally verified situation whatsoever that enables any form of racial discrimination as to exercising the right to enter marriage and choose a spouse. Legally prescribed requirements for the conclusion of marriage have been closely observed in the previous practice of state bodies and/or registrars before whom a civil marriage is concluded; competent bodies in charge of monitoring the work of these services have not registered a single act of discrimination on racial grounds³⁶.

173. The general provisions on the prohibition of discrimination within Article 2 of the Law on the Prohibition of Discrimination lay down as prohibited any unjustifiable differentiation or inequitable treatment of a marital and family status.

The Right to Property and the Right to Inheritance

174. Article 58 of the *Constitution of the Republic of Serbia* guarantees peaceful tenure of property and other property rights acquired in accordance with the law. The right to property may be revoked or restricted only in the public interest established on the basis of the law and at compensation which cannot be lower than the market value of the property. The manner of using the property may be restricted by the law. The seizure or restriction of property for the purposes of collecting taxes and other levies or fines is permitted only if in accordance with the law.

175. Article 59 of the *Constitution of the Republic of Serbia* guarantees the right to inheritance, in accordance with the law. The right to inheritance cannot be denied or restricted on grounds of failure to fulfill public duties.

176. The *Law on Inheritance*³⁷ regulates the issue of inheritance under the law and on the basis of a bequest (testament). Only a person who is alive at the time of death of the defunct is entitled to inheritance. A child conceived at the point of death of the defunct can be an heir if the child is born alive. Article 7 of the Law prescribes that foreign nationals in Serbia, under conditions of reciprocity, have the same inheritance status as nationals unless otherwise specified by an international agreement. The Law on Inheritance does not contain any discriminatory norms under which the right to inheritance would be denied to any person on grounds of their race, ethnicity, nationality, or religious affiliation.

Freedom of Thought, Conscience and Religion

177. The right to freedom of thought, conscience and religion is guaranteed by Article 43 of the *Constitution of the Republic of Serbia*. Everyone has the right to stand by one's belief or religion or change them by choice. No person has the obligation to declare their religious or other beliefs. Everyone has the freedom to manifest their religion or religious beliefs in worship, observance, practice and teaching, individually or in community with others, and to manifest their beliefs in

³⁶ Annex 1 of this report contains the Table 3 displaying statistics on concluded marriages by the nationality of a bride and a bridegroom in 2007

³⁷ Official Gazette of the Republic of Serbia, No. 46/1995

private or in public. The freedom of manifesting religion or beliefs may be restricted by law only if this is necessary in a democratic society to protect the lives and health of people, morals of democratic society, freedoms and rights guaranteed by the Constitution, public safety and order, or to prevent the incitement of religious, national, and racial hatred.

178. The provisions of Article 18 of the *Anti-discrimination Law* stipulate that discrimination occurs if the principle of freedom of manifesting one's religion or beliefs is breached and/or if a person or group is denied their right to adopt, maintain, express or change their religion or beliefs, or to express or behave in accordance with their beliefs in public or in private. Actions of priests or clergy members which are in line with the religious doctrine, beliefs or aims of churches or religious communities registered in the religious communities' registry do not constitute discrimination, in conformity with a special law governing freedom of religion and the status of churches and religious communities.

179. Article 40 of the *Law on Churches and Religious Communities*³⁸ foresees the right to religious instruction in state and private primary and secondary schools, and grants the right to traditional churches and religious communities to organize religious instruction in state schools: the Serbian Orthodox Church, the Islamic Community, the Roman Catholic Church, the Slovak Evangelical Church of the A.C. (Augsburg Confession), the Jewish Community, the Christian Reformed Church and the Christian Evangelical Church of the A.C.

180. Religious instruction was introduced in the first grades of primary and secondary education in the Republic of Serbia in the 2001/2002 school year and is organized irrespective of the total number of religious adherents in a particular community. Every school year, traditional churches and religious communities nominate teachers to schools, and the Ministry of Education provides the gross wage per lesson delivered. The Law on Churches and Religious Communities allows the establishment of institutions for education of priests, as well as the establishment of preschool institutions, primary schools, gymnasiums, secondary vocational and arts schools, faculties and universities. Accredited religious education institutions are eligible for budget funding in proportion to the share of adherents of the relevant church or religious community in the population of Serbia.

181. Persons belonging to national minorities in the Republic of Serbia attend to their religious needs in the following churches and religious communities:

- the Serbian Orthodox Church: the Roma, Vlachs, Bulgarians in Eastern Serbia,
- the Islamic Community: Bosniaks, Albanians, the Roma, Egyptians, Ashkali, Gorani,
- the Roman Catholic Church with the Greek Catholic Church: Hungarians (for the most part), Croats, Bunjevac, Sokac, Czechs, Germans, Slovaks (only one village), Bulgarians in Banat, Ukrainians, Ruthenians,
- the Slovak Evangelical Church of the A.C.: Slovaks,
- the Christian Reformed Church: Hungarians (a minor part),
- the Judaist Community: Jews,

³⁸ Official Gazette of the Republic of Serbia, No. 36/2006

- the Dacia Felix Eparchy of the Romanian Orthodox Church: Romanians in Banat,
- Podvorye of the Moscow Patriarchate: Russians,
- Confessional communities: a number of members of national minorities identify in religious terms with communities belonging to the new Protestantism.

182. Two Organizations of the Islamic Community are active in the Republic of Serbia, namely the Islamic Community in Serbia and the Islamic Community of Serbia.

Freedom of Thought and Expression

183. Article 46, paragraph 1 of the *Constitution of the Republic of Serbia* guarantees the freedom of thought and expression, as well as the freedom to seek, receive and impart information and ideas through speech, writing, image or in some other manner. According to paragraph 2 of the same Article of the Constitution, the guaranteed freedom of expression may be restricted by law if necessary to safeguard the rights and reputation of others, to uphold the authority and impartiality of the court and to protect public health, morals of a democratic society and national security. According to Article 79 of the Constitution, persons belonging to national minorities have the right to full, timely and objective information in their respective languages, including the right to express, receive, send and exchange information and ideas.

184. *The Law on the Protection of Rights and Freedoms of National Minorities* regulates this issue in Article 17 by stipulating that members of national minorities have the right to full and impartial information in their respective languages, including the right to express, receive, impart and exchange information and ideas by means of press and other public media, that the state is to provide informational, cultural and educational contents in national minorities' languages as part of public broadcasting service programs, and/or that it may establish special radio and television stations to broadcast programs in national minorities' languages.

185. Article 5, paragraph 1 of the *Law on Public Information* foresees that, in the interest of the right of national minorities and ethnic communities to information in their respective languages and fostering of their cultures and identities, the Republic, autonomous province or local government shall provide a proportion of funding or other prerequisites for the operation of media in the languages of national minorities and ethnic communities.

186. All areas in Serbia populated by national minorities may receive broadcast programs from the neighboring countries. In addition, information and ideas are received and imparted by means of rebroadcasting radio and television programs. Freedom to rebroadcast and directly receive radio and television programs is in conformity with the obligations and rules under the European Convention on Cross-border Television and the Television without Frontiers Directive.

187. Eleven print media founded by national councils of national minorities (except for the magazine in the Albanian language) regularly receive 20–100% of required funding from the national budget. These media are *Perspektiva* (in the Albanian language), *Bošnjačka riječ* (in the Bosniak/Bosnian language), *Bratstvo* (in the Bulgarian language), *Magyar Szó* (in the Hungarian language), *Them* and *Romano Nevipe* (in the Romani language), *Libertatea* (in the Romanian language), *Ruske slovo*

(in the Ruthenian language), *Hlas L'udu* (in the Slovak language), *Ridne slovo* (in the Ukrainian language) and *Hrvatska riječ* (in the Croat language). These print media are issued on a weekly, fortnightly or monthly basis (except for the publication in the Hungarian language, which is a daily paper). Budget funding is also awarded to the following religious publications: *Glas islama* (the Islamic community in Serbia), *Blagovesti* (the Belgrade Archbishopric), *Bilten* (the Islamic Community of Serbia), *Bilten* (the Union of Jewish Municipalities of Serbia), *Evangelisticki glasnik* (the Slovak Evangelical Church of the A.C. in Serbia), *Reformatus elet* (the Christian Reformed Church), *Alapke* (the Evangelical Church of Serbia – Vojvodina) and *Stražerul* (the Dacia Felix Eparchy of the Romanian Orthodox Church).³⁹

Freedom of Peaceful Assembly and Association

188. Article 54 of the *Constitution of the Republic of Serbia* guarantees that citizens may assemble freely. Assembly held indoors is not subject to permission or registration, while gatherings, demonstrations and other forms of assembly held outdoors must be reported to the competent authority, in accordance with the law. This freedom may be restricted in conformity with the law only if necessary to protect public health, morals, the rights of others or the security of the Republic of Serbia. Peaceful assembly of citizens is regulated in more detail by the *Law on Citizen Assembly*⁴⁰ as of 1992. The provisions of this Law pertaining to assembly held indoors do not comply with the Constitution of the Republic of Serbia, for which reason amendments to this Law are being prepared.

189. The provisions of Article 5, paragraphs 1 and 2 of the *Constitution of the Republic of Serbia* guarantee and recognize the role of political parties in the democratic shaping of the citizens' political will and provide for free establishment of political parties. The provision of Article 55, paragraph 1 of the Constitution guarantees the freedom of forming political associations, trade unions and any other form of association.

190. In view of the fact that the existing laws governing the exercise of constitutionally guaranteed freedom of association were not compliant with the provisions of the Constitution, the National Assembly passed the *Law on Political Parties* on May 12, 2009, which represents the first step in the comprehensive reform of the political and electoral systems. The Law entered into force on May 23, 2009 and its implementation will commence 60 days from the day of entry into force - on July 23, 2009. The Ministry of Public Administration and Local Self-Government prepared the Draft Law on Associations, which the Government adopted on May 28, 2009 and subsequently introduced before the National Assembly. The Draft Law on Associations introduces European standards in this field, complies with the provisions of the Constitution and of the European Convention for the Protection of Human Rights and Fundamental Freedoms, and is expected to contribute to the development and strengthening of the non-governmental sector in general.

191. Until the implementation of the Law on Political Parties commences, the Ministry of Public Administration and Local Self-Government will keep the Registry of Political Organizations in conformity with the *Law on Political Organizations*, as well as the Registry of Associations, Social Organizations and Political Organizations

³⁹ Data on the broadcasting of radio and television programs in the languages of national minorities are presented in Appendix 1 to this Report, Table 4

⁴⁰ Official Gazette of the Republic of Serbia, No. 21/1996

in conformity with the *Law on the Entry of Citizens into Associations, Social Organizations and Political Organizations Established for the Territory of SFRY* (hereinafter: the federal law). A total of 642 political Organizations are registered in the Registry of Political Organizations and the Registry of Associations, Social Organizations and Political Organizations, 582 of which are active, whereas – according to the data from April 2008 – over 30,000 associations and social Organizations are registered in the Republic of Serbia, of which over 14,958 citizen associations are registered in the Registry of Associations, Social Organizations and Political Organizations established pursuant to the federal law.

192. Under Article 80 of the *Constitution of the Republic of Serbia*, members of national minorities may establish educational and cultural associations funded on a voluntary basis. It goes without saying that members of minorities may establish political Organizations as well. The Constitution foresees that the Republic of Serbia recognizes a special role of national minority associations in the exercise of rights on the part of members of national minorities.

193. As regards national minorities' political parties, it should be noted that over 90 national minorities' political parties are registered with the Ministry of Public Administration and Local Self-Government, as follows: 32 Roma parties, 16 Muslim and Bosniak, 10 Vlach, 8 Albanian, 6 Croat, 5 Hungarian, 3 Bulgarian, Romanian, Bunjevac, 2 Montenegrin, Macedonian, 1 Turkish and other parties. As regards citizens' associations, there are over 650 Roma citizens' associations and social Organizations alone.

194. Citizens may form associations and assemble freely in order to manifest their religious beliefs and join churches and religious communities, which are independent from the state, equal before the law and free and autonomous in the determination of their religious identity.

Economic, Social and Cultural Rights

Right to Work

195. Article 60 of the *Constitution of the Republic of Serbia* guarantees the right to work, in conformity with the law. The same article stipulates that everyone has the right to choose occupation freely and that all jobs are available to everyone on equal terms. Further, it stipulates that everyone has the right to the respect of their personal dignity at work, safe and healthy working conditions, necessary protection at work and fair remuneration for the work done.

196. The provision of Article 16 of the *Anti-discrimination Law* prohibits discrimination in the field of labor and/or infringement of equal opportunities for employment or enjoyment, on equal terms, of all rights in the field of labor, such as: the right to work, free choice of occupation, career promotion, professional development and vocational rehabilitation, equal pay for the work of equal value, fair and satisfactory working conditions, annual leave, education and entry into trade unions, as well as unemployment protection. In terms of this Law, unjustified distinction, unequal treatment or omission based on personal characteristics, *inter alia* race, constitutes discrimination, and the individual who has suffered discrimination has the right to file an appeal with the Commissioner for the Protection of Equality, or a lawsuit before the competent court. In addition, in cases of violations of the provisions of this Law, it foresees liability for an infraction, and fines range from

RSD 10,000 to 100,000. Section VIII – Penalty Provisions, Article 51, foresees that a legal entity, sole trader, authorized person in a legal entity and a natural person are to be fined if they infringe an individual's equal opportunities for employment or enjoyment of all labor rights on equal terms on the basis of a personal characteristic.

197. In the field of labor legislation, employees are equal in terms of recruitment requirements, pay, working conditions and other rights and obligations. *The Labor Law* contains special antidiscrimination provisions (Article 18–23), which stipulate that job-seekers and employees may not be treated less favorably than others, regardless of race or other personal characteristic. Discrimination is prohibited in recruitment requirements and the selection of job candidates; working conditions and all labor rights; education, vocational training and professional development; career progress; termination of employment contract. Under Article 23 of the *Labor Law*, a job-seeker and employee may claim damages before the competent court in cases of discrimination under the provisions of Article 18–21 of this Law.

198. According to the data from the *National Strategy for Improving the Position of Women and Promoting Gender Equality*, the problem of employment of women over 45 years of age is especially pronounced, followed by that of housewives, women farmers, young women and women belonging to multiply discriminated groups. As regards the female population, there is a considerable difference in the unemployment of women belonging to multiply discriminated or marginalized groups (e.g. the unemployment rate of women refugees is 15% higher than the average women's unemployment rate, that of women IDPs – by 32%, and of Roma women – by 39%).

The Right to Establish Trade Unions

199. *The Constitution of the Republic of Serbia*, Article 55, guarantees the freedom of forming trade unions or any other associations and the right to remain out of associations. Associations are established without any prior approval and entered in the registry kept by the competent public authority, in conformity with the law.

200. Under the provision of Article 25, paragraph 1, of the *Anti-discrimination Law*, it is prohibited to discriminate against an individual or group of individuals on the grounds of political convictions or membership or non-membership in a political party or trade union. Under the provision of Article 25, paragraph 2 of the Law, restrictions pertaining to incumbents of certain public offices and restrictions necessary to prevent the promotion and performance of fascist, Nazi and racist activities, prescribed by law, do not constitute discrimination.

201. Freedom of forming trade unions and union activity is also provided for in the *Labor Law*. In terms of this Law, a trade union is an autonomous, democratic and independent organization of employees, formed on a voluntary basis, in order to advocate, represent, promote and safeguard their professional, labor-related, economic, social, cultural and other individual and collective interests. Upon a proposal by the Government, State Prosecutor or authority competent for registration, supported by relevant evidence, the Constitutional Court decides on the prohibition of a trade union's operation. The Constitutional Court may prohibit only an association whose activity is aimed at violent overthrow of constitutional order, violation of guaranteed human or minority rights, or incitement of racial, national or religious hatred.

Right to Housing

202. Under the provisions of Article 40 of the *Constitution of the Republic of Serbia*, a person's home is inviolable. Without a written court decision, no one may enter a person's home or other premises against the will of the resident or conduct a search therein. The resident of a home or other premises has the right to be present during the search in person or through their legal representative, together with two other witnesses of legal age. In the absence of the resident or their legal representative, a search is allowed in the presence of two witnesses of legal age. Without a court decision, entering a person's home or other premises and, in exceptional circumstances, even conducting a search without the presence of witnesses are allowed if this is necessary in order to apprehend a perpetrator of a crime or to remove an imminent serious threat to people and assets, in the manner prescribed by law.

203. Article 2 of the *Law on Housing*⁴¹ stipulates that the state is to undertake measures aimed at ensuring favorable conditions for housing construction and provide prerequisites for meeting the housing needs of socially disadvantaged people, in conformity with the law. Under the provision of Article 5, paragraph 1, blocks of flats and flats are used on the grounds of ownership of the flat and on the grounds of lease.

204. A considerable number of regulations govern a range of issues, including lease agreements, usage and maintenance of blocks of flats, spatial planning and construction and the like. None of these regulations contain any provisions that would put specific categories of people at a disadvantage with respect to their national, ethnic or other affiliation or characteristic. Problems arising in the field of housing are, for the most part, consequences of economic underdevelopment, lack of means and development funds. In this respect, particularly vulnerable groups are refugees, IDPs and the Roma.

Right to Health Care and Social Insurance

205. Under the provision of Article 27, paragraph 1, of the *Anti-discrimination Law*, it is prohibited to discriminate against an individual or group of individuals with respect to their or their family members' health status. The provision of paragraph 2 of the same Article stipulates that discrimination referred to in paragraph 1 is present, in particular, if, on the grounds of their personal characteristics, an individual or a group of individuals is unjustifiably denied health services, imposed special conditions for the provision of health services without medical justification, denied a diagnosis and information on their current health status and administered or intended treatment or rehabilitation, or exposed to harassment, insults or degrading treatment during their stay in a health care institution.

206. As part of the Serbian health care system reform, commenced in 2002, numerous laws and bylaws have been passed; the most important among these are the system laws, namely the Law on Health Care, Law on Health Insurance and Law on Health Professionals' Chambers, which entered into force in December 2005.

207. The *Law on Health Care* defines the human rights and values in health care in such a way as to ensure every citizen's right to health care to the highest possible standard of human rights and values, i.e. every citizen has the right to physical and mental integrity and security of their person, as well as to consideration for their

⁴¹ Official Gazette of the Republic of Serbia, No.50/1992, 76/1992, 84/1992, 33/1993, 46/1994, 47/1994, 49/1995, 16/1997, 46/1998 and 26/2001

moral, cultural, religious and philosophical beliefs. The Law introduces the Patients' Rights Advocate, whose services must be ensured by every health care institution. The Law also provides for grievance procedure for a patient who has been denied the right to health care, or who is dissatisfied with the health care service provided or with the conduct of a health professional or other employee of a health care institution. The Patients' Rights Advocate is autonomous in their work, and their actions and decisions may not be influenced either by the head of the health institution or by its other employees.

208. In line with Article 22 of the *Law on Health Insurance*⁴², health insurance is provided to individuals belonging to population groups exposed to an increased risk of disease; individuals who require health care in the interest of prevention, combating, early detection and treatment of diseases of major social and medical significance; as well as individuals belonging to socially disadvantaged groups, provided that they do not fulfill the requirements to be covered by insurance referred to in Article 17 of the Law, or they do not exercise the mandatory health insurance rights as an insured person's family members. This category of insured persons also includes Roma individuals who, owing to their traditional way of life, do not have permanent or temporary residence in the Republic of Serbia. The funds for mandatory health insurance contributions and/or provision of health care to these individuals are provided in the Budget of the Republic of Serbia. In this manner, Roma people achieve the status of persons covered by mandatory insurance and thus exercise the right to health care to the same extent as other insured persons in the Republic of Serbia.

209. The *Law on Social Welfare and Social Security of Citizens*⁴³ defines social welfare as an organized social activity aiming to provide assistance to citizens and their families when in social need and to undertake measures to prevent and remedy such situations. Social need is considered to be the situation in which a citizen or family needs social assistance in order to overcome social and life's difficulties and provide prerequisites for attending to the basic needs, if such needs cannot be met in any other way, in accordance with the principles of humanity and respect of human dignity (Article 2).

210. Under the provisions of Article 5 of the same Law, social welfare institutions are established for the purposes of ensuring the exercise of rights governed by this Law. The affairs of job training, vocational training and employment of disabled persons under special conditions, whereby the right to assistance in job training is ensured, are discharged by enterprises for job and vocational training of disabled persons and other enterprises and institutions, in conformity with the law. Social welfare affairs may also be discharged by citizens and other institutions and enterprises, in conformity with the law.

Right to Education and Vocational Training

211. The right to education is regulated by the *Constitution of the Republic of Serbia*, Article 71, under which everyone has the right to education; primary education is compulsory and free of charge, while secondary education is free of charge; all citizens have access to higher education on equal terms, and the Republic of Serbia

⁴² Official Gazette of the Republic of Serbia, No. 107/2005

⁴³ Official Gazette of the Republic of Serbia, No. 36/1991, 79/1991, 33/1993, 53/1993, 67/1993, 46/1994, 48/1994, 52/1996, 29/2001, 84/2004, 101/2005 and 115/2005

provides for free higher education of successful and talented students without means, in conformity with the law; the establishment of schools and universities is regulated by the law.

212. Under the provision of Article 19, paragraph 1, of the *Anti-discrimination Law*, everyone has the right to preschool, primary, secondary and higher education and vocational training on equal terms, in conformity with the law. The provision of paragraph 2 of the same Article prohibits hindering or preventing an individual or group of individuals, on the grounds of a personal characteristic, from enrolling in an educational institution or excluding them from such institutions, hindering or preventing them from attending classes and participating in other educational activities; it is prohibited to classify students based on a personal characteristics, ill-treat them or make other unjustifiable distinction and treat them unequally.

213. Under the provision of Article 4 of the *Law on the Foundations of the Education System*, everyone has the right to education, and citizens are equal in the exercise of this right irrespective of sex, race, national or religious affiliation or language, age, physical and mental disposition, social and cultural background, wealth, political affiliation or other personal characteristic. Primary education is compulsory and free of charge, and persons with developmental impairments, adults and persons with special abilities are guaranteed the right to education with consideration for their specific educational needs.

214. Under the provision of Article 7 of the *Law on the Foundations of the Education System*, educational work with members of national minorities is carried out in their respective mother tongues, and may be carried out in the Serbian language in exceptional cases. Educational work with persons using sign language is carried out in and by means of sign language. Article 5 of the *Law on Primary School*⁴⁴ prescribes that, for members of national minorities, the curriculum is also delivered in their respective mother tongues, or bilingually, if at least 15 pupils apply for enrolment in the first grade. A school may also deliver the curriculum in the language of a national minority, or bilingually, to fewer than 15 pupils subject to approval of the minister of education. When the curriculum is delivered in the Serbian language, the syllabus of their respective mother tongues with elements of the national culture is delivered for pupils belonging to national minorities. The *Law on Secondary School*⁴⁵ and the *Law on Higher Education*⁴⁶ contain similar provisions.

215. The right to education includes the observance of principles such as: accessibility, education on equal terms, high quality education, education taking diversity into consideration, education in the mother tongue (Article 2 of the *Law on the Foundations of the Education System*). Furthermore, regulations emphasize that activities which imperil or degrade groups and individuals on the grounds of their race, nationality, language, religion, sex or political affiliation are prohibited at school. Physical punishment and insulting of students are also prohibited at school.

216. Vocational training is realized through two channels – the formal and non-formal education systems. When it is realized through the formal education system, it is carried out in secondary schools, in line with vocational training programs lasting up to one year. The school issues a certificate of successful passage of examination, or

⁴⁴ Official Gazette of the Republic of Serbia, No. 50/1992 and 22/2002

⁴⁵ Official Gazette of the Republic of Serbia, No. 50/1992, 24/1996, 23/2002 and 25/2002

⁴⁶ Official Gazette of the Republic of Serbia, No. 76/2005

of successful completion of vocational training program. The public document is issued in the Serbian language, in the Cyrillic script, in the Latin script in conformity with the law, and also in the national minority language when teaching is carried out in that language (Article 100 of the *Law on Secondary School*).

217. In the field of vocational education, a significant place and role has also been given to adult education. The Ministry of Education has drawn up the *Adult Education Strategy* (2006), which constituted the basis for adoption of the *Action Plan* by the Government of Serbia in March 2009. These documents should contribute to the creation of the learning culture, knowledge-based economy and promotion of the capacities and achievements of adult persons, as well as respond to labor market needs through the implementation of various vocational education programs and training programs, ensure competition in the labor market, etc. Vocational training is not a privilege of individuals, but rather a possibility offered by the Government of Serbia to its citizens in terms of training for certain types of occupations, after the completion of the compulsory primary education, or re-training and additional training of workers in the occupations demanded by the labor market. Vocational training is available to all interested persons.

218. Article 13, paragraph 1 of the *Law on the Protection of Rights and Freedoms of National Minorities* stipulates that members of national minorities have the right to education in their respective languages in the institutions of preschool, primary and secondary education. Article 13, paragraph 2 thereof is particularly significant with respect to the right of the members of national minorities to study their respective mother tongues and to receive tuition in their respective mother tongues, as it stipulates the obligation of the state to provide prerequisites for organization of education in the languages of national minorities, or to provide bilingual tuition or national minorities' language syllabi with elements of the national history and culture for the members of national minorities until the prerequisites for education entirely in their respective mother tongues are provided. Under the provision of Article 13, paragraph 3 of the Law on the Protection of Rights and Freedoms of National Minorities, the tuition in the languages of national minorities may also be organized even if the number of pupils is lower than the number required for organization of regular tuition in the language of the majority population.

219. The data on tuition in the languages of national minorities in the school year 2006/2007 are as follows:

- The Albanian national minority: educational work is carried out in three pre-school institutions for 984 children. A total of 9,173 pupils in 16 primary schools, as well as 2,872 students in four secondary schools attend class in the Albanian language. The Faculty of Philology in Belgrade features the Department for Albanian Studies, where 84 students have enrolled since the academic year 2002/2003.

- The Bosniak national minority: a kindergarten within the Mesihat of the Islamic Community in Novi Pazar is attended by roughly 650 to 700 children. The mother tongue with elements of the national culture is studied by 6,697 pupils in the primary schools. The Philology Department of the International University in Novi Pazar has the Unit for the Serbian/Bosnian Language and Literature.

- The Bulgarian national minority: preschool education is conducted bilingually in the Serbian and Bulgarian languages for 332 children. Classes are carried out completely in the Bulgarian language for 11 pupils, whereas the Bulgarian

language with elements of the national culture is studied by 1,460 primary school pupils and 549 secondary school students. The Bulgarian language is studied at the Department for Serbian and South Slavic Languages, within the Study Group for the Bulgarian Language and Literature, at the Faculty of Philology in Belgrade. In the academic year 2006/2007, eight students enrolled the course, whereas there have been 79 students in total in this Study Group since 2002.

- The Hungarian national minority: education in the preschool institutions in the Hungarian language is attended by 4,680 children, whereas 510 children have bilingual education in the Serbian and Hungarian languages. Educational work in the Serbian, Hungarian and Slovak languages is carried out for 14 children. In the primary schools, 17,128 pupils attend classes entirely in the Hungarian language, and 16,442 pupils thereof belong to the Hungarian national minority. The Hungarian language with elements of the national culture is studied by 2,088 pupils. The tuition in the Hungarian language for students with developmental impairments is provided for and attended by 576 pupils, elementary music education for 1,207 pupils and elementary adult education for 149 persons. In the secondary schools, classes in Hungarian are attended by 6,648 pupils. They account for 8.9% of the total number of students in the territory of AP Vojvodina. The Hungarian language with elements of the national culture is studied by 17,128 secondary school students of the Hungarian ethnicity. Tuition in the Hungarian language is available in the Technical College in Subotica and the College for the Education of Preschool Teachers in Subotica and Novi Sad. The Faculty of Philosophy in Novi Sad features the Section for Hungarian Studies, the Faculty of Philology in Belgrade features the Department for Hungarian Studies, and the tuition in Hungarian is also available at the Teachers' Faculty in Subotica, the Academy of Art and the Faculty of Sciences in Novi Sad, as well as at the Faculty of Economics and the Faculty of Civil Engineering in Subotica. The total number of students is 1,381.

- The Roma national minority: the NGO Development Centre "Rom" organizes preparatory preschool classes for 70 children. In cooperation with the National Council of the Roma National Minority, within the project "*Broadening the Access of the Roma Children to Preschool Education*", the Ministry of Education of the Republic of Serbia implemented the preparatory pre-school program for 700 children in 2006/2007. Through the project "*Open Kindergartens for the Roma Children*", the Red Cross of the Republic of Serbia has organized preschool classes for 166 children in the Romani language, and for 118 in the Serbian and Romani languages. In primary schools, the Romani language with elements of the national culture is studied by 723 pupils, and another 80 pupils attend the same classes organized by the Development Centre "Rom". The Faculty of Philosophy in Novi Sad hosts the Course of Roma Studies. In 2005, 36 persons graduated from the course, whereas the number of graduates in 2006 was 16. Furthermore, 50 students of this Faculty took the elective course "The Basics of the Roma Studies".

- The Romanian national minority: educational work for children aged 3 to 7 in the Romanian language has been carried out for 189 children, and another 57 children have attended bilingual classes. In primary schools, tuition in the Romanian language is attended by 1,234 pupils of the Romanian ethnicity; they account for 51.8% of the total Romanian pupils. Classes in the Serbian language are attended by 47.96%, and in the Slovak language – by 0.17% pupils. The Romanian language with elements of the national culture is studied by 469 pupils. In secondary schools, 200 children have had classes entirely in Romanian, and another 27 have studied the

Romanian language with elements of the national culture. There is the Section for Romanian Studies at the Faculty of Philosophy in Novi Sad, whereas the Faculty of Philology in Belgrade features the Study Group for the Romanian Language and Literature within the Department for Romanian Studies. The total number of enrolled students since the academic year 2002/2003 has been 108. Tuition in Romanian is also provided at the College for the Education of Preschool Teachers in Vršac – 64 students, as well as in the Vršac outpost of the Teachers' Faculty in Belgrade – 55 students.

- The Ruthenian national minority: education in the preschool institutions in the Ruthenian language has been attended by 198 children, and 70 children have had bilingual classes. In the primary schools, 539 pupils have classes entirely in Ruthenian, accounting for 47.61% of the total number of pupils belonging to the Ruthenian national minority. Tuition in Serbian is attended by 52.03%, 2 pupils have class in Hungarian, and another 2 pupils have tuition in the Slovak language. The Ruthenian language with elements of the national culture is studied by 293 pupils. Secondary schools are attended by 551 pupils belonging to the Ruthenian national minority; 12.52% of them have classes in the Ruthenian language, 86.93% in Serbian, 0.36% in Hungarian and 0.74% in the Slovak language. The Ruthenian language with elements of the national culture is studied by 21 pupils. The Faculty of Philosophy in Novi Sad features the Section for Ruthenian Studies with 27 students enrolled since the academic year 2002/2003.

- The Slovak national minority: educational work for children aged 3 to 7 in the Slovak language is organized for 896 children, 43 children attend bilingual classes, and another 14 children attend classes in the Serbian, Hungarian and Slovak languages. In primary schools, 3,275 pupils have classes entirely in Slovak. There are 4,426 pupils belonging to the Slovak national minority in the primary schools, and 71.1% of them study in the Slovak language, 28.7% in Serbian, 0.18% in Hungarian and 0.02% in the Ruthenian language. The Slovak language with elements of the national culture is studied by 661 pupils. In the secondary schools, 20.75% of the total number of Slovak pupils (1,778) attend classes in Slovak. The Slovak language with elements of the national culture is studied by 34 secondary school students. The Faculty of Philosophy in Novi Sad and the Faculty of Philology in Belgrade both feature Study Groups for Slovak Language and Literature with 94 enrolled students since the academic year 2002/2003. At the Bački Petrovac outpost of the Faculty of Education in Sombor, the Slovak language is studied by 37 students.

- The Ukrainian national minority: the Ukrainian language with elements of the national culture is studied by 118 pupils. The Faculty of Philosophy in Novi Sad features the Section for Ruthenian Studies, whereas the Faculty of Philology in Belgrade features the Study Group for the Ukrainian Language and Literature; 63 students have enrolled these courses since the academic year 2002/2003.

- The Croat national minority: educational work in preschool institutions is carried out in the Croat language for 10 children and bilingually for another 53 children. There are 3,646 pupils belonging to the Croat national minority in primary schools; 4.18% of them attend classes in the Croat language, 93.94% in Serbian, 0.85% in Hungarian, 0.13% in Slovak and 0.10% in the Ruthenian language. The Croat language with elements of the national culture is studied by 362 primary school pupils. The Croat language is studied at the Faculty of Philology in Belgrade, as a part of the *Contemporary Serbian and Croat Languages* syllabus.

220. In the territory of the Autonomous Province of Vojvodina, where most national minorities live, preschool education is provided by 44 preschool institutions in 43 municipalities and the City of Novi Sad. The compulsory preparatory preschool education program for the children during their last preschool year is practiced in the Serbian, Hungarian, Slovak, Romanian, Ruthenian and Croat languages. The preparatory preschool education program is also delivered bilingually in the ethnically diverse communities (Serbian-Hungarian, Serbian-Slovak, Serbian-Romanian, Serbian-Croat). The work with the children with special needs during their last preschool year is also organized in the Serbian, Hungarian, Romanian, Ruthenian and Croat languages.

221. Primary education in AP Vojvodina is provided in 344 regular primary schools located in 45 municipalities, in the Serbian, Hungarian, Slovak, Romanian, Ruthenian and Croat languages. In addition, primary education is also available in 13 primary schools for education of children with developmental impairments and in special classes in 58 primary schools in the Serbian, Hungarian and Slovak languages, in three schools for elementary adult education, in four primary schools in the Serbian and Hungarian languages, in 21 primary music schools in the Serbian and Hungarian languages and in two ballet schools in the Serbian language.

222. Depending on the structure of the population, the tuition in primary schools is delivered in Serbian or in one of the officially used national minority languages, in two or three languages. The pupils belonging to national minorities who attend classes in the Serbian language are provided with the possibility to study their mother tongue with elements of the national culture, namely: the Slovak, Romanian, Ruthenian, Romani, Croat, Ukrainian, Hungarian, Macedonian and Bulgarian languages with elements of the national cultures and the Bunjevci vernacular with elements of the national culture.

223. Secondary education in the territory of AP Vojvodina is provided in 39 municipalities with 127 secondary schools: 120 regular (gymnasiums, vocational secondary schools, mixed-profile and art schools) and ten secondary schools for children with developmental impairments. Educational work is practiced in the Serbian, Hungarian, Slovak, Romanian and Ruthenian languages.

224. The pupils who have completed their primary school education in one of the languages of the national minorities are free to choose to continue their education in their mother tongue, or in the Serbian language; however, they must take the entrance examinations in their mother tongue. In the secondary schools, the pupils who do not attend classes in their mother tongue are also offered the possibility of studying their mother tongue with elements of the national culture.

225. Higher education in the territory of AP Vojvodina is provided at nine colleges of vocational studies in the Serbian language, at three colleges in Serbian and Hungarian and at one college in Serbian and Romanian. Higher education is also provided at 14 faculties of the Novi Sad University. At eight faculties, tuition is delivered in the Serbian language, three faculties have classes in Serbian and Hungarian, one faculty has classes in Serbian, Hungarian and Slovak and one faculty in the Serbian, Hungarian, Romanian, Ruthenian and Slovak languages.

226. The students who have completed their secondary education in their mother tongue are allowed to take the faculty entrance examination in their mother tongue, regardless of the language in which they choose to continue their education.

Right to Participate in the Cultural Activities on Equal Terms

227. Under the provisions of Article 73 of the *Constitution of the Republic of Serbia*, scientific and artistic creativity is unrestricted; the authors of scientific and artistic works are guaranteed moral and material rights in accordance with the law; the Republic of Serbia assists and promotes the development of science, culture and Article The provision of Article 79, paragraph 1 of the Constitution stipulates the right of the national minorities to express, preserve, foster, develop and publically demonstrate their cultural specificities. Article 75, Paragraph 3 of the Constitution prescribes that persons belonging to national minorities may elect their national councils in order to exercise the right to self-governance in the field of culture, in accordance with the law.

228. The promotion of the conditions required for persons belonging to national minorities to maintain and develop the culture and preserve their national identity is more specifically regulated in the *Law on the Protection of Rights and Freedoms of National Minorities*. Article 12, paragraph 1 thereof explicitly states that expression, preservation, fostering, promotion, continuation and public demonstration of the national and ethnic, cultural, religious and linguistic specificities as a part of the tradition of the citizens, national minorities and their members, is their inalienable individual and collective right. In paragraph 2 of the same Article, it is specified that, for the purpose of protection and promotion of their national and ethnic specificity, persons belonging to national minorities have the right to establish specific cultural, artistic and scientific institutions, societies and associations in all spheres of cultural and artistic life. Under the provision of paragraph 3 thereof, it is stipulated that these institutions, societies and associations are autonomous in their work, whilst the state is to participate in providing the funds for their operation according to its financial capabilities. Separate foundations may be established for the purpose of promoting and supporting those institutions, associations and societies. Article 12, paragraph 5 of the Law specifies that the museums, archives and the institutions for the preservation of cultural monuments established by the state are to ensure the presentation and protection of the cultural and historical heritage of national minorities in its territory, as well as that the representatives of national councils are to participate in decision-making with respect to the way of presenting the cultural and historical heritage of their community.

229. The *Law on Activities of the Public Interest in the Field of Culture*⁴⁷ specifies that the programs in the field of national minority culture and ensuring the protection of national minority cultural heritage are general interests in the field of culture (Article 2, item 20). For the illustration purposes, we should also mention here the provision under Article 10, item 2 of the *Law on Librarianship*⁴⁸, which stipulates that general interest in this field lies in the preparation of the current retrospective and other bibliography of the Serbian people and national minorities living in the Republic of Serbia. The general interest in the field of culture is defined in the Law on Activities of the Public Interest in the Field of Culture. Article 2 of the said Law specifies that general interest in this field lies, *inter alia*, in the protection of the musical and folklore heritage contributing to the preservation of the cultural identity of the Serbian people, the programs in the field of culture of other peoples and national minorities and ensuring the protection of their cultural heritage, as well as

⁴⁷ Official Gazette of the Republic of Serbia, No. 49/1992

⁴⁸ Official Gazette of the Republic of Serbia, No. 34/1994 and 101/2005

special programs related to the publishing activities intended for the visually-impaired persons (paragraphs 19, 20, 21). The funds for implementing the activities of public interest in the field of culture are provided from the Budget of the Republic of Serbia (Article 3).

230. The right of participation in the cultural activities on equal terms is ensured to the members of national minorities primarily through the use of their respective languages and by fostering their cultural specificity through different forms of activities in the field of culture, as well as through the activities of cultural centres and houses of culture. Here we will mention some of the cultural institutions and the cultural activities of the members of national minorities which are entirely or partially funded by bodies of the national, provincial or local authorities:

- The Albanian national minority: there are three libraries featuring books in the Albanian language. Theatre plays in Albanian are staged by one amateur theatre, and the town of Preševo hosts a theatrical festival named “Dani albanske komedije” (The Days of Albanian Comedy). In addition to this festival, the other most significant cultural events held in the Albanian language are the Festival of Reciting and the “Noć sa zvezdama” (Night with Stars) Rock Festival.

- The Bosnian national minority: there are three libraries, which are also involved in the publishing activities in the Bosniak language. An amateur theatre company is active within the House of Culture in Novi Pazar. Books in the Bosniak language are published by the Centre for Bosniac Studies of Tutin. The cultural events include: the Sandžak Literary Encounters, the Rally of Bosniac Traditional Dances, the Art Colony “Sandžak – inspiracija umentika” (Sandžak – Artists’ Inspiration), the Festival of Sandžak’s Sevdalinka, the “Sopoćanska viđenja” (Sopoćani Vistas) Event, the October Encounters of Writers in Novi Pazar.

- The Bulgarian national minority: there are three libraries, which are also involved in the publishing activities in the Bulgarian language. The City Gallery of Dimitrovgrad is the organizer of the International Art Colony “Poganovski Manastir” (Poganovo Monastery). The Dimitrovgrad Theatre puts on plays in the Bulgarian language, as well as plays performed by visiting theatre companies from Bulgaria. Events in Bulgarian also include the International Theatre Festival “Balkan Theatre Fest”. The publishing and press institution “Bratstvo” (Brotherhood) publishes papers in the Bulgarian language.

- The Hungarian national minority: libraries in 28 municipalities across Vojvodina feature more than half a million books in the Hungarian language, accounting for 15.65% of the total number of books in the Vojvodina's library network. In addition to the funds for work of the public libraries provided from the budgets of the municipalities that established the libraries, co-funding is also organized for the acquisition of books in Hungarian for libraries in the multilingual communities, as well as for the publishing activities of libraries and cultural centers. The museums and galleries are open for the possibilities of presenting work written in the Hungarian language, as well as for printing monographs, catalogues and the like (Bečej City Museum). The collections of the Subotica City Museum, with respect to their contents, mainly belong to the Hungarian cultural heritage, and literary pieces in Hungarian are available. The archive material in the Hungarian language is kept in six archives in the territory of AP Vojvodina. Plays in the Hungarian language are staged by four professional and 30 amateur theatres, which host numerous theatrical events. The publishing activities in the Hungarian language are practiced by specialized

publishing houses, the most prominent being “Forum” and “Magyar Szó“. A large number of buildings of significance for the history of the Hungarian national minority in Vojvodina are under protection of the national institutes for protection of cultural monuments. In AP Vojvodina, there are 140 associations and cultural-artistic societies fostering the Hungarian language and culture. The most significant cultural events include: “Durindo” and “Djendjesbokret” – the Rally of Ethno Music and Folklore, the Days of Culture of Vojvodina’s Hungarians, Gathering of Amateur Theatrical Companies of Vojvodina’s Hungarians, the Linguistic Days “Sarvas Gabor”, the Festival of Songs Sung in Senta, the Festival of Children’s Folk Dance “Koketanc”, the Days of Hungarian Cinematography, etc.

- The Roma national minority: books in the Romani language can be found in four libraries financed by the municipalities. In the territory of AP Vojvodina, theatre plays in the Romani language are performed by one professional and three amateur theatre companies, which take part in a large number of theatrical events. The Publishing House “Otkrovenje” (Revelation) has published the “Grammar of the Romani Language”, by Rajko Djuric, PhD, in the Romani and Serbian languages. In AP Vojvodina alone, there are 30 associations and cultural-artistic societies fostering the Romani language and participating in a large number of cultural events, and the most important events in the territory of the Republic of Serbia are: the Rally of Cultural Accomplishments of the Roma in Niš, the Music-Cultural Artwork of the Roma in Medvedja, the “Ciganske vatre” (Gypsy Fires) cultural event in Srbobran, the Cultural Encounters of the Young Roma of Serbia in Novi Sad, the “Ciganin i njegov san” (A Gypsy and His Dream) Art Colony, etc.

- The Romanian national minority: there are eight libraries featuring books in the Romanian language, and co-funding of the acquisition of books in Romanian for the libraries in the multilingual communities, as well as the publishing activities of the libraries. In AP Vojvodina, one professional and 12 amateur theatre companies stage plays in the Romanian language. The Publishing and Press Institution “Libertatea” has specialized in publishing books in the Romanian language. A large number of monuments of history and culture of the Romanian national minority in Serbia are under protection of the Pančevo Institute for Protection of Cultural Monuments. In AP Vojvodina, there are 30 associations and culture-artistic societies fostering the Romanian language. The most important cultural events are: the Festival of Banat Fanfares, “Radu Flora Memorial” Literary Event, International Festival of Poetry “Putevi klasja” (Crop Paths), Theatrical Days of the Romanians, the Festival of Romanian Music and Dance from Vojvodina, etc.

- The Ruthenian national minority: there are six libraries with books in the Ruthenian language, fully financed by the municipality, and the Provincial authorities also support the publishing activities of the libraries. Events are organized in the field of fine arts, such as the Days of the Fine Arts in Ruski Krstur and the Art Colony “Stevan Bondarov”. The archive material in the Ruthenian language is kept in two archives in the territory of AP Vojvodina. In this province, one professional and 15 amateur theatre companies' stage plays in the Ruthenian language. Books in the Ruthenian language are published by the Novi Sad-based publishing and press institution “Ruske slovo”. In AP Vojvodina, there are 15 associations and culture-artistic societies fostering the Ruthenian language. There are 12 traditional cultural events of the Ruthenians in Serbia, including: the Festival of Ruthenian Culture “Crvena Ruža” (Red Rose), “Kostelnikova jesen” (Kostelnik’s Autumn) in the field of literary accomplishments, the Festival of Ruthenian Native Arts “Žatva”, etc.

- The Slovak national minority: books in the Slovak language are available in 12 municipal libraries. The archive material in the Slovak language is kept in two archives in the territory of AP Vojvodina. Plays in Slovak are staged by one professional and 20 amateur theatre companies, which also participate in events such as: Theatre Festival DIDA, the Rally of Children's Dramatic Art, etc. The Publishing House "Kultura" (Culture) of Bački Petrovac publishes books in the Slovak language. The Slovak Evangelical Church in Kovačica is under protection of the Pančevo Institute for Protection of Cultural Monuments. In AP Vojvodina, there are 20 associations and culture-artistic societies fostering the Slovak language and culture. The most renowned cultural events are: Festival of Folklore "Tancuj, Tancuj", Biennale of Slovak Fine Artists in Serbia, Children's Festival "Zlata Brana" in Kisač, etc.

- The Ukrainian national minority: the plays in Ukrainian are staged by one amateur theatre company. Cultural events in the Ukrainian language include: the Festival of the Ukrainian Culture "Kalina", The Days of Taras Shevchenko, the Rally of Children's Arts, etc.

- The Croat national minority: the archive material in the Croat language is kept in two archives in the territory of AP Vojvodina. The plays in Croat are staged by two amateur theatre companies. Books in the Croat language are published by the publishing and press institution "Hrvatska Riječ" (The Croat Word). Several monuments of the Croat culture in Serbia are under the protection of the Intermunicipal Institute for Protection of Cultural Monuments of Subotica. In the territory of AP Vojvodina, there are 26 associations and culture-artistic societies fostering the Croat language. The most prominent cultural events are: Days of The Croat Society, Festival of Harvest Celebrations "Dužijanca", Colony of Straw Technique, Encounters of Poets "Lira Naiva".

Right of Access to All Venues and Services Intended for Public Use

231. Under the provision of Article 17, paragraph 2 of the *Anti-discrimination Law*, everyone shall have the right to equal access to public buildings (buildings occupied by the bodies of public authorities, institutions of education, health, social protection, culture, sports, tourism, buildings used for the purpose of environmental protection, protection against natural disasters, etc.) as well as to public spaces (parks, squares, streets, zebra crossings and other traffic infrastructure, etc) in accordance with the law.

232. The passage of the *Law on the Prevention of Discrimination of Persons with Disabilities* in 2006 was a significant contribution to achievement of the principles of non-discrimination and equality of all citizens of the Republic of Serbia. This Law regulates the general regime of prohibition of discrimination on account of disability, special cases of discrimination of disabled persons, the procedure of protection of the persons exposed to discrimination and the measures to promote equality and inclusion of disabled persons (Article 1), as well as the penalties for some of the unlawful acts of discrimination.

233. Under the provisions of Article 13 of the *Law on the Prevention of Discrimination of Persons with Disabilities*, discrimination on account of disability is prohibited regarding the availability of services and access to public buildings (buildings occupied by institutions of education, health, social protection, culture, sports, tourism or buildings used for the purpose of environmental protection,

protection against natural disasters, etc.) and public spaces. Under the provisions of Article 27 thereof, discrimination is prohibited on account of disability in all types of transportation, i.e. it is prohibited to refuse to provide transportation services to a disabled person; it is prohibited for crew members aboard the means of transportation to deny physical assistance to disabled passengers and to impose less favorable conditions of transport for disabled passengers.

234. According to estimates by the World Health Organization, roughly 800,000 persons with disabilities live in the Republic of Serbia. More than 70% of persons with disabilities are poverty stricken, with as much as half of their income coming from various social policy measures – disability benefits, increased carer’s allowance, carer’s allowance etc. The Department for the Protection of Persons with Disabilities within the Ministry of Labor and Social Policy has developed partnerships with more than 500 non-governmental Organizations of persons with disabilities, providing them with financial and professional assistance by funding the monthly programmatic activities, as well as by supporting project activities through the annual competitions for projects aiming to improve the position of persons with disabilities.

ARTICLE 6

235. Article 22 of the *Constitution of the Republic of Serbia* stipulates that everyone has the right to judicial protection when any of their human or minority rights guaranteed by the Constitution have been violated or denied; they also have the right to remedying of the consequences arising from the violation. The citizens have the right to address international institutions in order to protect their freedoms and rights guaranteed by the Constitution. According to Article 35, paragraph 2 of the Constitution of the Republic of Serbia, everyone has the right to the compensation of material or non-material damage inflicted on them by unlawful or irregular work of a state body, entities exercising public powers, bodies of the autonomous province or local government. Article 36 of the Constitution guarantees equal protection of rights before courts and other state bodies, entities exercising public powers and bodies of the autonomous province or local government. Everyone has the right to appeal or other legal remedy against any decision related to his/her rights, obligations or lawful interests.

236. Article 170 of the Constitution provides for constitutional appeal. A constitutional appeal may be lodged against individual documents or actions performed by the state bodies or Organizations exercising public powers vested in them, which violate or deny human or minority rights and freedoms guaranteed by the Constitution, if other legal remedies for their protection have already been exhausted or not envisaged.

237. Articles 82–83 of *The Law on the Constitutional Court* regulate constitutional appeal procedure. Pursuant to Article 84 of the Law, constitutional appeal may be lodged within 30 days from the day of submission of the individual document, i.e. from the day of performance of the action violating or denying human or minority rights and freedoms guaranteed by the Constitution. In the event that an individual fails to lodge a constitutional appeal in a timely manner owing to justifiable reasons, the Constitutional Court will grant *restitutio in integrum* to that person, on condition that the person files a request for *restitutio in integrum* and, at the same time, lodges a constitutional appeal, within 15 days from the day of cessation of the reasons causing the failure to observe the time limit. *Restitutio in integrum* may not be requested after the

expiry of the period of three months from the day of failure to observe the set time limit. In accordance with Article 89, paragraph 1, a constitutional appeal is granted or dismissed as unfounded, pursuant to the decision issued by the Constitutional Court.

238. Chapter fourteen, Articles 128–153, of the *Criminal Code* refers to criminal offences against the rights and freedoms of the man and citizen. This chapter covers, *inter alia*, the following criminal offences: violation of equality; violation of the right to use a language and script; violation of the freedom to express one's national or ethnical affiliation; violation of the freedom to practice religion and perform religious services; unlawful deprivation of liberty; violation of the freedom of movement and residence; abduction, coercion; extortion of confession; torture and harassment; violation of safety; infringement of inviolability of home; unlawful search; violation of the right to legal remedy; violation of the freedom of speech and public expression.

239. In the chapter thirty three of the *Criminal Code*, under the title *Offences Against Official Duty*, the following criminal offences are listed: abuse of power (Article 359), violation of law by a judge, public prosecutor or his/her deputy (Article 360), dereliction of duty (Article 361), unlawful collection and disbursement (Article 362), fraud (Article 363), embezzlement (Article 364), unauthorized use (Article 365), illegal dealings (Article 366), accepting bribes (Article 367), bribery (Article 368) and revealing official secret (Article 369).

240. *The Law on Administrative Disputes*⁴⁹ is particularly significant for the protection of human and minority rights. Pursuant to Article 1 of this Law, in administrative disputes, courts decide on the legality of documents whereby state bodies and enterprises or other organizations vested with public powers decide on the rights and duties of natural persons, legal entities or other parties to individual administrative disputes. An administrative dispute may only be instituted in case of final administrative acts. Natural persons or legal entities that deem that their rights or lawful interests have been violated by an administrative act have the right to institute an administrative dispute; any state body, organization, a part of an enterprise empowered to perform legal transactions, a community etc. or a group of individuals, although they do not have the capacity of a legal entity, may institute an administrative dispute if they have the capacity to be the holders of the rights and responsibilities which have been the subject of administrative proceedings; this possibility is also available to other entities authorized by the Law (Article 2). A trade union may be the plaintiff in an administrative dispute if deemed that the rights or lawful interests of a member of that organization have been violated by an administrative act (Article 13). Pursuant to Article 11 of the Law on Administrative Disputes, recovery of seized assets may be requested, as well as compensation for the damages caused to the plaintiff by the enforcement of the contested document.

241. A party to an administrative dispute may request regular and special legal remedies against a court decision. Appeal is a regular legal remedy which may be lodged, in the situations envisaged by law, against a court decision which is not final (Article 18, paragraph 1). In the case of final court decision, a party may request a special legal remedy – that the decision be reviewed (Article 18, paragraph 2) or the proceedings repeated (Article 51). Request for the protection of legality is a special legal remedy at the sole disposal of the public prosecutor (Article 20).

⁴⁹ Official Journal of the Federative Republic of Yugoslavia, No. 46/96

242. Article 23, paragraph 1 of the *Law on the Protection of Rights and Freedoms of National Minorities* foresees that in order to protect their rights, persons belonging to national minorities, the national councils of national minorities and their representatives, may file an appeal with the competent court for the compensation of the caused damages.

243. In the Republic of Serbia, there are ombudsmen at the level of the Republic, Autonomous Province of Vojvodina and at the local level. *The Law on the Ombudsman*⁵⁰ introduced the concept of ombudsman into the legal system of the Republic of Serbia. The Republic of Serbia opted for the concept of a general national, parliamentary ombudsman. Pursuant to Article 6, paragraphs 1 and 2 of the Law, the ombudsman has four deputies assisting him/her in the exercise of duties stipulated by the Law. When delegating powers to the deputies, the ombudsman is to take special care to ensure that specialization is provided for fulfilling tasks falling under the ombudsman's field of competence, in particular those tasks pertaining to the protection of the persons deprived of their liberty, gender equality, the rights of the child, the rights of national minorities and the rights of persons with disabilities. The ombudsman was elected at the National Assembly session held on June 29, 2009; he assumed office on July 23, 2007.

ARTICLE 7

244. According to Article 81 of the *Constitution of the Republic of Serbia*, in the field of education, culture and information, Serbia gives impetus to the spirit of tolerance and intercultural dialogue and undertakes efficient measures for the promotion of mutual respect, understanding and cooperation among all people living on its territory, regardless of their ethnic, cultural, linguistic or religious identity.

245. Fostering the spirit of tolerance and intercultural dialogue has been the subject of many joint projects of the state bodies, NGOs and international institutions. Round-table discussions, conferences, seminars on tolerance and multiethnic sports events in multinational environments have been organized. (Examples of such events are given in the following paragraphs.)

246. The Regional Conference "Tolerance and Understanding Above All", co-hosted by the Ministry of Human and Minority Rights, OSCE Mission and the Centre for Regionalism in Novi Sad, was held in Belgrade in 2004, as the closing event of a campaign aimed at the creation of a new tripartite network of cooperation in the region of South-East Europe, based on the Agreement on Interethnic Tolerance and Cooperation. The Conference resulted in the signing of the Agreement by more than 50 cities and non-governmental organizations from Serbia and Montenegro, Croatia, Macedonia, Bosnia and Herzegovina, Albania, Bulgaria, Romania and Hungary and expressing support to the establishment of the Association of Multiethnic Cities of South-East Europe through which provisions of the abovementioned Agreement would be implemented. By signing the Agreement, the delegations of local governments committed to respecting the principles and goals such as countering hate speech, xenophobia, prejudice, exclusion and all forms of ethnic and religious intolerance. One of the goals of the Agreement is setting a social framework for the work of local government bodies, local and public institutions, NGOs and the citizens

⁵⁰ Official Gazette of the Republic of Serbia, No. 79/05 and 54/07

of multiethnic cities of South-East Europe in the social, cultural and educational spheres, aiming at the development of liberal democracy, ethnic and religious tolerance and the protection of human rights.

247. Towards the end of 2005 and in the beginning of 2006, the Ministry of Human and Minority Rights implemented the project *Strengthening Trust in Preševo, Bujanovac and Medvedja: ABCs of Tolerance and Vojvodina Case Study*, aimed at the improvement of inter-ethnic relations in those municipalities. Thirty young leaders involved in the project participated in a study tour to Vojvodina with the aim of becoming acquainted with other multinational environments and learning the models of successful living in multiethnic environments. Along with that, about 180 secondary school students and their teachers from six schools in Bujanovac, Preševo and Medvedja, also involved in the project, learned the main concepts of tolerance in an optional course *ABCs of Tolerance*.

248. *The Law on the Protection of Rights and Freedoms of National Minorities* envisages that curricula in educational institutions and schools with tuition in the Serbian language should comprise contents related to the history, culture and status of the national minorities, as well as other contents promoting mutual tolerance and coexistence. With a view to promoting tolerance towards the national minorities, Article 13, paragraph 7 of the Law stipulates that curricula in educational institutions and schools with tuition in Serbian language, in the territories where a language of a national minority is in official use, should be developed in such a way as to offer the possibility of studying the language of the concerned national minority; this possibility is transformed into practice. The table below provides an overview of the number of primary school students (school year 2006/2007) who studied a national minority language which is not their mother tongue.

Language	Number of students who are not native speakers	Total number of students
Hungarian	1327	2088
Romanian	261	469
Ruthenian	134	278
Slovak	251	622
Croat	8	362

249. According to the *Law on the Foundations of the Education System*, one of the objectives of education is the development of curiosity and openness of children and students towards the cultures of traditional churches and religious communities, development of ethnic and religious tolerance, strengthening of mutual trust among children and students, as well as the prevention of conduct infringing the exercise of the right to difference and diversity (Article 3, item 11). Faculties of philology and philosophy within various universities in the Republic of Serbia offer the possibility of studying the language and literature of each national minority in the Republic of Serbia.

250. In order to prevent discrimination among children and youth and to promote the spirit of tolerance, understanding and acceptance of differences among them, the

Ministry of Education of the Republic of Serbia has undertaken the following activities: the main objectives of education have been defined as indicators of what the state expects from education; a new subject – civics – has been introduced and the implementation of a program for vocational development of teachers is ongoing; the development of a program on Holocaust and training of teachers for the realization of the program are ongoing; the development of new syllabi for history, mother tongue and other subjects, which promote the spirit of respecting human rights, is ongoing as well.

251. Training in human rights is provided in the judicial sphere as well. As part of its regular annual program, the Judicial Training Centre covers the topics related to the institutional protection of human rights, as well as the standards envisaged by the United Nations and the Council of Europe conventions. In 2005, seminars on combating discrimination were organized for the judges in municipal and district courts, as well as for municipal and district prosecutors. Seminars were held on the following topics: UN Convention on the Elimination of all Forms of Discrimination, Standards and Practice of the Committee; Standards of the European Court of Human Rights, Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and Protocol 12 to the Convention. In 2006, twelve seminars were organized for judges and prosecutors, with the following topics: Standards of the European Court of Human Rights, Article 14 of the European Convention on Human Rights and Protocol 12 to the Convention. In 2007, the following seminars dedicated to combating discrimination were held: UN Convention on the Elimination of All Forms of Discrimination, Standards and Practice of the Committee (four seminars); Standards of the European Court of Human Rights, Article 14 of the European Convention on Human Rights and Protocol 12 to the Convention (five seminars); Gender Equality and Prohibition of Discrimination (four seminars). The following seminars were held in 2008: UN Convention on the Elimination of All Forms of Discrimination, Standards and Practice of the Committee (four seminars); Standards of the European Court of Human Rights, Article 14 of the European Convention on Human Rights and Protocol 12 to the Convention (six seminars); briefing of judges and prosecutors on the Antidiscrimination Bill (four round tables).

252. Since 2007, the Judicial Training Centre has been providing training on combating discrimination for judges and prosecutors, as a part of its ongoing program. Moreover, certain thematic units within the program on criminal law have been dedicated to the problem of discrimination in the practice of certain authorities.

253. At the Administration for the Enforcement of Penal Sanctions, the Ministry of Justice, the Training Centre regularly carries out training for the security service staff, security service trainees, employees – candidates for officers for community service sanctions and conditional discharge with protective surveillance, other employees in the Administration and judicial guards. Professional development and training comprise basic, additional and specialist courses, as well as other forms of training. In cooperation with the OSCE Mission in Serbia, the Centre has implemented a range of basic and specialist courses for security service trainees and staff in all ranks. The program covers the following: treatment of persons deprived of liberty, training in the appropriate and lawful use of means of coercion, imposing corrective sanctions and penology – foundations of the system, and the basics of the constitutional law including the basic human and minority rights guaranteed by the Constitution of the Republic of Serbia, the European Convention on Human Rights, the International

Covenant on Civil and Political Rights, the European Prison Rules and the practice of the European Court of Human Rights. In addition to providing training for security service staff, the Centre now provides education and training for the representatives of correctional service, lawyers, healthcare workers, trainers, directors of correctional institutions and heads of services.

254. The police receive education on human rights as part of syllabi of a number of subjects at the Secondary School for Interior Affairs – Basic Police Training Centre, as well as at the Criminal-Police Academy. The police staff undergo twelve-month training covering the abovementioned field as well. The police staff of the Ministry of Interior Affairs of the Republic of Serbia have participated in the following seminars: “Seminar on Human Rights“, “Seminar for Civil Servants on Drafting the Reports on the Implementation of International Conventions on Human Rights“, “Universal Standards in the Field of Human Rights and the Police in Community“, “Seminar on Human Rights and Humanitarian Law for the Police and Security Forces“, “Seminar on Human Rights Protection“, “The Use of Force and Fire Weapons, Arrest and Custody“, “Improvement of the Position of Women in Serbia“, “Criminal Proceedings and the Prohibition of Torture in the European Convention on Human Rights“, “Human Trafficking“, “Implementation of the Law on Minor Offenders and Legal Protection of Minors“, “International Humanitarian Law and Human Rights“.

255. The Ministry of Human and Minority Rights has provided training and education in the field of human rights in the following ways:

- Working with the students of primary and secondary schools by means of lectures, discussions, workshops and distribution of publications appropriate to students’ age (e.g. the project “Courses on Tolerance and Basic Human Rights in Primary Schools” implemented in 30 primary schools throughout Serbia);
- Organizing competitions with topics related to human rights for the students of primary and secondary schools and NGOs. In 2007, 258 primary school students participated in the competition *I Have Rights – That’s Me* and 214 secondary school students took part in the competition *How I Try to Understand Others*. In the same year, a competition was launched for the best activity – project in the field of prevention of violence among youth; 47 NGOs entered the competition by submitting a project;
- Printing books and other publications on human rights. Over the last five years, the Ministry has published 17 such editions;
- Carrying out media campaigns through television and radio programs, clips and jingles, press articles, billboards, posters, badges, stickers, street campaigns and discussions with citizens;
- Organizing seminars, conferences and round tables, e.g. training on human and minority rights for the representatives (journalists) of minority media, regional round tables in towns and cities with multiethnic population, round tables in the south of Serbia in the places predominantly populated by Albanians;
- Producing documentary films on the topic of human and minority rights in cooperation with the television station B92; sponsoring the ***International Human Rights*** Documentary Film ***Festival – One World***, held in Belgrade and 12 more cities/towns in Serbia;

- Providing material support, e.g. 40 computers for the best Roma students in 2009.

256. In 2008, the Ministry of Education and Sports implemented the project *Together towards Equality*, sponsored by the Government of the Kingdom of Norway. The main objectives of the project were the improvement of human relations and provision of satisfactory education for Roma children in the Zaječar district, as well as the support and development of positive attitude of school board, teachers, parents and students belonging to the majority population towards the Roma.

257. In 2005, the Ministry of Education and Sports and the OSCE Mission in Serbia, in cooperation with the national minority councils, launched the *Ethno Guide* project aimed at introducing the national communities in the territory of the Republic of Serbia to one another. The result of this project will be a manual for students to be used in the process of education.

258. The Provincial Secretariat for Education has launched the initiative for introduction of the language of a certain social environment as an elective school subject in linguistically diverse areas, with a view to enabling Serbian students to learn the languages of the national minorities from their surroundings. Along with that, initiative has been launched for the introduction of the language of a national minority which is in official use in a certain municipality as the second foreign language; students could thus speak three languages when they finish elementary school: Serbian – the mother tongue, the language of a national minority which is in official use and a foreign language.

259. The project *Affirmation of Multiculturalism and Tolerance in Vojvodina*, successfully implemented since 2005, is one of the examples of the struggle against prejudice leading to racial discrimination and of the support and promotion of understanding, tolerance and friendship among ethnic groups. The project has been conceived as a complex, multicultural program covering various topics. It features a number of sub-projects and activities implemented throughout Vojvodina; a few thousand young people, predominantly 14–19 years of age, are involved in the project. The main objective of the project is the reduction of tension among different nationalities; however, the long term goal is the development of the spirit of tolerance, mutual trust and respect among the citizens of Vojvodina. The project is implemented and coordinated by the Provincial Secretariat for Legislation, Administration and National Minorities of the Autonomous Province of Vojvodina, in cooperation with other provincial and national bodies, international Organizations, local government bodies, NGOs, education and culture institutions. The Museum of Vojvodina, Radio and Television of Vojvodina, a number of sports Organizations, civil sector Organizations, primary and secondary schools etc. are also involved in this project which comprises the following subprojects:

- Museum exhibition *Living Together*, covering the topics from the mutual history and culture and the consequent mutual influences between Serbian and Hungarian national communities in Vojvodina. The exhibition consists of three thematic wholes: *How We Became Neighbors* (depicting historical events), *How We Live Together* (depicting positive examples of living together, cultural influence and the results of tolerance-based relations between the two nations) and *Where We Are Today* (depicting the life of numerous nations living in the territory of Vojvodina and the influence of liberal and socio-revolutionary systems throughout Vojvodina).

- Sports competitions with additional content – *Tolerance Cup* – for the schools attended by the national minorities or the schools from the municipalities with considerable minority populations; the schools compete in various sports. Along with the competition, additional cultural and art program is provided in order to help the students get to know one another.
- *How Well We Know Each other* quiz – competition of the students of the secondary schools in which teaching is conducted in minority languages and the students of secondary schools from nationally diverse areas. The students compete in history and culture of the national minorities in Vojvodina.
- The media campaign *Multiculturalism in Vojvodina* – producing video clips and other video materials depicting tradition, culture and history of the national and ethnic communities living in Vojvodina; broadcasting the materials as part of major Vojvodina television stations' programs.
- *The Return to Good Business Practice* – a sub-project aimed at the promotion of multilingualism in the sphere of economy and business and encouragement of enterprises to adopt multilingualism in business communication.
- Evaluation of inter-ethnic relations among the youth of Vojvodina – a research project based on professionally designed interviews aimed at ascertaining the attitude of youth towards different cultures, i.e. members of other national communities.
- *Ethno Day* – presentation of culture, folklore, cuisine and other characteristics of the national minorities in the schools in Vojvodina (each minority has one day to introduce itself).
- *The Book of Vojvodina History* – a book in the form of a textbook which could be used as an additional teaching aid, particularly in history lessons; the book would cover events from the history of Vojvodina with a special focus on the period between 1848 and the modern time.

260. By means of various forms of support and cooperation, the state contributes to the development and encouragement of creative work and culture of national, racial and ethnic groups. Various cultural events, parades, exhibitions, literary events etc. have been organized with the support and help of numerous state institutions. Financial and other kinds of material support are provided for the national minorities, in compliance with Articles 2 and 5 e), item 6 of the Convention.

261. Based on the competition for co-financing projects/programs which, by their quality, contribute to the development and presentation of art and culture of national minorities, the Ministry of Culture of the Republic of Serbia grants funds for multicultural contents as well. Thus, in 2007, a total of RSD 700,000.00 was allocated for co-financing the implementation of three multicultural projects: *Music Speaks a Different Language*, *Danubian Folklore Festival* and *Innovative Workshop for Making Wool Items*.

262. In the framework of the Serbian chairmanship of the Council of Europe, the Ministry of Religion of the Republic of Serbia organized the *European Heritage Days* event. The program lasting several days included presentation of the religious and cultural heritage of the traditional churches and religious communities in Serbia. Moreover, a photography exhibition, film program – about 15 films with religious and cultural contents, concerts and forums were part of this cultural event. Special

attention was drawn by multi-confessional cultural programs – a multi-religious musical performance of the Jewish group *Šira* and the choir of the Islamic Community of Serbia, as well as the joint performance of the Orthodox, Catholic and Jewish choirs: *Saint Despot Stefan Lazarević Choir*, *Choir of the Parish Church Ćirilo and Metodije* and *Brothers Baruh Choir*. As a part of the *European Religious Heritage Days*, spiritual oratory competition *All Different – All Equal* was organized for the students of three faculties of theology: Faculty of the Orthodox Theology in Belgrade, Catechistic Theological Institute in Subotica and the Faculty of Islamic Studies in Novi Pazar. The representatives of traditional churches and religious communities participated in a spiritual forum (filming of a special program *Agape*), as well as the students of the faculties of theology, who asked questions.

263. In the field of media, effective measures aimed at the development of mutual respect, understanding and cooperation are based on legal provisions setting the main principles of broadcasting television and radio programs, which envisage that program orientation of media is to respect and enable the expression of cultural and linguistic identity of the national minorities (Article 78, item 4 of the *Law on Broadcasting*). Moreover, pursuant to Article 4, item 9 of the *Law on Broadcasting*, the public broadcasting service encompasses the production, purchase, editing and broadcasting of the informative, educational, cultural, artistic, children's, entertainment, sports and other radio and television programs of general interest for citizens, particularly with a view to exercising human and civil rights, exchanging ideas and opinions, fostering political, gender, inter-ethnic and religious tolerance and preserving national identity. Article 68, item 4 stipulates that all the broadcasters are to contribute to raising the overall level of culture and education of the citizens. Mixed-membership bodies monitor adherence of the media to the abovementioned principles. In the Republic of Serbia, the Republic Broadcasting Agency Council consists of nine members; two of the Council members are appointed by the National Assembly of the Republic of Serbia upon the proposal of churches and religious communities, and/or NGOs and citizens' associations dealing predominantly with the protection of the freedom of speech, *protection of the rights of national and ethnic minorities* and the protection of the rights of the child, by means of mutual agreement (Article 23 of the *Law on Broadcasting*).

264. A considerable number of NGOs in the Republic of Serbia provides education in the field of human rights. This is the main activity of the NGO Belgrade Centre for Human Rights; the key objective of the Centre is the education of young people and experienced professionals in the sphere of human rights, humanitarian law and the international public law. In cooperation with the Faculty of Political Science, University of Belgrade, and with the support of OSCE and the International Committee of the Red Cross, specialist studies on humanitarian law and human rights have been provided over the last three years. The specialist studies are intended for civil and judicial servants, journalists, the staff of NGOs and international Organizations, etc. Human rights schools are organized for future lecturers, judges, prosecutors, public attorneys and lawyers; there is also a school for future decision-makers. Training is carried out in the form of seminars, conferences, lectures.

ANNEX 1

Population by Sex and Age

Republic of Serbia, 2002

Ethnicity	Sex	Total	Total %	Age											
				0-19	0-19 %	20-39	20-39 %	40-59	40-59 %	60 and more	60 and more %	80 and more	80 and more %	Unknown	Unknown %
Sum Total	Total	7498001		1672421		1979451		2113919		1684289				47921	
Sum Total	Male	3645930		857616		992973		1040717		732306			53320	22318	
Sum Total	Female	3852071		814805		986478		1073202		951983			92157	25603	
Serb	Total	6212838	82.9	1358514	81.2	1639862	82.8	1760968	83.3	1421165	84.4	118895	81.7	32329	67.5
Serb	Male	3030356	83.1	696556	81.2	825373	83.1	870276	83.6	623330	85.1	44345	83.2	14821	66.4
Serb	Female	3182482	82.6	661958	81.2	814489	82.6	890692	83.0	797835	83.8	74550	80.9	17508	68.4
Montenegrin	Total	69049	0.9	14113	0.8	18121	0.9	21191	1.0	15420	0.9	1082	0.7	204	0.4
Montenegrin	Male	37923	1.0	7691	0.9	10065	1.0	12016	1.2	8038	1.1	497	0.9	113	0.5
Montenegrin	Female	31126	0.8	6422	0.8	8056	0.8	9175	0.9	7382	0.8	585	0.6	91	0.4
Yugoslav	Total	80721	1.1	17869	1.1	23224	1.2	24565	1.2	14878	0.9	1425	1.0	185	0.4
Yugoslav	Male	37481	1.0	9058	1.1	10695	1.1	11258	1.1	6384	0.9	592	1.1	86	0.4
Yugoslav	Female	43240	1.1	8811	1.1	12529	1.3	13307	1.2	8494	0.9	833	0.9	99	0.4
Albanian	Total	61647	0.8	24460	1.5	18439	0.9	10931	0.5	6735	0.4	595	0.4	1082	2.3
Albanian	Male	31245	0.9	12729	1.5	9144	0.9	5460	0.5	3426	0.5	264	0.5	486	2.2
Albanian	Female	30402	0.8	11731	1.4	9295	0.9	5471	0.5	3309	0.3	331	0.4	596	2.3
Bosniak	Total	136087	1.8	47430	2.8	40533	2.0	30876	1.5	15989	0.9	1243	0.9	1259	2.6
Bosniak	Male	67171	1.8	24446	2.9	19122	1.9	15236	1.5	7793	1.1	565	1.1	574	2.6
Bosniak	Female	68916	1.8	22984	2.8	21411	2.2	15640	1.5	8196	0.9	678	0.7	685	2.7
Hungarian	Total	293299	3.9	55416	3.3	71264	3.6	89531	4.2	76493	4.5	9017	6.2	595	1.2
Hungarian	Male	138165	3.8	28382	3.3	36072	3.6	43431	4.2	29998	4.1	2688	5.0	282	1.3
Hungarian	Female	155134	4.0	27034	3.3	35192	3.6	46100	4.3	46495	4.9	6329	6.9	313	1.2
Muslim	Total	19503	0.3	4966	0.3	5861	0.3	5670	0.3	2865	0.2	179	0.1	141	0.3
Muslim	Male	9772	0.3	2582	0.3	2909	0.3	2797	0.3	1411	0.2	82	0.2	73	0.3
Muslim	Female	9731	0.3	2384	0.3	2952	0.3	2873	0.3	1454	0.2	97	0.1	68	0.3
Bulgarian	Total	20497	0.3	2825	0.2	4170	0.2	5745	0.3	7567	0.4	866	0.6	190	0.4
Bulgarian	Male	10669	0.3	1458	0.2	2349	0.2	3152	0.3	3641	0.5	392	0.7	69	0.3
Bulgarian	Female	9828	0.3	1367	0.2	1821	0.2	2593	0.2	3926	0.4	474	0.5	121	0.5
Bunjevci	Total	20012	0.3	3002	0.2	4334	0.2	6486	0.3	6158	0.4	656	0.5	32	0.1
Bunjevci	Male	9306	0.3	1560	0.2	2310	0.2	3180	0.3	2244	0.3	179	0.3	12	0.1
Bunjevci	Female	10706	0.3	1442	0.2	2024	0.2	3306	0.3	3914	0.4	477	0.5	20	0.1
Vlach	Total	40054	0.5	6723	0.4	7897	0.4	10684	0.5	14384	0.9	1626	1.1	366	0.8
Vlach	Male	19685	0.5	3519	0.4	4430	0.4	5589	0.5	5982	0.8	564	1.1	165	0.7
Vlach	Female	20369	0.5	3204	0.4	3467	0.4	5095	0.5	8402	0.9	1062	1.2	201	0.8

Population by Sex and Age

Republic of Serbia, 2002

Ethnicity	Sex	Total	Total %	Age											
				0-19	0-19 %	20-39	20-39 %	40-59	40-59 %	60 and more	60 and more %	80 and more	80 and more %	Unknown	Unknown %
Gorani	Total	4581	0.1	1374	0.1	1677	0.1	1053	0.0	457	0.0	15	0.0	20	0.0
Gorani	Male	2365	0.1	709	0.1	855	0.1	558	0.1	232	0.0	9	0.0	11	0.0
Gorani	Female	2216	0.1	665	0.1	822	0.1	495	0.0	225	0.0	6	0.0	9	0.0
Greek	Total	572	0.0	65	0.0	122	0.0	166	0.0	205	0.0	22	0.0	14	0.0
Greek	Male	297	0.0	36	0.0	71	0.0	92	0.0	88	0.0	10	0.0	10	0.0
Greek	Female	275	0.0	29	0.0	51	0.0	74	0.0	117	0.0	12	0.0	4	0.0
Egyptian	Total	814	0.0	339	0.0	280	0.0	147	0.0	41	0.0	2	0.0	7	0.0
Egyptian	Male	452	0.0	195	0.0	141	0.0	86	0.0	26	0.0	1	0.0	4	0.0
Egyptian	Female	362	0.0	144	0.0	139	0.0	61	0.0	15	0.0	1	0.0	3	0.0
Jew	Total	1158	0.0	126	0.0	205	0.0	395	0.0	430	0.0	110	0.1	2	0.0
Jew	Male	461	0.0	61	0.0	88	0.0	164	0.0	148	0.0	38	0.1	0	0.0
Jew	Female	697	0.0	65	0.0	117	0.0	231	0.0	282	0.0	72	0.1	2	0.0
Macedonian	Total	25847	0.3	2893	0.2	6057	0.3	10225	0.5	6596	0.4	519	0.4	76	0.2
Macedonian	Male	11627	0.3	1564	0.2	2632	0.3	4221	0.4	3185	0.4	258	0.5	25	0.1
Macedonian	Female	14220	0.4	1329	0.2	3425	0.3	6004	0.6	3411	0.4	261	0.3	51	0.2
German	Total	3901	0.1	405	0.0	632	0.0	986	0.0	1857	0.1	243	0.2	21	0.0
German	Male	1625	0.0	204	0.0	380	0.0	466	0.0	565	0.1	32	0.1	10	0.0
German	Female	2276	0.1	201	0.0	252	0.0	520	0.0	1292	0.1	211	0.2	11	0.0
Roma	Total	108193	1.4	44504	2.7	33025	1.7	21332	1.0	7379	0.4	285	0.2	1953	4.1
Roma	Male	54531	1.5	22584	2.6	16976	1.7	10811	1.0	3256	0.4	117	0.2	904	4.1
Roma	Female	53662	1.4	21920	2.7	16049	1.6	10521	1.0	4123	0.4	168	0.2	1049	4.1
Romanian	Total	34576	0.5	6878	0.4	8994	0.5	9376	0.4	8880	0.5	1136	0.8	448	0.9
Romanian	Male	15787	0.4	3557	0.4	3889	0.4	4508	0.4	3718	0.5	393	0.7	115	0.5
Romanian	Female	18789	0.5	3321	0.4	5105	0.5	4868	0.5	5162	0.5	743	0.8	333	1.3
Russian	Total	2588	0.0	220	0.0	870	0.0	674	0.0	731	0.0	82	0.1	93	0.2
Russian	Male	684	0.0	116	0.0	147	0.0	163	0.0	252	0.0	16	0.0	6	0.0
Russian	Female	1904	0.0	104	0.0	723	0.1	511	0.0	479	0.1	66	0.1	87	0.3
Ruthenian	Total	15905	0.2	3055	0.2	3931	0.2	4736	0.2	4155	0.2	466	0.3	28	0.1
Ruthenian	Male	7682	0.2	1592	0.2	1998	0.2	2398	0.2	1683	0.2	170	0.3	11	0.0
Ruthenian	Female	8223	0.2	1463	0.2	1933	0.2	2338	0.2	2472	0.3	296	0.3	17	0.1
Slovak	Total	59021	0.8	11591	0.7	14969	0.8	17973	0.9	14361	0.9	1465	1.0	127	0.3
Slovak	Male	28178	0.8	5888	0.7	7797	0.8	8801	0.8	5640	0.8	496	0.9	52	0.2
Slovak	Female	30843	0.8	5703	0.7	7172	0.7	9172	0.9	8721	0.9	969	1.1	75	0.3

Population by Sex and Age															
Republic of Serbia, 2002															
Ethnicity	Sex	Total	Total %	Age											
				0-19	0-19 %	20-39	20-39 %	40-59	40-59 %	60 and more	60 and more %	80 and more	80 and more %	Unknown	Unknown %
Slovenian	Total	5104	0.1	406	0.0	688	0.0	1611	0.1	2385	0.1	336	0.2	14	0.0
Slovenian	Male	1979	0.1	206	0.0	337	0.0	683	0.1	749	0.1	96	0.2	4	0.0
Slovenian	Female	3125	0.1	200	0.0	351	0.0	928	0.1	1636	0.2	240	0.3	10	0.0
Turk	Total	522	0.0	110	0.0	140	0.0	168	0.0	99	0.0	12	0.0	5	0.0
Turk	Male	302	0.0	65	0.0	71	0.0	100	0.0	62	0.0	7	0.0	4	0.0
Turk	Female	220	0.0	45	0.0	69	0.0	68	0.0	37	0.0	5	0.0	1	0.0
Ukrainian	Total	5354	0.1	949	0.1	1544	0.1	1499	0.1	1325	0.1	96	0.1	37	0.1
Ukrainian	Male	2339	0.1	465	0.1	688	0.1	675	0.1	505	0.1	26	0.0	6	0.0
Ukrainian	Female	3015	0.1	484	0.1	856	0.1	824	0.1	820	0.1	70	0.1	31	0.1
Croat	Total	70602	0.9	9392	0.6	15077	0.8	22746	1.1	23196	1.4	2126	1.5	191	0.4
Croat	Male	28727	0.8	4777	0.6	7008	0.7	9141	0.9	7728	1.1	560	1.1	73	0.3
Croat	Female	41875	1.1	4615	0.6	8069	0.8	13605	1.3	15468	1.6	1566	1.7	118	0.5
Czech	Total	2211	0.0	304	0.0	459	0.0	742	0.0	696	0.0	111	0.1	10	0.0
Czech	Male	971	0.0	167	0.0	237	0.0	314	0.0	249	0.0	28	0.1	4	0.0
Czech	Female	1240	0.0	137	0.0	222	0.0	428	0.0	447	0.0	83	0.1	6	0.0
Šokac	Total	717	0.0	51	0.0	121	0.0	218	0.0	327	0.0	38	0.0	0	0.0
Šokac	Male	260	0.0	25	0.0	55	0.0	80	0.0	100	0.0	10	0.0	0	0.0
Šokac	Female	457	0.0	26	0.0	66	0.0	138	0.0	227	0.0	28	0.0	0	0.0
Ashkali	Total	584	0.0	233	0.0	171	0.0	132	0.0	45	0.0	5	0.0	3	0.0
Ashkali	Male	302	0.0	121	0.0	79	0.0	72	0.0	30	0.0	5	0.0	0	0.0
Ashkali	Female	282	0.0	112	0.0	92	0.0	60	0.0	15	0.0	0	0.0	3	0.0
Aromanian	Total	293	0.0	37	0.0	57	0.0	108	0.0	89	0.0	9	0.0	2	0.0
Aromanian	Male	137	0.0	12	0.0	30	0.0	57	0.0	38	0.0	3	0.0	0	0.0
Aromanian	Female	156	0.0	25	0.0	27	0.0	51	0.0	51	0.0	6	0.0	2	0.0

Table 1

Table 2

OVERVIEW OF THE TOTAL ALLOCATED BUDGET RESOURCES PER MUNICIPALITIES AT THE SOUTH OF THE CENTRAL SERBIA IN THE PERIOD BETWEEN DECEMBER 16, 2000 TO DECEMBER 31, 2008										
MUNICIPALITY	2000	2001	2002	2003	2004	2005	2006	2007	2008	TOTAL
PREŠEVO	33,054,000.00	138,288,117.00	145,288,083.05	274,460,660.90	64,829,539.39	181,518,280.00	207,403,690.98	75,856,534.30	80,565,282.70	1,201,264,188.32
BUJANOVAC	31,455,000.00	139,116,899.10	319,705,609.78	248,390,719.71	64,451,172.66	111,607,267.86	234,209,224.32	156,754,066.24	146,417,791.31	1,452,107,750.98
MEDVEĐA	19,999,960.00	148,687,705.01	408,529,763.33	360,157,376.00	99,349,624.40	123,210,917.88	174,330,000.00	53,725,034.57	73,533,386.86	1,461,523,768.05
TOTAL	84,508,960.00	426,092,721.11	873,523,456.16	883,008,755.71	228,630,336.45	416,336,465.74	615,942,915.30	286,335,635.11	300,516,460.87	4,114,895,706.45
OTHER MUNICIPALITIES		43,741,070.73	44,550,097.90	34,634,999.62	11,269,600.00	126,787,638.54	17,142,573.93	27,544,571.05	27,575,388.57	333,245,940.34
SUM TOTAL	84,508,960.00	469,833,791.84	918,073,554.06	917,643,755.33	239,899,936.45	543,124,104.28	633,085,489.23	313,880,206.16	328,091,849.44	4,448,141,646.79

Table 3

CONCLUDED MARRIAGES BY ETHNICITY OF GROOM AND BRIDE, 2007.

Ethnicity of Bride	Total	Ethnicity of Groom								
		Serbian	Montenegrin	Yugoslav	Albania	Bosniak	Bulgarian	Vlach	Hungarian	Macedonian
REPUBLIC OF SERBIA										
Total	41083	34369	211	93	700	1306	83	15	1309	104
Serbian	34246	32752	141	47	8	20	31	8	193	75
Montenegrin	205	140	41	1	-	1	-	-	6	1
Yugoslav	87	43	-	31	-	-	-	-	3	-
Albanian	694	22	-	-	661	1	-	-	1	-
Bosniak	1279	13	1	-	2	1249	-	-	1	-
Bulgarian	95	40	-	-	-	-	50	-	2	-
Vlach	4	1	-	-	-	-	-	3	-	-
Hungarian	1485	349	11	6	2	-	1	-	995	6
Macedonian	114	83	-	-	1	-	-	-	2	17
Muslim	303	42	1	1	3	-	-	-	3	-
Roma	600	38	-	1	1	1	1	1	7	3
Romanian	173	81	-	1	-	-	-	3	1	-
Ruthenian	80	31	3	-	-	-	-	-	6	-
Slovak	315	103	2	2	-	1	-	-	9	-
Croats	303	130	3	1	-	2	-	-	31	-
Other	531	317	7	-	15	30	-	-	28	1
Undeclared and undecided	74	34	-	1	-	-	-	-	5	-
Regional affiliation	20	8	1	-	-	-	-	-	-	-
Unknown	475	142	-	1	7	1	-	-	16	1
Central Serbia										
Total	30490	26849	70	12	687	1303	79	15	2	39
Serbian	26828	26167	57	7	6	17	28	8	1	34
Montenegrin	88	75	7	1	-	1	-	-	-	-
Yugoslav	11	7	-	4	-	-	-	-	-	-
Albanian	678	18	-	-	652	1	-	-	-	-
Bosniak	1277	13	-	-	2	1249	-	-	-	-
Bulgarian	83	31	-	-	-	-	50	-	-	-
Vlach	4	1	-	-	-	-	-	3	-	-
Hungarian	27	25	1	-	-	-	-	-	1	-
Macedonian	61	53	-	-	1	-	-	-	-	2
Muslim	254	20	-	-	3	-	-	-	-	-
Roma	428	21	-	-	1	1	1	1	-	2
Romanian	51	45	-	-	-	-	-	3	-	-
Ruthenian	4	2	-	-	-	-	-	-	-	-
Slovak	17	11	-	-	-	1	-	-	-	-
Croat	46	39	-	-	-	2	-	-	-	-
Other	315	201	4	-	15	30	-	-	-	1
Undecided and undeclared	7	3	-	-	-	-	-	-	-	-
Regional affiliation	7	6	1	-	-	-	-	-	-	-
Unknown	304	111	-	-	7	1	-	-	-	-

	Vojvodina									
Total	10593	7520	141	81	13	3	4	-	1307	65
Serbian	7418	6585	84	40	2	3	3	-	192	41
Montenegrin	117	65	34	-	-	-	-	-	6	1
Yugoslav	76	36	-	27	-	-	-	-	3	-
Albanian	16	4	-	-	9	-	-	-	1	-
Bosniak	2	-	1	-	-	-	-	-	1	-
Bulgarian	12	9	-	-	-	-	-	-	2	-
Vlach	-	-	-	-	-	-	-	-	-	-
Hungarian	1458	324	10	6	2	-	1	-	994	6
Macedonian	53	30	-	-	-	-	-	-	2	15
Muslim	49	22	1	1	-	-	-	-	3	-
Roma	172	17	-	1	-	-	-	-	7	1
Romanian	122	36	-	1	-	-	-	-	1	-
Ruthenian	76	29	3	-	-	-	-	-	6	-
Slovak	298	92	2	2	-	-	-	-	9	-
Croat	257	91	3	1	-	-	-	-	31	-
Other	216	116	3	-	-	-	-	-	28	-
Undeclared and undecided	67	31	-	1	-	-	-	-	5	-
Regional affiliation	13	2	-	-	-	-	-	-	-	-
Unknown	171	31	-	1	-	-	-	-	16	1

Table 4

2007 Data

Radio Programs by Broadcast Language in Hours

BROADCAST LANGUAGE	SUM TOTAL
SERBIA - TOTAL	1315069
SERBIAN	1243361
ALBANIAN	14523
BULGARIAN	4781
HUNGARIAN	23808
ROMANIAN	916
RUTHENIAN	5037
ROMANI	5190
SLOVAK	6262
UKRAINIAN	305
LANGUAGES OF OTHER NATIONAL MINORITIES	1184
OTHER LANGUAGES	9702
CENTRAL SERBIA - TOTAL	1177154
SERBIAN	1143795
ALBANIAN	14523
BULGARIAN	4781
HUNGARIAN	365
ROMANI	3981
SLOVAK	1
LANGUAGES OF OTHER NATIONAL MINORITIES	56
OTHER LANGUAGES	9652
VOJVODINA - TOTAL	137915
SERBIAN	99566
HUNGARIAN	23443
ROMANIAN	916
RUTHENIAN	5037
ROMANI	1209
SLOVAK	6261
UKRAINIAN	305
LANGUAGES OF OTHER NATIONAL MINORITIES	1128
OTHER LANGUAGES	50

TV Programs by Broadcast Language in Hours

BROADCAST LANGUAGE	SUM TOTAL
SERBIA - TOTAL	536022
SERBIAN	500132
ALBANIAN	1217
BULGARIAN	91
HUNGARIAN	1445
ROMANIAN	285
RUTHENIAN	274
ROMANI	2395
SLOVAK	325
TURKISH	2
UKRAINIAN	20
LANGUAGES OF OTHER NATIONAL MINORITIES	5578
OTHER LANGUAGES	24258
CENTRAL SERBIA - TOTAL	486910
SERBIAN	456134
ALBANIAN	1217
BULGARIAN	91
HUNGARIAN	5
ROMANI	1955
TURKISH	2
LANGUAGES OF OTHER NATIONAL MINORITIES	5568
OTHER LANGUAGES	21938
VOJVODINA - TOTAL	49112
SERBIAN	43998
HUNGARIAN	1440
ROMANIAN	285
RUTHENIAN	274
ROMANI	440
SLOVAK	325
UKRAINIAN	20
LANGUAGES OF OTHER NATIONAL MINORITIES	10
OTHER LANGUAGES	2320

ANNEX 2

AP KOSOVO AND METOHIJA REPORT

Contents

AP KOSOVO AND METOHIJA REPORT	2
DISCRIMINATION IN KOSOVO AND METOHIJA	5
RIGHT TO EQUAL TREATMENT IN COURT AND ALL OTHER JUDICIAL BODIES	8
RIGHT TO PERSONAL SAFETY AND STATE PROTECTION FROM VIOLENCE AND ABUSE, EITHER BY GOVERNMENT OFFICIALS OR ANY OTHER PERSON, GROUP OR INSTITUTION	13
RIGHT TO FREEDOM OF MOVEMENT AND CHOICE OF RESIDENCE IN A STATE	14
RIGHT TO LEAVE ANY COUNTRY, INCLUDING THEIR OWN, AND THE RIGHT TO RETURN TO THEIR OWN COUNTRY	18
RIGHT OF EVERY PERSON TO PROPERTY, EITHER INDIVIDUAL OR AS PART OF A COMMUNITY	20
RIGHT TO FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION	26
FREEDOM OF THOUGHT AND EXPRESSION	30
RIGHTS TO ESTABLISH AND ENTER LABOR UNIONS	34
RIGHT TO EDUCATION AND VOCATIONAL TRAINING	35
RIGHT TO APPEAL BEFORE NATIONAL COURTS AND OTHER COMPETENT STATE BODIES	36

General Information

The armed conflicts of the 1990s in the former Socialist Federative Republic of Yugoslavia (SFRY) forced hundreds of thousands of persons to flee for their lives to other parts of their former country or to other parts of the world. Many left between 1991 and 1995, during a period of great turmoil and armed conflicts in the region. The signing of the Dayton Agreement towards the end of 1995 brought peace. However, violence in the southern Serb province of Kosovo and Metohija intensified several years later. Clashes between the Serb security forces and the paramilitary rebel Kosovo Albanian forces started in late 1998 and saw their peak during the bombing of the former Federal Republic of Yugoslavia by the North Atlantic Treaty Organization (NATO), lasting from March 24 to June 10, 1999. The fighting ceased following the signing of the Kumanovo Military Technical Agreement. The Resolution 1244 of the United Nations Security Council was adopted on June 10, 1999, establishing an international security and civilian presence in Kosovo. The international “Kosovo Force” (KFOR), led by NATO, entered Kosovo and Metohija as peacekeeping forces under the United Nations mandate on June 12, 1999. As part of its duties, KFOR was entrusted with establishing and maintaining security in Kosovo and Metohija, creating a safe environment that would allow refugees and displaced persons to return to their homes without fear or any preconditions or limits. Since the Serb security forces had pulled out of the province and the international forces entered, the Kosovar Albanians that had fled during the confrontations swiftly returned to Kosovo and Metohija in massive numbers, while a large number of non-Albanians were forced to flee to avoid violence and retribution, often due to nothing more than their ethnic descent.

More than 200,000 Serbs and other non-Albanians were exiled from their homes following June 1999. Of those, 26,606 persons found residence elsewhere in Kosovo and Metohija, while 209,722 persons were temporarily displaced in other parts of the Republic of Serbia. At this moment, 73 collective centers (19 of them in Kosovo and Metohija) house 5,283 internally displaced persons from Kosovo and Metohija, while the largest number of exiled Serbs and other non-Albanians live as subtenants or find residence with relatives. Following March 17, 2004 and the renewed violence by ethnic Albanians against Serbs in Kosovo and Metohija, the number of exiled Serbs and other non-Albanians increased since another 3,870 citizens of the southern Serb province had to leave their homes, with 3,620 of them remaining in Kosovo and Metohija. To this day 2,092 persons are still quartered away from their pre-war residence, while only 250 left Kosovo and Metohija and found refuge in other parts of Serbia.

At this moment, 153,197 Serbs and other non-Albanians live in Kosovo and Metohija (the data refers to non-Albanians in Serb communities and the municipality of Gora). Of this number, 68,405 Serbs and non-Albanians live in municipalities in the north of the province (Kosovska Mitrovica, Zvečan, Zubin Potok, Leposavić), while 84,792 live “south of the river Ibar”, in isolated enclaves, on the territory of central Kosovo, the Kosovo Pomoravlje region, Metohija and the Šar Mountain.

Of the 437 settlements where Serbs once lived, excluding municipalities in the north of Kosovo and Metohija – Leposavić, Zvečan and Zubin Potok, 312 settlements have been fully ethnically cleansed. Following the arrival of UNMIK and international armed forces in Kosovo in 1999, there have been more than 7,000 ethnically motivated attacks wherein over one thousand Serbs and 104 members of other ethnically

discriminated communities have been killed, 841 Serbs have been kidnapped and 960 persons have suffered grave bodily harm.

Today, most internally displaced persons in Serbia are ethnic Serbs (75%), Roma, Ashkali and Egyptians (10%), having fled Kosovo and Metohija in 1999, after the United Nations took over control of the province in accordance with the mandate of the provisional United Nations Mission in Kosovo (UNMIK).

Following the year 2000, the international community invested more resources per capita in the stabilization and development of Kosovo and Metohija than any other post-conflict zone in the world. However, the political framework changed significantly during the first part of 2008. Provisional self-government institutions unilaterally proclaimed independence, while the European Union initiated the deployment of the EULEX mission. The International Civilian Office was set up, while UNMIK diminished its presence in Kosovo and Metohija. Today, nearly ten years after the conflicts in Kosovo and Metohija ended, 206,879 internally displaced persons are unable to return to their homes, still living in other parts of the Republic of Serbia. At the same time, 16,202 displaced persons from Kosovo and Metohija still reside in Montenegro, where their status is still unresolved. Approximately 22,000 Roma, Ashkali and Egyptians have been registered as internally displaced persons, even though it is well known that the number of such persons is much greater, with estimates ranging from 40,000 to 50,000 persons. Most of the internally displaced persons in Serbia are concentrated around the central and southern regions of the Republic. According to UNHCR sources, 15,859 persons have returned to Kosovo and Metohija since 1999. This number includes the return of internally displaced persons from other parts of the Republic of Serbia and Montenegro, along with displaced persons in other countries of the region. According to these sources, 7,052 of the persons are Serbs from Kosovo and Metohija, 4,324 are Ashkali and Egyptians, 1,858 are Roma, 1,403 are Bosniak, 585 are Gorani, while 637 are ethnic Albanians.

Implementation of Article 5 of the Convention

DISCRIMINATION IN KOSOVO AND METOHIJA

Varied treatment of people in essentially similar situations due to their past, financial or social status, nationality, sex or physical abilities is a constant social problem in Kosovo and Metohija. This type of discrimination is a direct result of irresponsible behavior by the central and local government and the arbitrary application of the rule of law. Both problems make unequal treatment of vulnerable or less privileged groups easier. Combating these issues is additionally laden by the fact that people are unaware of the concept of discrimination and thus cannot define their own varied treatment of others as discriminatory. Vulnerable groups in Kosovo and Metohija are often used to having people treat them different and thus they do not complain of such instances, or do not believe that such appeals might change their unfavorable position. People do not complain, for example, about the fact that their families are unable to pay additional money to nurses and doctors, or do not complain of not having received their registration documents from a public office in months, mostly because they do not know the relevant clerks in person. Even in cases where people complain of discrimination due to irregularities at the University in Priština,

nepotism in the public employment sector or the fact that they cannot respond to bills or administrative documents because they are written in a language they cannot understand, many of these appeals remain undisclosed. The ombudsman has been able to help certain persons in some cases through direct intervention, but it is difficult to track appeals against discrimination due to corruption or nepotism, and they are mostly left to be resolved by themselves. Even the Law on Discrimination of the self-proclaimed Kosovo Assembly, based on international standards, notes that if the victim of discrimination can provide facts that imply discrimination to have happened, then it is up to the defendant to prove that discrimination did not occur (thus shifting the burden of proof in cases of discrimination). In many cases of alleged discrimination the victims cannot or do not know how to provide evidence. On the other hand, the goal of public debates on discrimination appeals is often merely to score cheap political points.

Most people tend to simplify the issue of discrimination. Contrary to popular belief, not every type of differential treatment is discrimination. Discrimination only occurs when people in a similar situation are treated different due to objectively unjustified reasons, such as those listed above or provided in Article 2(a) of the Law on Discrimination (“sex, years of age, marital status, language, mental or physical disabilities, sexual preference, political preference or beliefs, ethnic descent, nationality, religion or belief, race, social position, wealth, birth, or any other type of status). If, for example, a person is not accepted for work at a construction site because they are unable to carry heavy weight, then differential treatment in such a case is objectively justified. But if they are not accepted for work for belonging to a different national community, the reason for not being accepted is not objective and based on the prejudice that they would not be reliable, honest or good workers due to their national affiliation. Discrimination can also occur in cases when people are treated the same in entirely different situations. One example of this is the unpleasant position of persons with physical disabilities. Until specific efforts are made to create special conditions for persons with disabilities, they will still be discriminated against every day. People in wheelchairs and mothers with baby carriages will still depend on the good will of others to access certain public offices. Even in newly built houses ramps that enable unimpeded access for persons with disabilities are not being built.

Another form of discrimination is the fact that many public documents are not accessible to people not speaking both of the official languages for the territory of Kosovo and Metohija. This problem occurs in all places where a part of the population of a municipality does not understand the majority language in this municipality, but also in the correspondence between the central government and municipalities where the majority does not speak the Albanian language. Even though this type of discrimination mostly occurs due to a lack of translation units or financial resources to pay for them, a frequent occurrence is that informing the entire population on issues relevant for them is not a priority for most public administration offices in Kosovo and Metohija. The language problem is but one of the issues that local minority communities have to contend with. National discrimination is likewise a widespread problem in the field of employment and healthcare, with members of certain minority communities (mostly Serbs and Roma, but Ashkali and Egyptian as well) still the object of regular instances of intimidation and abuse. In cases involving criminal offences against these communities, such as cattle theft, seizure or damage to property, perpetrators are seldom found, while members of these communities often complain that the police do not conduct proper investigations on these crimes. Members of the Serb community still complain of being kept out of the privatization process for public

enterprises they were employed with. In certain cases, all forms of discrimination are based on ages-old prejudices one community holds against the other. In other cases (especially with victims being members of the Serb community) they are the result of poor relations between the Albanian and Serb community in the last 20 or more years. This process intensified during the talks on the future status of Kosovo and Metohija, due to high tensions between the two communities, making any kind of normal communication extremely difficult. Access to public offices was hindered by the factual or noted inability of members of these communities to move freely throughout all regions of Kosovo and Metohija. Another reason for ethnic or other forms of discrimination is the current economic situation in Kosovo and Metohija, marked by high unemployment levels and widespread poverty. In a situation where the number of workplaces is limited, many employers openly admit that they would not even consider employing persons from a different national community, or that they would rather employ someone they know. As long as the economic situation in Kosovo and Metohija is as bad as it is at the moment, this phenomenon is not likely to change. A lot more needs to be done in order to raise awareness in the Kosovo communities of the concept of discrimination and ways of combating it. Years or even decades are necessary to understand these issues. However, the more laws there are in place for its prevention and the more campaigns and programs for implementing these laws and raising awareness are initiated, the sooner will the current situation change. Most experts from Kosovo would agree that the Law on Discrimination, enacted by the Kosovo Assembly in 2004 and ratified by the representative of the Secretary General, is a good mechanism to this end. It contains definitions on what constitutes discrimination, what forms of discrimination exist and what conditions cause it, as well as where appeals can be lodged. As is often the case, the problem is not with the Law itself, but with its implementation. Many of those living in Kosovo and Metohija do not even know that a Law on Discrimination exists, and even if they did they would not know how to lodge an appeal. The courts have not registered a large number of discrimination appeals either, and it seems as if many of the judges do not know how to handle these appeals when they turn up. During the last several years international and local governments have become increasingly aware that this Law is not implemented. The Kosovo Government approved an action plan for the implementation of the Law on Discrimination in November 2005, while the Prime Minister signed the Administrative Instructions on the Implementation of the Law on Discrimination in August 2006. These Administrative Instructions were to create practical rules and structural and physical capacities for the implementation of the Law on Discrimination, alongside additional promotion of equal treatment towards all. A smaller number of individual ministries and other administrative offices also introduced administrative instructions on the implementation of this Law, while individual trainings and events for raising awareness of this Law and similar issues are still being held. As noted above, the discrimination issue is twofold, with a general lack of knowledge on what constitutes discrimination and the ways of combating it on one side, and poor administrative, executive and judicial structures in Kosovo and Metohija enabling discrimination and preventing its removal on the other. Equal treatment of all citizens of Kosovo and Metohija will only occur once its population is capable of determining situations where discrimination occurs and the public administration is willing to support and work on appeals presented.

a) RIGHT TO EQUAL TREATMENT IN COURT AND ALL OTHER JUDICIAL BODIES

To this date, human rights and freedoms in Kosovo and Metohija can be said to be greatly endangered and often violated, especially with regard to the members of non-Albanian communities. The specific circumstances are further complicated by the entire civil government (legislative, executive and judicial) being executed by the International Civil Mission and/or UNMIK, while the military government is handled by KFOR, as envisaged by the Resolution 1244 of the UN Security Council. Since the withdrawal of military and security forces of the FRY and the Republic of Serbia from the territory of Kosovo and Metohija in June 1999, the factual and legal government of the territory of the Province has been handled by UNMIK and KFOR, therefore these organizations, representing the international community, are responsible for observing and upholding human rights in Kosovo and Metohija. Following 2001 and the implementation of the Constitutional Framework for Provisional Self-government in Kosovo in May 2001, whereby UNMIK, to a large extent, transferred authorities to the Provisional Self-government Institutions (hereinafter: PSI). These are, primarily, Albanian and they have undertaken all measures with the goal of creating another Albanian state in the Balkans by violating the territorial integrity and sovereignty of the FRY and subsequently the Republic of Serbia. The consequence of these actions was the illegal proclamation of the self-styled Republic of Kosovo by the PSI Assembly on February 17, 2008 and the proclamation of the Constitution on June 15, 2008.

The legal system is one of the weakest institutions in Kosovo and Metohija. The greatest problem with the work of the judicial system in Kosovo and Metohija is still the issue of the currently applicable law and/or the hierarchy of legal documents. This reality is reflected in the efforts by the European Union to direct its activities in Kosovo and Metohija towards resolving police and judicial problems. In a legal-formal sense, the ultimate legal document in Kosovo and Metohija is still the UN Security Council Resolution 1244. According to the Regulation No. 1999/24 by the UN special representative in Kosovo and Metohija, the Regulations of the special representative and/or UNMIK, still apply, along with the laws in effect up to March 22, 1989, the date when the legislative authority of the Republic of Serbia was taken over by the Autonomous Province of Kosovo, with the Regulations having priority in case of conflict. In accordance with said Regulation, the laws of the Republic of Serbia brought into effect after March 22, 1989 shall be applicable as well, provided they regulate legal issues not covered by prior regulations unless they were introduced with the aim of implementing discrimination in Kosovo and Metohija. The Regulation introduced by the Provisional Self-government Institutions (hereinafter: PSI) formed in accordance with the Constitutional Framework of the Provisional Self-government in Kosovo introduced in May 2001 is acceptable as legal, so long as it is approved by UNMIK by Regulations of the Special Representative. Apart from the said regulation, the authorities are bound to adhere to international standards on human rights, including the International Convention on the Elimination of All Forms of Racial Discrimination and the European Convention on Human Rights and Fundamental Freedoms.

Of the laws relevant to the field of protecting human rights in Kosovo and Metohija, the following legal instruments are in effect: the Provisional Criminal Code of Kosovo (PCCK), the Provisional Criminal Procedure Code (PCPC) – enacted by

UNMIK Regulations No. 2003/25 and 2003/26 (in effect as of April 6, 2004), the Law on the Execution of Penal Sanctions (UNMIK Regulation No. 2004/46) and the Juvenile Justice Code of Kosovo – JJCK (UNMIK Regulation 2004/8). The listed international standards on human rights are directly implemented as well.

There is no legal certainty as to the implementation of regulations. In a large number of cases, neither citizens nor the judicial authorities are aware of which regulation applies to a certain legal issue. Specifically, criteria were never introduced to discern which law, brought into effect by the Republic of Serbia or FRY after 1989, is considered inapplicable due to discrimination. In most cases the judges themselves make the decision on which law to use for a given legal issue, introducing uncertainty and discrimination with parties receiving different verdicts for the same type of legal issue depending on the judge.

Even in cases when the applicable laws are not an issue, there are frequent situations when individuals, administrative workers and courts are uncertain on how to apply a certain legal regulation. This is frequently the case with UNMIK Regulations, many of which introduced new concepts and structures not part of the existing applicable legal system. In other parts of Europe and the world, legal experts provide comments applied to interpret the most important laws, while there are no such comments in Kosovo and Metohija, other than those relating to old Yugoslav laws, many of which have been superseded by different laws.

Additional confusion was introduced to the Kosovo legal system by laws enacted by the Assembly of the self-styled “independent Kosovo” following the illegal proclamation of the so-called independence on February 17, 2008. The laws in question is the set of laws envisaged by the so-called Ahtisaari Plan for the Status of Kosovo. These laws replace UNMIK Regulations regulating certain issues (i.e. the issue of returning the assets of displaced persons, privatization, security service). However, UNMIK has neither approved nor annulled these laws by new Regulations thereby making it unclear which laws are in effect in Kosovo and Metohija.

There is confusion relating to the implementation of the introduced laws, since certain provisions are open to varied interpretation. For example, Article 254 of the Provisional Law on Criminal Proceedings of Kosovo allows for the public prosecutor or judge to order field investigations or reconstruction as part of a criminal proceeding. This in turn has the effect that neither the judge nor the public prosecutor is certain what their competencies are. The courts consider the public prosecutor to be competent, while the public prosecutor does not want to infringe upon the competency of the courts. The fact that the courts, public prosecutor or the police have the right to conduct investigations or reconstructions adds further to the confusion.

A large issue in the legal system of Kosovo and Metohija noted in annual reports of the OSCE is the constant absence of *vacatio legis* in nearly all laws enacted by the Assembly (PSI) or UNMIK regulations. *Vacatio Legis* is the delay from the moment a law is enacted to the moment it becomes effective, providing an opportunity for the public and those institutions implementing the law to adjust and prepare for the new legal situation. Thus far neither UNMIK nor PSI has accepted the need to introduce the said institution. Without this delay, UNMIK regulations and PSI laws come into effect immediately when enacted.

A dualism exists within the judicial system of Kosovo and Metohija as a result of the presence of international judges and prosecutors operating in the Justice

Department of UNMIK, elected by the Special Representative for a period of six months. Local judges and prosecutors exist as well, also elected by the Special Representative at the proposal of the Judicial Council of Kosovo.

The system of appointing international judges and prosecutors indicates that there is no independent judicial authority in Kosovo and Metohija since these bearers of judicial functions are appointed and relieved of duty by the Special Representative. Bearers of judicial functions are periodically appointed, mostly for six months, endangering their independence and impartiality. Detailed UNMIK procedures for electing judges are completely non-transparent to the outside world and depend solely upon the Special Representative. The general rules of relieving of duty do not apply to international judges and prosecutors, who are governed by the rules applicable for all UN officials. Therefore, they still sign contracts with the UNMIK Justice Department for a period of six months with the option to extend. The said facts imply that there is no basic presumption of independence and impartiality by international judges and prosecutors. Instead, they are, in effect, merely clerks depending on the Justice Department of UNMIK and/or the Special Representative as the highest authority in Kosovo and Metohija. Regulations applicable to these persons are the UNMIK Regulation 2000/06 as of February 15, 2000, supplemented by the Regulation 2000/34 as of May 27, 2000 and the Regulation 2001/2 as of January 2001.

There is no independent judiciary in Kosovo and Metohija. This means that the parties to a process, executive authorities or third parties cannot exert pressure on the judge, nor interfere with court affairs. This general concept of judicial independence does not dominate Kosovo and Metohija, because there are indications that the international and local administration, though unofficially, contacted judges on multiple occasions in relation to various legal issues.

Typical examples of the influence exerted upon the judiciary are the damage claims for destroyed property by the non-Albanian population from June 1999. Namely, immediately upon the entry of KFOR into the Province in 1999, a large number of residential and other real estate owned by non-Albanians was destroyed by Albanian extremists. The March riots in 2004 brought a new wave of destruction upon this property.

The persons affected by the destruction of property requested their cases be resolved in the regular courts of Kosovo and Metohija (local courts established by the UNMIK administration). In 2004, thousands of Kosovo Serbs filed claims for damages caused after June 1999 with the regular courts. A significant number of these claims were filed against UNMIK, KFOR, Provisional Self-government Institutions – the Government of Kosovo and local self-governments as public authorities responsible for damage due to inaction in protecting property (in accordance with Article 180 of the Law on Obligatory Relations of the SFRY No. 29/78). The OSCE, UNMIK and the Ministry of Kosovo and Metohija estimate these claims to an approximate number of 22,000 claims.

The UNMIK Department of Justice issued instructions on August 24, 2004, in the form of a circulated memo, to presidents of the Supreme, County and Municipal Courts not to process the said cases due to there being no adequate solution for them. The Department of Justice issued new instructions on November 15, 2005, demanding of the courts to process only those damage claims caused by identified natural persons after October 2000. The explanation provided for these instructions by the UNMIK Department of Justice was that a massive influx of claims would put further strain on

the work of the courts, increasing the otherwise already large number of unresolved cases. These instructions also affect human rights, due to the fact that it makes access to courts for plaintiff Serbs from Kosovo and Metohija difficult and endangers their right to have their cases resolved within a reasonable period. At this moment, the said cases still await resolution with courts in accordance with the instructions from the Department of Justice. Likewise, there is no legal instrument to ease the prolonged court proceedings.

There is insufficient rule of law and legal safety within the territory of Kosovo and Metohija. This is the result of the general legal chaos often noted in reports by OSCE, Amnesty International and other international non-governmental organizations. The core of this problem lies in a lack of responsibility and awareness of human rights among public officials, both in the international and local administration. Likewise, the legal chaos causes legal insecurity with citizens, especially with representatives of minority national communities in Kosovo and Metohija.

Kosovo and Metohija is one of the few regions in Europe where the European systems of human rights protection of the European Council are not applied. Even though the Government of the Republic of Serbia ratified the European Convention on Human Rights in 2003, it is not being implemented within the territory of Kosovo and Metohija under UNMIK jurisdiction. The status of UNMIK as an international mission prevents the signing of this Convention, which is a multilateral agreement between countries.

Kosovo and Metohija residents are, in most cases, insufficiently informed on existing regulations and their rights, while there is no independent system for the protection of human rights in place.

The situation relating to the disregard of human rights became especially severe by the expiry of the international ombudsman's mandate in December 2005 (Mr. Marek Novicki). The UNMIK Regulations No. 2006/06 and 2006/15 transferred the ombudsman to local self-government institutions. Complaints against UNMIK have been excluded from the competency of the Kosovo ombudsman. Limiting the competency of the ombudsman resulted in the absence of a single competent body to perform investigations against UNMIK on human rights violations and abuses of official position. This means that the UNMIK administration is exempt from all forms of legal responsibility. Having its competency limited, the ombudsman constantly requested instructions from UNMIK on handling unresolved cases against the UNMIK administration. Since no reply was ever received, these cases were closed due to a lack of jurisdiction.

Attempting to fill the void that would regulate the UNMIK accountability, the Special Representative issued Regulation 2006/12 establishing the Human Rights Advisory Council. The Council was established to deal with human rights violation complaints against UNMIK or the local administration. The Council is composed of three international law experts nominated by the president of the European Human Rights Court and elected by the Special Representative. The Council makes rulings on the complaints filed, that can only be implemented if the Special Representative endorses them by special decision. It is clear that this advisory council is essentially a part of the UNMIK mission in Kosovo and Metohija, since its members are chosen by the Special Representative as the executive authority and it does not represent an independent system for the protection of human rights.

The OSCE mission in Kosovo and Metohija has the competency to monitor the status of human rights in Kosovo and Metohija and the control of public authorities as regards human rights. However, this Mission does not have control systems in place for sanctioning human rights violations, while in itself it represents the so-called third pillar of UNMIK and/or it is part of the executive authority, which is a unique case in OSCE activities throughout the world.

The KFOR, as the international armed mission to Kosovo and Metohija, likewise does not have systems in place for the protection of international standards on human rights and freedoms violated by KFOR operations. There are frequent cases of KFOR using private land for building and maintaining bases with no reimbursement to the owners. The owners can only obtain a certain reimbursement if an agreement is made with the Command of the National Contingent of KFOR utilizing the land, with the practice varying between contingents. In most cases KFOR, using the "take it or leave it" principle, offers reimbursement far below the actual value, only for the period when the agreement is made, and not the full period while the land is under KFOR use. The owners can only complain about the insufficient reimbursement to a special commission with the KFOR High Command which in turn mostly dismisses these requests. There are no courts or other bodies in Kosovo and Metohija where the owners could request compensation for their property in use by KFOR.

In cases where a person was inflicted grave bodily harm or was killed in a traffic accident caused by KFOR vehicles, the victims or family members were unable to obtain damages from KFOR through courts, since UNMIK made KFOR personnel are exempt from civil and criminal prosecution by Regulation 2000/47.

A typical case of limiting human rights by local Albanian authorities in Kosovo and Metohija is the decision as of July 4, 2007 preventing the registration of motor vehicles in Kosovo and Metohija unless evidence is provided on paid electrical power bills.

This decision was made in the form of the Memorandum of Cooperation and Understanding on July 4, 2007 between the Kosovo Ministry of Internal Affairs, the Ministry of Energy and Mining and the Kosovo Energy Corporation, Ltd. Article 3 of the Memorandum prescribes that in registering a motor vehicle, every owner or user of the vehicle is required to provide, along with other documents, evidence on settled electrical power bills, evidence on debt reprogramming or other evidence proving an absence of debt towards the Kosovo Energy Corporation (KEC).

Such a decision by the provisional self-government authorities cannot be the legal basis for introducing additional obligations for citizens registering motor vehicles. This obligation can only be established by law or amendments to the law enacted by the Assembly and approved by the Regulation of the Special Representative of the UN Secretary General. The Memorandum on Cooperation between bodies and institutions may establish technical cooperation between them, but cannot establish citizen obligations, because these can only be established by laws or by-laws enacted in accordance with law and the prescribed procedures.

Even though the decision relates to all citizens, it affects mostly the Serb community. Most Serbs have been exiled from their houses and apartments and live as internally displaced persons in Serbian enclaves, mostly in very difficult financial situations. Even those Serbs remaining in their homes have, mostly, lost their jobs and

do not have any source of income. Under these circumstances the Serbs cannot meet their obligations and pay for electrical power. Likewise, it should be noted that the Kosovo Energy Corporation is not fulfilling its obligations towards beneficiaries either, failing to provide them with regular electrical power. According to unofficial data, 70% of households in Kosovo and Metohija do not pay for electrical power, including Serbs. Furthermore, in a large number of cases, persons of Serbian nationality were handed bills by KEC for electrical power used by Albanian nationals that have violently overtaken their residential facilities after June 1999.

**b) RIGHT TO PERSONAL SAFETY AND STATE PROTECTION
FROM VIOLENCE AND ABUSE, EITHER BY
GOVERNMENT OFFICIALS OR ANY OTHER PERSON,
GROUP OR INSTITUTION**

Human trafficking is still the most prominent human rights issue in Kosovo. Monitoring human trafficking cases in 2006 and 2007, the OSCE discovered an alarming lack of willingness by Kosovo authorities to manage these cases. According to the OSCE Report on Human Trafficking in Kosovo and Metohija as of November 2007, there have been 41 cases of human trafficking initiated since the beginning of 2006 that have thus far failed to be resolved in Kosovo courts. During this period, several other cases of possible human trafficking have reached the courts as well, where the prosecutors qualify these as minor criminal offences. The number of unreported cases is probably much greater. The OSCE supervised several cases where the prosecutors failed to initiate or extend investigations against persons suspected of human trafficking. Due to the lack of prosecutor diligence in investigations on whether there is evidence establishing a basis for proving a case of human trafficking, the courts have not proclaimed a single defendant guilty, despite strong evidence of all elements of the crime. Investigations can include telephone surveillance of the suspects, video surveillance, obtaining financial documents (such as receipts on salary payment or bank reports for the defendants) or obtaining medical reports indicating abuse the victims have suffered. The prosecutors were noted not to be leading investigations on persons known to make use of sexual services by human trafficking victims. Persons making use of sexual services by trafficking victims must be charged with a crime, since they create demand for sexual exploitation of trafficked persons. In fact, those trading in women and children would have no interest in pursuing these activities if there were no persons making use of these sexual services. Furthermore, users of sexual services consciously contribute to the exploitation of human trafficking victims. Thus it is of utmost importance that the police and prosecutors act correctly in investigations and criminal prosecution. However, even though the alleged victims have reported the names of persons (for example, customers of inns and motels) making use of their sexual services in many cases of trafficking, in most of these cases the authorities did not conduct investigations or pursue the alleged perpetrators. In several cases which were monitored, the authorities did not prosecute persons allegedly involved in trafficking for other crimes against the victims. The OSCE noted an alarming tendency of the courts to treat crimes such as assault, inflicting bodily harm and rape, when performed in a situation where the victim is being exploited, as the main element of human trafficking crimes, and not as separate crimes.

All authorities involved in prosecuting the human trafficking crime need to primarily dedicate their efforts to resolving and securing the safety of the victims of human trafficking. It has been noted that the police, prosecutors and courts do not understand the role and position of human trafficking victims. Several problem areas arise. The competent bodies often do not recognize human trafficking victims as such, or only provide victim status if they can provide evidence against the alleged traffickers. Secondly, the OSCE has observed cases of illegal prosecution of (probable) human trafficking victims for prostitution or illegal residence in Kosovo. Third, it is a widespread practice that victims are not being informed on their rights in criminal proceedings, and often are not assigned defense lawyers or authorized representatives. Finally, the OSCE has observed cases where court authorities have incorrectly or improperly questioned human trafficking victims. Since it is the duty of public authorities to identify potential human trafficking victims, the victims should have maximum protection and care regardless of the level of cooperation with the police and prosecutors. An alarming tendency was also noted with the police for unjustified imprisonment of possible human trafficking victims and/or threatening them with charges unless they provided solid evidence against alleged human traffickers.

d) OTHER CIVIL RIGHTS

I) RIGHT TO FREEDOM OF MOVEMENT AND CHOICE OF RESIDENCE IN A STATE

A considerable lack of safety and freedom of movement for Serbs and members of other non-Albanian communities yet remains within the territory of Kosovo and Metohija. This has the effect that persons exiled from the territory of Kosovo and Metohija in 1999 do not return to their place of residence.

Following the NATO interventions more than 230,000 persons of Serbian and other non-Albanian nationalities have been exiled from Kosovo and Metohija, while 22,000 of them remained in the Province as internally displaced persons (living in Kosovo and Metohija, but exiled from their homes). Full ten years after the UNMIK mission was established, according to UNMIK data fewer than 16,000 returnees have been registered, but even this small number of returnees represents a so-called fictitious return in relation to the exiled population. According to the data from the Refugee Commissariat of the Republic of Serbia, there are fewer than 2,000 true returnees, since most people simply register in Kosovo and Metohija to be able to obtain certain refugee privileges, while in fact they reside in central Serbia with their families.

These facts indicate that the non-Albanian populace does not have freedom of movement or security in Kosovo and Metohija, both due to direct pressures and threats by openly declared Albanian extremists, as well as due to hidden pressures by the local administration. We note the example of the pre-war president of the municipality of Klina Sveto Dabižljević who was forbidden to return to the town by the local municipal authorities in Klina in 2006 due to alleged crimes he had committed during the armed conflicts, even though no charges had ever been filed against the named person, nor had a procedure instituted against him.

Another example of the pressure by Albanian local authorities on potential returnees is the case of Momčilo Jovanović, arrested in March 2008 in Peć while visiting his destroyed property in the village of Vitomirica.

The situation in Dečani is especially grave, since three Serb returnees moved out of this town on June 6, 1999, these being Milanka Popović, Vesna Ilić and Božidar Tomić. These persons had their houses and apartments destroyed, their fields usurped, yet they returned to Dečani expecting the local authorities would return their property and refurbish their houses and apartments. On May 21, 2008 the returnee Božidar Tomić was physically assaulted and injured. His Albanian neighbors had usurped most of his property and did not allow him passage to his house.

On July 17, 2008 in the center of Istok, the Serb Žarko Orović, a displaced person from this town, was severely beaten and robbed visiting his destroyed property in the village of Dobruša and the Istok municipality in order to learn of the conditions for potential return. Orović and his wife were stopped by two Albanian persons in the center of Istok, demanding their ID cards, whereupon they beat Orović and took 350 Euros. The KPS did not find the attackers.

In the village of Preoce at Lipljan, Albanian neighbors attacked the brothers Branko and Dragan Nedeljković as they worked on their family property, causing them grave bodily harm for refusing to comply with orders by the Albanians to cease the work. The property of the Nedeljković brothers is close to a place where the illegal construction of a facility intended for Albanians had been initiated.

In the Suvi Do village nearby Kosovska Mitrovica, residents of Albanian nationality have been trying to build a water pipeline across Serbian property for months. There are no official plans for building the pipeline, nor are there clearly resolved property relations leading to conflict with the Serbs who own the land. In conflicts on July 7, 2008 the Albanians caused grave bodily harm to Predrag Jeftić, because of the disagreement on the works. 40 Serb households were settled in Suvi Do, otherwise completely surrounded by Albanians. It is presumed that the goal of the works forced by the president of the Albanian municipality of Kosovska Mitrovica Bajram Rexhepi, a former KLA leader, is the exile of the Serb populace.

Likewise, as an example of institutional pressure on non-Albanians, we note the case of the village Berivojce near Kosovska Kamenica where the local self-government assembly made a decision to construct a mosque in the part of the village inhabited by Serbian residents. Due to the Serbian residents being upset, the UNMIK municipal representatives suspended the decision to build, but the municipality later continued building, causing a conflict between the Serbian and Roma population on one side and the Albanian population on the other.

- The Case of Marko Simonović -

We note the case of Marko Simonović, arrested under suspicious circumstance in Priština on September 25, 2007 by the Kosovo Police Force. Marko Simonović was arrested under charges of having been part of a group which executed the murder of four and attempted the murder of another two persons of Albanian nationality on June 15, 1999 in the Aktaš settlement in Priština. Simonović was 16 years of age at the time of the alleged crime. In June 1999 Simonović was forced to leave Priština along with his family, as were most Serbs in that city. During the time between June 1, 2005 and May 31, 2007 Marko Simonović worked in the Ministry for Communities and Return of the Provisional Self-Government Institutions in Priština and during the

employment process he obtained an HPN certificate No. 5878/2005 on May 10, 2005 from the Municipal Court in Priština, indicating that he was not under investigation and had never been imprisoned. He was also in possession of a UNMIK personal ID card. During all this time no processes or investigations had been initiated against Simonović and he lived in relative peace in Priština for nearly two years. He was imprisoned on May 29, 2007 at the Centar police station in Priština upon his second visit to the station to request help and intervention on account of repeated squatting in the family building owned by his maternal grandfather Živorad Krstić, who was removed from a bus by the members of KLA on June 25, 1999 on the Priština-Prizren route in Crnovljevo and had been registered as missing ever since. The house was taken over immediately after the war by Miljajim Zeka, reputedly a publicist and employee of TV Priština. The Simonović family reported this case to the Housing and Property Directorate (HPD) which called for Miljajim Zeka to be evicted from the premises and the property to be returned to the Simonović family. Having been evicted once by the HPD, Zeka once again broke the lock on the front door and returned to the house. In the process that the Simonović family initiated with the HPD for the return of the family house, Miljajim Zeka showed a contract on the sale of the house allegedly signed by Živorad Krstić as the seller on August 15, 2001, three years after he had been kidnapped. The HPD ruled in favor of the Simonović family, however, when Marko requested police intervention against Miljajim Zeka, who refused to vacate of his own volition, he was arrested in the station. There are serious indications that the usurper Miljajim Zeka initiated the arrest of Marko Simonović in order to cover up illegal dealings regarding the family house.

Other than being questioned immediately after he was imprisoned by the local county prosecutor in Priština, no investigative action was undertaken other than the identification by alleged witnesses. Identification was performed in a suspicious manner. Recognition was announced on April 10, 2008. Prior to this, Simonović was brought in twice and returned to the County Court in Priština, and during this time he was held tied up on a bench in a yard, while his photograph was published in the newspapers. On the day of identification only Simonović had an item of clothing which was blue. It is also indicative that all of the persons performing identification stated that they had not seen him since 1999. At the time of the crime he was 16 years old. This raises the objective issue of whether there were no physical changes after eight years at this stage of human development. During the time Marko Simonović was in custody no other investigative activities were undertaken, even though all regulations call for the swiftest resolution of cases involving custody. Likewise, custody should be reduced to the minimum possible duration considering the fact that Simonović was treated as juvenile in this process, since he was 16 when the crime was allegedly perpetrated. Due to all of the above, on April 10, 2008 Marko Simonović started a hunger strike demanding that his case be resolved as soon as possible.

Marko Simonović was convicted to 10 years in prison on February 10, 2009 in Priština, against charges of being a member of a group that had committed the murder of four, and attempted the murder of two more persons of Albanian nationality on June 15, 1999.

There is reasonable suspicion of the charges against Marko Simonović for the alleged murder being constructed so as to prevent the Simonović family from returning to their usurped house in Aktaš street number 80 in Priština. The house was usurped by a Miljajim Zeka from Priština, after creating a false contract on the

purchase of the house in 2001, as claimed by the Simonović family. Marko Simonović visited the KPS Priština and requested the eviction of the usurper, but was instead arrested when suddenly murder charges from 1999 magically appeared.

- The Case of Momčilo Jovanović -

A typical case is that of Momčilo Jovanović (47 years of age), a displaced person from Vitimirica near Peć, who fled to Arandelovac with his family after June 1999. Jovanović was arrested on March 12, 2008 in Peć as a member of a group of displaced persons visiting their destroyed homes in Vitimirica, organized by UNHCR and the Danish Refugee Council. Jovanović was arrested based on a report by his former Albanian neighbor Delija Prelvukaj for the alleged crime from May 12, 1999 – being the member of a group of persons that killed his two brothers and kidnapped his sister. Even though there were no charges or reports against Jovanović for crimes during the armed conflicts in 1998-1999 prior to this point, and he had already visited Peć twice without having any problems, the international prosecutor Marija Bamijeh requested custody. On March 15, 2008, the international judge Lolita Dumlao refused the request for court custody for lack of material evidence. Unfortunately, due to pressures from the Albanian side and the UNMIK Department of Justice, the initial ruling was overturned by the decision of the County Court in Peć PPH number 33/08 from March 18, 2008. Jovanović was assigned court custody for 30 days. In the meantime, another Albanian family, the Grabovci, appeared with claims of Momčilo Jovanović having killed three of its male members.

On March 27, 2008 the County Court in Peć overturned the custody ruling upon objections by the defense, by transferring Momčilo Jovanović to house arrest instead of prison. Since all of the family property of Jovanović was destroyed, and his family lived in Arandelovac, the court appointed the home of the Serb Miodrag Dašić in the neighboring village of Brestovik as the place of residence for Jovanović. The Ministry for Kosovo and Metohija filed a request with the UNMIK Department of Justice and the Special Representative that Jovanović be allowed to defend himself from freedom, with guarantees by authorities from the Republic of Serbia that he would be available for investigating authorities at all times. The international council of the Supreme Court of Kosovo refused the request of the Ministry for Kosovo and Metohija on April 11, 2008, with the explanation of there being no Agreement on Technical Cooperation between UNMIK and the Republic of Serbia in cases such as this. The ruling of the Supreme Court of Kosovo on April 25, 2008 extended house arrest for Momčilo Jovanović until June 11, 2008 in relation to him allegedly being a member of the group that took part in the murder of the Prelvukaj family, but the house arrest was retained as per charges of the murder of members of the Aliju family.

Even though neither investigation nor any type of investigative activities have been held against Momčilo Jovanović, other than hearings of the alleged witnesses, the Municipal Court in Peć extended house arrest until October 10, 2008. At no point did Momčilo Jovanović break the rules of house arrest or attempt escape, yet the international prosecutor Marija Bamijeh, at one point, suggested that he be returned to prison custody with the explanation that Miodrag Dašić no longer had adequate conditions for housing the defendant. This is a unique example in judicial practice of requesting harsher measures for the presence of the defendant in a process where he never broke the conditions of the existing measures. Even the international judge and international prosecutor state that there is no valid suspicion of Momčilo Jovanović

having committed the murders of the Prelvukaj family that he had initially been arrested for.

This case is a typical form of pressure directed against other potential returnees of Serbian nationality to prevent them from considering return to Kosovo and Metohija due to the fact that they would be arrested and processed based solely upon testimony from Albanians, while the UNMIK administration would assist in the charges and the proceeding.

II) RIGHT TO LEAVE ANY COUNTRY, INCLUDING THEIR OWN, AND THE RIGHT TO RETURN TO THEIR OWN COUNTRY

Nearly ten years after the end of the conflicts in 1999, there are still a large number of displaced persons living away from their former residences in Kosovo and Metohija. Some of them, mostly ethnic Albanians, were displaced during or immediately prior to 1998-1999, while the others, mostly Serbs and other non-Albanians, were displaced after the NATO intervention in 1999. The right of all refugees and IDPs to return to their homes is an internationally recognized right and, following the spring of 1999, only ethnic Albanians made use of it, returning voluntarily, sometimes making use of help by their host countries. However, not all of them chose to return in this way, therefore their host countries started returning them by force several years after the conflicts had ended. Some of these countries have signed agreements to this effect with UNMIK, and up to this point 47,738 persons have thus been returned to Kosovo and Metohija, according to UNMIK statistical data from end March 2007. UNMIK does not accept forced returnees from Serbian and Roma communities, nor ethnic Albanians in places where they would represent a minority.

When speaking of returnees to Kosovo and Metohija, we usually focus on voluntary and sustainable return. The biggest challenge in relation to this is the return of the members of minority communities, primarily Serbs, Roma, Ashkali and Egyptians. These internally displaced persons still face founded or apparent fear for their safety upon return. The long-standing political situation, marked by constant discussion on the future status of Kosovo and Metohija, merely served to additionally fuel the existing interethnic tensions and eliminate motivation for displaced members of minority communities to investigate whether sustainable return to their homes is possible. The difficult economic situation in Kosovo and Metohija and the depressing return information from those that had returned merely increased the worries of potential returnees. In June 2006, one of the returnees of Serbian nationality was murdered in his home in Klina, while in September 2006 a bomb was thrown at the house of two returnees of Serbian nationality whereby four persons were injured. These incidents were condemned by international and local politicians and, thus far, have not occurred again. However, potential returnees often fear that these incidents might recur, and many of them still suffer from sporadic disturbances, including intimidation, attacks on persons and property or having their buses stoned. These types of incidents cause the potential returnees to reevaluate their decision to return, wonder if it is at all possible to return and have full safety and finally make the call to postpone return for better times. Still, it should be noted that the general safety

situation in Kosovo and Metohija has somewhat, though not considerably, improved and that the number of ethnically motivated attacks on returnees has decreased.

Returnees of Serbian descent are having difficulties accessing their agricultural land, for two reasons. The land is either in use by others, or it is not close to their place of residence. The Kosovo Property Agency (KPA) is responsible for the return of this land and once the eviction process starts in earnest, the problem of access to land for some of these people will be resolved. Returnees, mostly from the Serbian and Roma communities, thus rather choose the second phase of expectation and find solace in true or imagined fear for their own safety. These fears preclude the freedom of movement in Kosovo and Metohija and reduce access to employment and public services. As preventive measures, the Kosovo Police Service (KPS) performs more frequent and intensive patrols in regions inhabited by returnees, while the so-called humanitarian bus lines, financed from the Consolidated Budget of Kosovo, connect returnee villages with larger Serb enclaves where returnees can purchase the basic life necessities or visit healthcare institutes.

Most IDPs from Kosovo of Serbian and Roma minority communities – but also some Ashkali and Egyptians – still live with their families or friends in central Serbia or parts of Kosovo and Metohija where Serbs represent the majority. A smaller percent resides in collective centers on the territory of Serbia proper or Montenegro, often in poor living conditions.

According to the UNHCR in Montenegro, most IDPs that arrived to Montenegro in 1999 still reside there. Approximately 6,500 IDPs are members of the Roma, Ashkali and Egyptian communities residing in temporary settlements and also risk losing their citizenship for lacking adequate documents. Thus far, a lot of the children cannot be registered, do not have citizenship and are unable to exercise their civic, economic, social and political rights. In some cases, their parents never registered while still living in Kosovo and Metohija, while in other cases these documents were lost when they fled their homes in 1999. In order to solve this problem, the UNHCR initiated the program of free legal assistance in 2006 in order to assist in locating lost documents and provide help in issuing new documents in Serbia and Montenegro. Since November 2006 executive legal partners of the UNHCR have helped approximately 150 persons in Montenegro to obtain birth certificates and/or citizenship.

According to unconfirmed information, the Government of Montenegro has initiated several projects to permanently resolve the fates of these internally displaced persons in Montenegro, in cooperation with the UNMIK, PSI and UNHCR, as well as the Peć, Klina, Dečani and Đakovica municipalities. They have organized “go – see visits” and according to unconfirmed data, more than 400 IDPs from Montenegro have become able to return. In fact, 80% of potential returnees are members of the Roma, Ashkali and Egyptian community, while 20% are Serbs and Montenegrins.

The protocol on the voluntary and sustainable return of IDPs to Kosovo, signed between the PSI, UNMIK and Government of Serbia on June 6, 2006 was not successful in increasing the number of returnees from Serbia proper to Kosovo thus far. This protocol recognizes the obligation of all sides to provide for a safe and free return of IDPs to their places or origin in a safe and dignified manner, along with the return of their rights to property. The protocol also includes the obligation to create adequate conditions for freedom of movement and to establish systems that shall

enable cooperation between returnee municipalities in Kosovo and the current host municipalities in Serbia proper.

The lack of significant results in the number of returnees stems in part from the nature of the document itself, since effectively it represents a political guideline issued by the UNMIK and the Office of the Prime Minister, one that the Kosovo Assembly never approved. Many municipalities thus consider this document not to be legally binding and have not included it in the return strategy.

Thus far there has been little return to urban parts of Kosovo. Many potential returnees from the minority communities, mostly Serbs, fear for their safety if they return to their homes or houses in cities. It would seem that the Kosovo Ministry for Return and Communities, under pressure by the international community, intends to accelerate the return to urban environments. On the other hand, various forms of significant aid and support for persons that have returned to Kosovo and Metohija are only starting.

V) RIGHT OF EVERY PERSON TO PROPERTY, EITHER INDIVIDUAL OR AS PART OF A COMMUNITY

The legal and institutional framework regulating and protecting property rights in Kosovo and Metohija is still weak. These weaknesses affect all communities, especially the community of Kosovo Serbs since many of them remain displaced from their homes or await the return of residential, agricultural or business property.

With the goal of returning usurped Serbian residential property in Kosovo and Metohija, the UNMIK established the Housing and Property Directorate (HPD) with the mandate to decide on requests on property return by enacting decisions on usurper eviction and their implementation. This was regulated by Regulations No. 1199/23 and 2000/60. During the period 2000 – 2005 this Directorate received 29,000 requests. The HPD made numerous errors in their work to the detriment of Serbs because it did not deal merely with returning apartments and houses taken from persons of the Serbian nationality. Instead, its primary task was to return property that was allegedly stolen during the period of 1989 – 1999 from Albanians by the Serbian government, or handing over apartments and houses to Albanians, allegedly purchased from Serbs through purchase contracts, but ones which could not be validated and thus the purchased real estate could not be registered due to the alleged discriminatory regulations of the Republic of Serbia on the prohibition of real estate trade in Kosovo and Metohija.

In 2006 the UNMIK established a new organization – the Kosovo Property Agency (KPA) with the competency of not just returning usurped houses and apartments, but also returning usurped business spaces, agricultural and construction land. The KPA also took over the implementation of decisions made by the HPD. The HPD committee continued working in cases where a decision was not yet reached and these decisions are still made in accordance with HPD procedures.

There are a large number of cases where the HPD received a request for the return of an apartment by Serbs who received that apartment from their employer, initially as bearer of the right of residence and subsequently purchased, while at the same time a request for the return of the same apartment was made by an Albanian working at the same company as the Serb, but having lost the apartment on the

ranking list for awarding apartments in the company due to alleged discrimination against Albanians. The practice in the HPD was, in most cases, to award the apartment to the Albanians, while the Serb requests were denied, despite the fact that they had purchased the apartment in full and had become the owners. In those cases the Serbs have no right of appeal or complaint against the final (second degree) decision of the HPD committee, while in cases where the Serb request for the return of an usurped apartment is accepted, the Albanians are instructed by the HPD to apply to the municipal court to provide legal protection, even though Regulation 2000/60 regulating the HPD procedures does not prescribe such an option. Until the court proceedings are completed the Serbs have no right of use for the apartment and/or it cannot be sold, which makes their position difficult, since the apartments are mostly located in environments where there are no safety or existential conditions for Serbs, while the sale of the apartment would provide money to resolve the residential problems in the community where they currently reside.

The HPD does not recognize decisions by courts of the Republic of Serbia made during the 1989 – 1999 period which deal with the apartments in question since, according to their interpretation, the decisions of all state authorities during the period were discriminatory against Albanians.

Likewise, there are a large number of cases where the request of the Serbs was accepted, they were handed over the keys to the apartments and the Albanian usurper was evicted. However, since these are urban environments where Serbs have no access, these apartments are then immediately usurped again by Albanians that simply change the locks and continue living in the same apartment. The Serbian requests that these usurpers be evicted again are met with the Agency response that handing over the keys has resolved the case on their side and that this is now the jurisdiction of the Kosovo Police, which in turn mostly turns a deaf ear to Serbian requests.

The use of forged documents to certify false real estate sale is one of the problems interfering with the ability of courts in Kosovo and Metohija to properly assess evidence in property disputes. Despite of there being a legal framework regulating formal real estate sale requests, the courts are unable to implement these provisions effectively. Many individuals use the current displacement and poor cooperation between Kosovo and Serbian institutions to perpetrate property fraud by using forged documents issued in Serbia or Montenegro. These documents are subsequently certified by courts in Kosovo and Metohija, without awareness of their being forged. Forging authorizations is present in out-of-court proceedings related to the certification of property transactions. Persons acting as legal representatives of the owner or buyer of the property are usually involved in these cases. According to current law, “a contract used as the basis for the transfer or rights to use real estate or real estate ownership shall be set forth in writing, and the signatures of the contracting parties shall be certified in court.” The law further prescribes that a contract failing to meet these formal requirements is not legally binding. In cases where the party in real estate transfer is not the signatory party, the signatory must have court-certified authorization of representing the party in the signing and certification of the contract. Therefore, in certifying a real estate sale contract in cases where the seller is represented by a third party, the court official must confirm that the third party, acting as signatory, is legally authorized by the seller to represent them. Once the process is over, the court is obliged to send the contract to the cadastre service to have the transfer recorded. Even though according to the Law on Extra-Judicial Proceedings a legal representative can represent one of the contracting parties in the transfer of real

estate, the judge is obliged to examine “whether the representative or person with authorization are capable of acting as such and whether they are authorized to perform the legal action.” Finally, the Law on Obligatory Relations demands that “the prescribed form [...] of contract or other legal documents shall likewise be valid for the authorization of making such contract [...]”

Despite these legal regulations the use of invalid authorizations has been noted in representing, thereby constituting fraud in property transactions in dealing with the property of Serbs living as displaced persons since June 1999 that have left the property and estates in Kosovo and Metohija. According to the OSCE report there have been 37 instances of charges being pressed in Kosovo and Metohija courts due to this type of fraud since mid-2006. Of these, 26 have been cases of forged authorizations (14 from Peć, 11 from Klina and one from Istok), while 11 represented charges of forged contracts. In a typical case, a person would forge the personal ID of the absent property owner and use the documents thus forged to obtain authorization of representation issued outside of Kosovo and Metohija and, as shown by recent cases, likewise in courts on the territory of Kosovo and Metohija. The person would then sell this property to another person in Kosovo and Metohija. During this process, the court where the property is located would certify the sale of the real estate based on such invalid authorizations.

The following cases may be used as examples:

1. On September 19, 2005, a Serb plaintiff filed charges with the public prosecutor in Peć against two persons of Albanian nationality charging them with forging his personal ID in order to obtain authorization to sell his property in Peć. On September 21, 2005 the prosecutor filed charges to the Municipal Court in Peć demanding the annulment of the sales contract with the defendant Albanians as certified by the court on July 5, 2005, due to the defendants having used forged authorization. This authorization was certified by the court in Mitrovica on June 9, 2005, based on forged personal ID. The prosecutor provided both the real ID card and the forged one used to obtain authorization as evidence. Both cases are still awaiting resolution in court.

2. Likewise, in a property dispute before the Municipal Court in Peć, a Serb plaintiff filed charges on April 4, 2005 demanding the annulment of the sales contract certified in Peć on October 6, 2004 for being based on invalid authorization. The contract was made in the name of the seller by a lawyer submitting authorization certified by the Mitrovica Municipal Court on October 5, 2004. However, the plaintiff claims never to have given authorization to the lawyer to sell the property. The case is as yet unresolved.

3. In the property dispute of May 29, 2006 before the Istok Municipal Court, a Serb plaintiff demanded the annulment of the sales contract certified in the court on May 19, 2006. The plaintiff claimed that the defendants had forged the ID cards of the property owner (a relative of the plaintiff) and had thus obtained invalid authorization certified in the Mitrovica Municipal Court on the same day, May 19, 2006. As evidence, the plaintiff submitted the death certificate of one of the owners who had been dead long before he allegedly signed the authorization, along with the forged and real ID cards of two other persons that had allegedly signed the authorization. This case has not been resolved yet.

4. Before the Vučitrn Municipal Court, on January 24, 2006 four Serbs demanded the annulment of the property transaction between two defendants of Albanian nationality (father and son). The Court certified the contract on October 30, 2003. One of the defendants was acting as the seller based on authorization of the owner allegedly certified in Belgrade, while the other defendant was acting as the purchaser. The prosecutor claimed that this authorization was forged because one of the persons alleged to have signed it had died in 2001. Likewise, the First Municipal Court in Belgrade confirmed that on April 26, 2006 they did not certify this authorization. On October 18, 2006 the Vučitrn Municipal Court declared itself territorially ineligible for resolving this issue. This case is still unresolved in the Peć Municipal Court.

In the first two cases, the lawyers took part in illegal transactions as legal representatives. If the lawyers were aware of the facts and acted accordingly, it not only represents a felony, but also a breach of attorney ethical code. As for the protection of the Kosovo judiciary, when property transactions or authorizations are certified, forged documents might be difficult to uncover since they may visually appear like original documents. However, in the said fourth case, the court should have prevented the illegal transaction. Before certifying the transaction the court was obliged to request a confirmation from the Department of Justice of the court in Serbia having previously certified the authorization. In response to the increased number of illegal transactions in Kosovo and Metohija based on false authorizations certified by courts in the Republic of Serbia and Montenegro on the basis of forged documents, the Department of Justice issued an internal memo on February 12, 2004 requiring the judges to request evidence from parties that the stamps of the courts in Serbia and Montenegro are not forgeries. The UNMIK Department of Justice is tasked with verifying the authenticity of these authorizations, in cooperation with the Ministry of Justice of the Republic of Serbia. However, the internal memo only speaks of the issue of forged authorizations certified in courts outside Kosovo and Metohija, not within Kosovo and Metohija. During the mandate of the Coordination Center for Kosovo and Metohija (September 2005 – May 2007), the UNMIK Department of Justice requested and received answers in verifying over 117 authorizations and/or extracts from the central registry allegedly certified by the Courts of the Republic of Serbia and its municipalities. Of the 117 cases 8 authorizations submitted as evidence in Kosovo and Metohija courts were determined never to have been certified in the courts in the Republic of Serbia, as was the case with two extracts from central registries. Following the establishment of the Ministry for Kosovo and Metohija, the tasks of the Kosovo and Metohija Coordination Center related to verifying the authenticity of authorizations were transferred to the Ministry of Justice of the Republic of Serbia.

The basic method of giving the impression of authorized representation is the use of forged documents for making illegal property transactions to the detriment of Serbs, as noted by the OSCE. This practice is not only illegal, but it aggravates and discourages the return of displaced persons and creates additional obstacles to the resolution of the already overly complicated property situation in Kosovo and Metohija.

According to the OSCE report, the criminal department of the UNMIK Department of Justice initiated investigations into 43 cases of invalid transactions based on forged documents, following complaints by displaced persons. In a case before the Klina Municipal Court, two Albanian defendants forged the ID card of the

owner of the disputed residential property, a Serb who had died 12 years ago, and used it for issuing a certificate from the Kragujevac Court in Serbia. This enabled one of the defendants to sell the residential property to the other defendant in the name of the deceased owner. Using the certificate thus forged the defendants signed a contract and certified the property transaction before the Klina Municipal Court, which had no way of learning that the authorization was issued based on a forged ID card. The plaintiff in this case, a Serb displaced to Serbia following the conflict and having returned to Kosovo and Metohija in the meantime, is the only son of the true owner and the only heir to this residential property. On September 27, 2004 he demanded of the court to annul this false property transaction certified by the Klina Municipal Court and to proclaim him the legal owner, as if the property was never sold. On October 20, 2005 the Court accepted these charges, found them to be valid and decided that the defendants had made the sale contract based on forged documents and awarded the residential property to the plaintiff.

In 11 similar cases before the Klina Municipal Court, a certain number of Serbs from this municipality displaced to Serbia upon the arrival of KFOR filed charges against Albanians that have illegally seized their houses. They listed the defendants obtaining ownership of their property without their knowledge using forged authorizations issued in courts in Serbia and Montenegro, enabling third parties to sell the residential property, pretending to act in the name of the plaintiffs. Using authorizations thus forged the defendants certified these false property transactions before the Klina Municipal Court, whose officials ignored the fact that the authorizations issued in Serbia and Montenegro were forged. Since the plaintiffs were displaced in Serbia and had no physical contact with their residential property, they learned of the sales of their houses only after the property transactions had already been formally entered into the records of the Klina Municipal Court, after some of the plaintiffs had returned to Kosovo and Metohija.

In a case before the Prizren Municipal Court on August 10, 2005 a Serb currently residing in Serbia demanded of the court to recognize his property rights as per a house in Prizren which was taken over at that point by the second defendant, an Albanian. According to these charges, the second defendant purchased this residential property without the knowledge or intervention of the plaintiff, using forged documents used for issuing authorization in the Mitrovica Court, enabling a Belgrade-based lawyer to sell the house in the name of the plaintiff. Since the authorization conferred the ability to provide representation authorization, the authorized person from Belgrade issued a second authorization before the same court, in the name of a Turk lawyer from Prizren, likewise a defendant in this case, whereby this lawyer was entitled to conduct the sale of the disputed residential property, supposedly representing the plaintiff. With this second authorization, the defendants certified the sales contract before the Prizren Municipal Court. The plaintiff learned of this false transaction at a later time, when the HPD initiated the process of evicting the second defendant from the house.

As these cases and many others show, the use of forged personal ID cards for the issuing of official authorizations in Serbia and Montenegro, enabling certain persons in Kosovo and Metohija to sell residential property owned by Serbs displaced to Serbia, is a frequent practice in courts. Besides the use of forged ID cards to obtain false legal authorization and certify false property transactions, the OSCE also noted that other evidence is forged in the same way and provided to courts in property disputes.

In one case presented before the Istok Municipal Court, five persons of the Roma nationality currently residing in Germany filed a request on May 24, 2004 for the Court to annul the sales contract whereby the defendants, two persons of Albanian nationality, purchased the family house belonging to the plaintiffs. According to the charges, the defendants made use of the forged death certificate of the plaintiff's father, the legal owner of the house, to certify that the heir to the house is the first plaintiff. Furthermore, the defendants used a forged ID card for the first plaintiff to obtain false authorization issued in Montenegro, enabling a lawyer from Serbia to sell the house in the name of the first plaintiff as the sole heir of the deceased person. Using these false documents the defendants certified the sales contract at the Istok Municipal Court and entered the house into the cadastre records in their own names. According to the charges, the first plaintiff never issued an authorization for the house to be sold to the defendants. In a second example before the Priština Municipal Court, the plaintiff, an Albanian woman, claimed to have purchased an apartment in Priština from the defendant, a Serbian national, on April 7, 1996. Since the sales contract provided by the plaintiff as evidence was not court certified, the presiding judge found its validity to be suspect and requested the Crime Directorate of the KPS to examine the signatures of the parties and assess their authenticity. The expert report provided by the Police confirmed the defendant's signature on the sales contract to be forged, and thus the court dismissed the charges as unfounded. Even though the use of forged official documents already represents a difficult problem, especially if they have value as evidence, once these documents are used as the basis for registering property rights the problems are compounded. This happens whenever the use of irregular cadastre documents is accepted, since they should, in theory, be the most reliable proof for property rights, since every real estate transaction needs to be registered in the cadastre service. If these documents are abused and the court is unable to uncover irregularities, the credibility of the judiciary in resolving property disputes is seriously threatened.

To this end, the OSCE identified a number of cases where the owners' documents submitted as evidence were irregular. Some of these documents did not contain the entry number in the municipal register, a signature by the official issuing the owners' documents, the signature of the manager of the municipal cadastre service or the stamp of the official cadastre service, even though these are all formal requirements for the owners' documents to be valid.

According to current law, once it is issued in its legal form, a public document proves the validity of the contents of the document. The law likewise prescribes that whenever the court has any doubts as to the authenticity of a document, they can request the issuing agency to provide their opinion on the matter. Despite this legal framework, in several cases where doubt should have been expressed as to the authenticity due to irregular owners' documents, the courts not only accepted these documents as valid, but used them as evidence in reaching a final verdict, without having them previously submitted to the Municipal Cadastre Service which allegedly issued them, in order to confirm their authenticity. Aside from breaking the law, this practice endangers the property transaction system in Kosovo and Metohija, whereby fraud is allowed and it has a negative impact on the authenticity of cadastre records.

In a property dispute initiated on February 26, 2004 before the Gnjilane Municipal Court, the plaintiffs submitted as evidence owners' documents lacking a (protocol) number showing when it was entered into the municipal register, the signature (or name) of the clerk, as well as the signature of the manager and the

municipal stamp. The court accepted these owners' documents as evidence during the main inquest. In the ruling, the court admitted to accepting the disputed owners' documents as evidence and concluded that "based on all that was said [and] the accepted evidence, [...] the court considers the charges filed by the plaintiffs to be founded and has reached a decision as noted in the ruling." In another property dispute before the Gnjilane Court a similar situation occurred. The plaintiffs filed charges on October 12, 2004 and provided two owners' documents as evidence. One of these was a valid document containing all the required data and the stamp. The second document, on the other hand, lacked the (protocol) number showing it to have been entered into the register, the signature of the manager, or even the municipal stamp. Again, the court accepted both documents as evidence during the main inquest, and in the ruling, issued on the same day, the court admitted that, among other evidence, they accepted both documents as valid. In these examples the courts certifying property transactions failed to note the forged authorizations or death certificates issued by courts in Serbia and Montenegro, or relied on obviously irregular owners' documents. Consequently, the courts did not forward these forged or irregular documents to the Department of Justice or the cadastre service to verify their authenticity. Therefore, several transactions with forged documents were certified, and the courts enabled the legalization of illegal property transactions thereby interfering with the process of minorities returning to Kosovo and Metohija.

VII) RIGHT TO FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

UNMIK regulations and the Constitutional framework envisage freedom of religion, which is generally observed in practice by UNMIK and the PSI. There are no specific regulations relating to issuing permits for the activities of religious groups. However, in order to be able to purchase assets or receive financial assistance from UNMIK or other international organizations, religious organizations have to register with UNMIK and the Ministry of Public Services as non-government organizations. Religious groups have complained that the status of a non-government organization fails to reflect their religious character adequately, while the Protestant Evangelical Church refused to register as a non-government organization.

Pursuant to the Law enacted in 2002 stipulating that national educational institutions should refrain from religious instruction and other activities promoting a specific religion, the Ministry of Education prohibited the wearing of scarves. The Ministry continued to implement the prohibition, in particular in schools which regulate the wearing of uniforms, in spite of the opinion issued by the Ombudsman in 2004 that the regulation should only apply to the teaching staff and other employees and not to the students. On September 20, 2004, the Koha Ditore gazette reported that three student girls from two secondary schools in the municipality of Srbica were not allowed to enter school for wearing scarves but were, eventually, permitted to attend the classes.

Protestant groups still report discrimination in terms of access to media, in particular to the Radio Television of Kosovo (RTK). The Protestant Evangelical Church of Kosovo, also known as the Community of God's People, also reported that the municipality of Dečani did not issue a permit in 2006 to build a church facility on

the land they had purchased, stating the negative reaction of the local population as the reason. The case reached the Supreme Court of Kosovo before the end of the year.

The Muslim community keeps reiterating that the UNMIK's refusal to issue a radio frequency for a Muslim radio station and the decision to close the praying rooms in the National Library are examples of a lack of religious freedoms.

Freedom of religion is violated for adherents of the orthodox religion through the demolition and burning of orthodox edifices, while abuse of religion in committing criminal offenses is tolerated for radical Muslims in Kosovo and Metohija. The American Representative for the Balkans, Robert Gelbard, labeled the Kosovo Liberation Army (KLA) unequivocally as a terrorist group. KLA members were trained by combatants from Kuwait, Saudi Arabia and Germany, as well as by Afghanistan and Turkish trainers. At the request of Abdullah Duhayman, a Saudi citizen and Head of the Global Bureau for Islamic Calling and a direct associate of Osama bin Laden, the Albanians Ekrem Avdiu and Kopriva Spend organized a jihad unit (Saudis, Ethiopians and Albanians). After the unit was dissolved by the Ministry of Internal Affairs of the Republic of Serbia, the defendants were convicted in 2000 by the Serbian judiciary and granted amnesty by the competent bodies of the Federal Republic of Yugoslavia in 2001, allegedly under pressure by the international community. The name of Abdullah Duhayman was directly linked to September 11; he was convicted to a single year of imprisonment in 1996 since he apparently had powerful patrons, as did his comrades from Kosmet and Afghanistan. After the arrival of international security forces, a number of terrorist groups continued their activities in Kosovo and Metohija, operating against the Serbian population, members of international forces and members of the Serbian army and the police in the Preševo and Bujanovac regions, across the administrative line from the territory of Kosovo and Metohija. The terrorist activities are financed (identified as a criminal offence of facilitating terrorist acts under Article 112 of the Provisional Criminal Procedure Code, prescribing a punishment of 15 years imprisonment) largely from the funds of non-government organizations financing the construction and work of religious facilities and activities under the control of radical Islamic movements such as the Salafi and the Wahabbi.

The Serbian Orthodox Church is in a particularly difficult situation, since a large number of churches, monasteries and other places of worship have been destroyed or severely damaged since June 1999.

After the NATO air-raids against the Federal Republic of Yugoslavia and the Republic of Serbia in 1999, the signing of the military-technical agreement and the adoption of the UN Security Council Resolution 1244, Kosovo and Metohija were placed under the security and civil administration of UN and/or KFOR and UNMIK.

Almost 10 years have passed since the arrival of the international administration and five years since the March pogrom over the Serbian people and their cultural heritage. The destruction, burning and endangering of 117 churches, monasteries and an innumerable number of graveyards occurred in the second half of 1999 in the presence of several thousand soldiers of international forces and UNMIK. This cannot be forgotten or diminished in importance as the previous destruction, in spite of the repeated and thus far unprecedented and globally unseen destruction of other and same monasteries, churches, cultural monuments, graveyards and other constructions reminiscent of Serbia and the orthodox religion which took place on March 17-18, 2004. A total of 34 facilities and places owned by the Serbian Orthodox

Church were destroyed, burnt down or damaged in the two-day March pogrom alone, which are under the auspices of the Bishopric of Raška and Prizren and Kosovo and Metohija. Churches and monasteries sustained the most severe damage. Of the said number, 18 edifices are cultural monuments of the Serbian cultural heritage in Kosovo and Metohija, while 60 out of the total number of destroyed edifices (monasteries and churches) are cultural monuments of Serbian cultural heritage. The numbers are unfathomable in any context. It is incomprehensible that in this century the largest and unparalleled persecution takes place in Kosovo and Metohija, along with usurpation of land, civilization and cultural genocide against the Serbian people and their heritage. The term “crime against cultural heritage” in Kosovo and Metohija was included in Resolution 26 at the XXXI General Conference of UNESCO.

The events of March 17 resulted in new persecution, displacement and pogrom over the population and cultural monuments in Kosovo and Metohija. By expelling the Serbian population and “erasing” their cultural heritage as evidence of the creation of the state of the Serbian people, Albanians from Kosovo and Metohija are attempting to recreate and falsify history. The destruction thereof surpassed the destruction of 1999 (postwar). Two monuments were burnt down then (St. Archangel Monastery, Tsar Dušan Mausoleum and the unique town church of Bogorodica Ljeviška) which were categorized in the Report of the UNESCO Mission in Kosovo 2003 as monuments of universal value (of the total of six such monuments in Kosovo and Metohija.)

Almost all churches and numerous monasteries sustained damage (for example, churches of Prizren, in particular churches of *Bogorodica Ljeviška* and *Sv. Spas*, *Sv. Andrija Prvozvani* of Podujevo, *Bogorodičino Vavedenje* of Belo Polje, *Sv. Ilija* of Vučitrn, etc) or were fully destroyed (for example, monasteries: *Zočište* of Orahovac, *Sveta Trojica* of Mušitište, *Devič* of Srbica, *Dolac* of Klina, *Sv. Marko* of Koriša, *Sveti Arhanđeli* of Gornje Nerodimlje, *Sv. Arhanđelo Mihailo* of Buzovik, etc. and churches: *Sv. Đorđe* of Prizren, Rečani and Siga, *Bogorodica Odigitrija* of Mušitište, *Bogorodičina Crkva* of Suva Reka, *Saborna Crkva Svete Trojice* of Đakovica, *Rođenje Presvete Bogorodice* of Softovići, *Sv. Nikole* of Priština, Prizren, Slovinj, Đurakovac, Štimlje, Popovljan, Mlečani, Kijev, Donje Nerodimlje, Sičevo, Bistražin, Ljubižda and Čabići, *Sv. Petke* of Drsnik, *Uspenje Presvete Borodice* of Šajkovo, etc), and even eradication- with a removal of all traces – church foundations (for example: *Uspenje Bogorodice* Church and rectory in Đakovica.) In addition to the destruction of monasteries, churches, graveyards and other places, more than 10,000 icons were destroyed, as well as ecclesiastical, artistic and liturgical objects. It is interesting that, while Albanian hordes burned and mined the edifices, the invaluable movable orthodox wealth was pilfered from many churches and treasuries, being sold away in the global illegal market of antiquities, artwork, old manuscripts and other rarities.

Immediately following the NATO bombing and entering of international peace corps in Kosovo and Metohija, the British journalist Tim Judah made photographs in mid-June 1999 of Albanians looting the church of Sveti Ilija in Vučitrn. He informed Bishop Artemije thereof and handed in a few icons that he had managed to save. The Bishopric of Raška and Prizren was informed that church bells had also been stolen from the destroyed Serbian church in Đakovica in spite of protection by UNMIK police, while a German KFOR corporal tasked with protecting the property of the Serbian Orthodox church in Prizren stole a 300-year-old valuable icon – a diptych (a

liturgical book) and a number of smaller church items, wherefore he was sentenced to a year of probation in Germany.

In the South of Europe - Greece, according to a report by the local police, “four smugglers of Serbian religious and artistic items” were arrested in Thessalonica. The leader of the group and his wife were caught with 17 stolen 19th century books, stolen 18th century engravings and icons from and some valuables from Roman times, and the smugglers confessed to having bought the items in Albania from local dealers and that they originated from Kosovo and Metohija. These are but a few of the numerous examples.

No Albanian authority reacted, condemned the crimes or spoke in public of the incidents. It may be deduced that some political forces or formations in Kosovo and Metohija performed the crime against the cultural heritage of the Serbian people on purpose, targeting heritage which stands as evidence of the creation of its state, church and culture.

In some of the cases of March 2004 unrest, the defendants were convicted for minor misdemeanors, while the facts stated in the indictment indicated more severe offenses. Two defendants were convicted before the Municipal Court of Uroševac on July 16, 2004 for having participated in the group which had committed a criminal offense. There was no doubt that on the basis of evidence the court had determined that at least one of the defendants had thrown a Molotov cocktail at an orthodox church on March 17, 2004. These facts indicate severe criminal offenses such as the incitement of national, racial, religious or ethnical hatred, conflicts or intolerance and/or reckless endangerment. The District Court of Priština ratified the first instance decision on July 24, 2007. The prosecutor was to state charges for severe offenses based on the facts given in the indictment. As a result, several defendants received insufficiently severe punishments because they were not punished and convicted for the criminal offenses they had committed.

Following March 17, 2004, the international community severely condemned the pogrom, and the Kosovo Government was pressured into reconstructing an insignificant number of the destroyed houses which were re-inhabited by a small number of people – expelled Serbs and Roma. However, no rebuilding and reconstruction of churches and monasteries has been initiated, or cultural monuments of the Serbian cultural heritage, while the rebuilding and reconstruction of damaged mosques and minarets has already been completed.

The violence of March 17, 2004 in Kosovo and Metohija has revived the issue of preservation, reconstruction and protection of cultural monuments in a dramatic way. Following these events, the reconstruction of destroyed and protection of other cultural monuments has become more prominent in the engagement of the international community, taking into account that there were no results in terms of reconstruction and protection prior to these events. The Serbian cultural heritage in Kosovo and Metohija still lies in ruins, as along with numerous churches, facilities and graveyards which were, just like some of the churches, desecrated and ploughed over. Despite all the above mentioned, nothing has been done, in spite of the promises given by the international community and UNMIK that the rebuilding, reconstruction and protection of the Serbian cultural heritage in Kosovo and Metohija would be initiated as soon as possible. Furthermore, in some individual cases no access was allowed, not to mention rebuilding and reconstruction of destroyed cultural monuments and other facilities.

As an example of institutional usurpation of assets, we provide the example of the Serbian Orthodox Church, specifically the church of Đakovica. The Church of *Sveta Trojica* in Đakovica was destroyed by Albanian extremists in 1999. The municipality of Đakovica started constructing a town park on the land of the destroyed church in spite of the fact that the land is registered in the Cadastre to the name of the Serbian Orthodox Church. Bishop Teodosije of Lipljani filed a protest note to UNMIK and the Council of Europe with regard to the case.

The municipality of Dečani refused to implement the executive decision of Head of UNMIK Joachim Rucker adopted on May 17, 2008 which stipulated the return of 24 ha of land which had been taken away by the communist authorities after the Second World War. The Government of the Republic of Serbia adopted a Decision in 1996 on returning the land to the monastery. After the year 1999, municipal authorities of Dečani still treated the land as socially-owned and erased the monastery as an owner from the cadastre. At the insistence of Bishop Teodosije, Rucker adopted the Decision on May 17, 2008 that the land be returned to the monastery and ordered the municipal authorities to re-inscribe the monastery as the owner into the cadastre. The Municipal Assembly of Dečane declaratively refused to implement the UNMIK decision and decided to discontinue all contacts with local UNMIK staff. Bishop Teodosije notified the UN Headquarters in New York thereof.

VIII) FREEDOM OF THOUGHT AND EXPRESSION

Article 40 of the Constitution of the self-proclaimed so-called Republic of Kosovo guarantees the freedom of expression. The freedom of speech includes the right of expression, the right to impart and receive information, ideas and other messages, without impediment. The freedom of expression may be restricted by law if necessary to prevent the incitement and provocation of violence and hostility based on racial, national, ethnic or religious hatred. However, the European norm which has been inscribed in the Kosovo Constitution seems not to have been fully integrated and implemented by competent institutions, which may be seen in the following examples from the judiciary practice.

- The Case of the Stojanović Brothers -

The Decision of the Municipal Misdemeanor Court in Kosovska Kamenica UP.I No. 1271/2008 as of May 30, 2008 proclaimed brothers Momčilo and Milorad Stojanović of Kusci, the Gnjilane municipality, accountable for having been noticed on May 29, 2008 by the Kosovo police at the “Gate 5” administrative border at the town called Bela zemlja, wearing T-shirts with the statement “Kosovo is Serbia” inscribed in the front and the statement “Support Serbia” inscribed in the back of the shirts and were punished with a fine of EUR 250 and were forced to pay the fine on the spot.

Wearing the said shirts was characterized by the court as a misdemeanor under Article 18, paragraph 1, item 2 of the Law on Public Order and Peace (Official Journal of the Social Autonomous Province of Kosovo No. 13/81) with the justification that the appellants offended the national feeling and public moral of the majority of Kosovo citizens by wearing the statements “Kosovo is Serbia” and “Support Serbia”.

The said qualification of the court was issued without any legal and factual argumentation. The appellants wore the inscriptions to express their personal opinions and ideas as members of the Serbian national community and citizens of the Republic of Serbia without an intention to offend a single person or to jeopardize public order and peace. Article 10 of the European Convention on Human Rights prescribes that everyone shall have the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. Namely, Article 21 of UNMIK Regulation 1999/24 envisages that the European Convention on Human Rights be directly enforced in Kosovo.

The incomplete statement of reasons of the judgment failed to refer to any details on the manner in which the public morals or national feelings of the citizens had been offended and/or how the Stojanović brothers had offended the members of the majority community by wearing said inscriptions. Not a single piece of evidence or argument for making the decision is stated. As members of the Serbian national community and inhabitants of Kosovo and Metohija, the Stojanović brothers are entitled to expressing their affiliations and opinions in line with internationally recognized human rights. The Stojanović brothers did not offend the Albanian people or incite rioting which may jeopardize public order and peace, nor was this proven or stated in the misdemeanor proceedings.

- The Tučep Case –

A representative example is given in the case of Tomislav Zuvic, Branimir Golac and Radomir Džolić from the Tučep village close to Istok . Namely, two persons of Albanian nationality stoned their car and broke its windows on May 7, 2008. When one of the Albanians, Jakup Tahiukaj was taken into custody by the Kosovo police service, he stated that he was provoked by the Serbs who showed the three-finger sign through the window of the car. The Municipal Misdemeanor Court of Istok sentenced the Albanian offender to 60 days in prison, while the Serb victims of the attack were fined EUR 150 with the justification that they had violated public order and peace by displaying the Serbian sign.

MEDIA-RELATED FREEDOMS

Freedom of expression and freedom of media are well-protected by positive legislation. The Law on the Radio Television of Kosovo (No. 02/L-47, promulgated by the UNMIK Regulation 2006/14 as of April 11, 2006) envisages the establishment of a broadcasting agency, the Radio Television of Kosovo, which shall be autonomous from the editorial and financial viewpoint. The independence of the regulatory broadcasting agency, the Independent Media Commission, is stipulated by the Law on the Independent Media and Broadcasting Commission (No. 02/L-15, promulgated by the UNMIK Regulation 2005/34 as of July 8, 2005). Namely, Kosovo has enacted a very advanced legislative framework in this respect.

The legislation instrumental for establishing free and independent media have been developed in close cooperation with the Council of Europe and meet high standards. The Kosovo legislative framework in the field of media is advanced, in particular in relation to the issue of libel. The civic law against libel and slander, being the sole such law in the region, identifies the self-regulatory Kosovo Print Council as

a mitigating factor. The petitioners are stimulated to first turn to the Kosovo Print Council before they press charges for libel or slander. No significant changes in the normative framework regulating the operations of independent media occurred, nor were they expected. The Law on Libel and Slander favoring print media was promulgated in February 2007, in accordance with the Recommendations of the Council of Europe. However, in spite of these recommendations, libel is still defined as a criminal offense according to the still valid Provisional Criminal Law and is not treated simply as a civic offense. This allows for political misuse, enabling politicians criticized by the media to press criminal charges against the media professionals. There are two independent regulatory institutions – the Independent Media Commission (IMC) and the Kosovo Print Council. The Independent Media Commission represents an independent regulatory body in charge of broadcasting activities in Kosovo. It disposes of and manages the broadcasting frequency range, promotes ethical and technical standards among broadcasting media and enforces the set of regulations ensuring that local broadcasting stations act in line with European professional standards and equity in reporting. The Kosovo Print Council represents a self-regulatory body in charge of and comprised of print media, tasked with representing freedom of speech and ensuring the observance of the Print Code of Conduct, undertaken by 90 percent of the print media. There are no formal limitations to utilize media in minority languages in Kosovo and Metohija and the national legislation guarantees the right to communities and their members to receive and impart information in their respective languages, to create media in their mother tongue and to special representation in public broadcasting media.

The Law on Broadcasting of Kosovo was enacted in April 2006, stipulating the existence of public broadcasting stations independent from the editorial and financial viewpoint and promoting the broadcasting of programs in non-Albanian languages. Paragraph 6.6 of the Law obliges the Radio Television of Kosovo to “serve and be a voice for all ethnic minorities of Kosovo, dedicating no less than 10 percent of the budget to programs and no less than 15 percent of their program time – including the broadcasting of news in prime time – to non-minority communities and their languages on a proportional basis”.

During the course of 2006, the Fund for Providing Assistance to the Media of Minorities, Multiethnic or Disadvantaged Environment was established within the Prime Minister’s Office. The Fund, representing an integral part of UNMIK’s requirements in terms of standards, is predominantly funded by five percent of the fees for watching the public service. Subsidies should be provided on a regular basis to the minority media broadcasting program of good quality.

The reporting standards have risen after the unrest that took place in March 2004. Not a single case of hate speech was reported during the reporting period. The OSCE report on the role of Kosovo media in the events that took place in March 2004 notes that, had it not been for the “imprudent and sensationalistic reporting”, ethnic unrest might never have taken place. The Albanian TV channels were particularly criticized for “unacceptable levels of emotions, partiality, negligence and false ‘patriotic’ zeal” in their reporting.

However, a large number of public media in Kosovo and Metohija, the small advertising market, many young and inexperienced journalists and the absence of a formally recognized professional development system contributed to the financially and editorially weak media, which are open to political interference. These factors

hinder the distribution of diverse opinions. Currently there are eight daily newspapers in the Albanian language issued in Kosovo. Out of the 114 broadcasting stations owning a permit for performing such activity in Kosovo, 44 stations broadcast programs in minority languages (34 in Serbian, four in Bosnian, three in Russian, two in the language of the Gorani and one in Romani). Two stations broadcast evenly in Albanian and Serbian (with an additional program in Romani). 35 radio stations broadcast additional programs in other languages other than their first language, including the 19 stations which also broadcast programs in Romani.

A well-conceptualized institutional framework does not prevent the political manipulation of media. Politicians and political parties still consider the media their spokespersons. In April 2008, on the day of the first 100 days of their mandate, the Prime Minister's Office arranged that all daily papers and main radio stations broadcast the Prime Minister's speech in full, free of charge and in a coordinated manner. The print media were ordered to issue the Government's report on 145 pages on the first 100 days of management on the set date, free of charge as a supplement. Due to a highly politicized media environment, only one paper reported with criticism on the violation of the freedom of media. The regulatory broadcasting body and the Print Council reacted with a delay of two weeks.

As of January 2008, the newly constituted Assembly has been misinterpreting more and more its supervisory role over independent institutions, in particular over the regulatory broadcasting body and over the public broadcasting station. It violated the independence of these institutions by interfering in their internal decision-making procedures and by altering the internal decisions of these independent bodies. At the beginning of 2008, two Parliamentary committees were under the impression that they had the mandate to approve or discard the annual reports of the independent institutions, wherefore they "discarded" the annual reports of the Radio Television of Kosovo and the National Council of Kosovo and Metohija, requiring from both institutions to insert the corrections drafted by the committees to the final versions, instead of asking a clarification or justification from these institutions. In March 2008, the Parliamentary Committee for Public Services, Local Government and Media proclaimed the decision of the Independent Media Commission on closing an illegal broadcasting station "illegal".

The Law establishing the Radio Television of Kosovo (RTK), the Kosovo public broadcasting station, has not been fully enforced. Three years after its coming into force, the RTK Board has not been nominated. Moreover, the public broadcasting station is striving to sustain its operations in spite of the absence of sustainable financing mechanisms. The RTK found themselves in an unenviable position after the Kosovo Energy Corporation (KEC), their representative accountable for collecting the fee for broadcasting their program, terminated the contract with the RTK. After lengthy negotiations, the KEC agreed to continue collecting the fee until November 2008, allowing the Parliament to enact the relating law.

The temporary financing mechanism is yet to be replaced with legal provisions which shall ensure a stable and sustainable financing of the RTK, which is of key importance for the issue of security and achievement of the public broadcasting service's goals. The financially unstable public radio broadcast service will have a negative impact on access to information, especially among minority communities.

Exemption from paying VAT for newspapers and educational publications was envisaged by the draft Law on Value Added Tax, based on European standards.

However, the law has not been enacted by the Parliament. Contrary to a majority of European countries, Kosovo and Metohija applies the full VAT rate to papers and magazines, thus aggravating the economic conditions for print media. Kosovo and Metohija account for one of the lowest paper circulation rates in Europe. It is estimated that eight daily papers together account for a daily circulation of 25,000-30,000 copies. The VAT exemption would decrease the price of papers, which may result in an increase of demand, circulation and access to information.

In April 2005, the Prime Minister's Office adopted the policy of stimulating and protecting the media relating to the non-majority and disadvantaged communities in Kosovo, which speaks in favor of stimulating the diversity of print media by decreasing the value added tax on selling print media and books, which would also be in accordance with the common European practice (between zero and 25 percent of the generally applicable value added tax). In July 2006, the OSCE representative in charge of the freedom of media even recommended a full VAT exemption for print media in his latest report on Kosovo. In October 2006, the Kosovo Print Council and a number of print media representatives also recommended to exempt the print media from paying the VAT, which is a practice common in a number of European countries. Namely, the majority of European countries apply the zero percent tax rate or a reduced tax rate for papers, magazines and books. The reduced tax rate most commonly does not exceed 25 percent of the standard rate.

The minority communities living in distant regions complain of difficulties in accessing electronic media in their mother tongues. The instruments established to increase the access to information by minority communities are not effective.

The Government and the Parliament have demonstrated very poor understanding of the role of free media and the relevance of media being independent of political interference in terms of developing a sustainable democracy. The politicians fail to respect the work of independent media institutions, such as the regulatory broadcasting body and the public broadcasting station. These institutions are exposed to political pressure and interference and lack the financial resources. They are unable to adequately fight attempts of political interference. The media of minority communities in Southern Kosovo lack the financial resources necessary for their work, which is why many of them are not sustainable.

The OSCE Mission has provided support to the Independent Media Commission and the Kosovo Print Council to face to the attempts of the Kosovo government to interfere in their work and has been stimulating media to resist the attempts of political interference.

e) ECONOMIC, SOCIAL AND CULTURAL RIGHTS, IN PARTICULAR

II) RIGHTS TO ESTABLISH AND ENTER LABOR UNIONS

UNMIK regulations allow employees to enter and establish labor unions of their choice without prior authorization or excessive requirements. However, the exercise of this right has been prevented on several occasions. The only significant labor unions have included the Association of Independent Labor Unions of Kosovo (*Udruženje nezavisnih sindikata Kosova – BSPK*) and the Confederation of Free

Unions (*Konfederacija slobodnih sindikata – CFU*). UNMIK regulations forbid the discrimination of labor unions. However, in practice, some union officials have reported cases of discrimination. The BSPK has reported that only a few companies follow the regulation on the prohibition of discrimination against labor unions and states that labor rights are violated in all sectors, including international organizations, failing to cover social and pension insurance for the employees.

UNMIK regulations allow labor unions to implement their activities unimpeded and UNMIK has protected this right in practice. UNMIK regulations also envisage the right to organizing and collective negotiation without interference, and the Government has not limited this right in practice. However, there has been no collective negotiation throughout the year. UNMIK regulations do not recognize the right to strike, however, strikes in practice are not forbidden and they have occurred throughout the year.

V) RIGHT TO EDUCATION AND VOCATIONAL TRAINING

The Law stipulates that all members of minority communities have the right to education in their respective languages, from pre-school education to university education. The Ministry of Education, Science and Technology of Kosovo developed a single plan and program applicable for Albanians and all minority communities, excluding Serbs. However, the law stipulates that the Ministry shall develop plans and programs for the subjects relating to nurturing and protecting the national identity, such as language, history and arts, in cooperation with cultural institutions of these communities. Furthermore, the Law prescribes that the Ministry shall ensure the same quality of teaching both for the majority population and for students learning in minority languages.

When it comes to the Serbian community, the law prescribes that the Serbs may be educated in their own language, in line with the plan and program of the Ministry of Education of the Government of Serbia, if they notify the Kosovo ministry thereof in accordance with the procedures stipulated in the *Law on Education in Municipalities*. Pursuant to the *Law on the Promotion and Protection of Communities and their Members*, the University of North Mitrovica is an autonomous higher education public institution providing diplomas in the Serbian language.

Pursuant to the Law, the municipality of North Mitrovica has the competence over the institution. The *Law on Education in Municipalities* stipulates the thresholds and/or the minimum number of students necessary to organize tuition in minority languages. This is reiterated in the provisions of the *Law for Promoting and Protecting the Rights of Communities*. However, the Government of Kosovo is mandated to subsidize transportation to a location where students may be educated in their respective languages, in case of an insufficient number of students. The Turks, Bosniaks, Ashkali, Egyptians and a number of Gorani who attend classes in Bosnian attend schools which are under the competency of the Ministry of Education, Science and Technology of Kosovo.

Serbs and Gorani who receive tuition in Serbian are educated in schools which are under the competency of the Government of Serbia. The Roma are educated in institutions under the competency of the Government of Kosovo and the Government

of Serbia. However, not a single school organizes tuition in the Roma language. The Roma language is an optional subject in primary schools under the competency of the Government of Serbia, attended by the Roma. A similar initiative has not been organized in schools under the competency of the Government of Kosovo.

The Ministry of Education, Science and Technology has launched the development of the strategy for the integration of the Roma, Ashkali and Egyptians. The project of the standardization of the Roma language was launched towards end October 2008, which shall facilitate the drafting of the plan and program in the Roma language. The plan envisages that the Roma students receiving tuition in Albanian or Serbian shall have classes in their mother tongue twice a week. The Ministry shall also provide teacher staff to teach in the Roma language. One of the biggest problems faced by pupils and students educated in Bosnian and Turkish is the lack of schoolbooks and reference literature. In view of the primary, nine-year education for pupils receiving tuition in Turkish, the schoolbooks for I, II, III, IV, VI, VII and VIII grades have been published, partly for IX grade, while there are no schoolbooks for V grade. In view of the nine-year schools providing tuition in Bosnian, the schoolbooks for I, II, III and IV grade have been published, while only certain subjects are covered with schoolbooks for V, VI, VII, VIII and IX grade.

There are still no schoolbooks for secondary schools for students studying in these languages. According to the statements of MONT representatives, all missing schoolbooks shall be printed in the course of 2009. The ones that are not printed shall be supplied directly from Bosnia and Herzegovina and/or Turkey. When it comes to higher education, Turks may receive higher education in their language at the Teachers' College in Prizren as a branch of the University of Priština, as well as at the Department for the Turkish Language and Oriental Studies at the University of Priština. Turkey also provides scholarships and enables a number of Kosovo students to study in their universities. Bosniaks may obtain higher education diplomas in their language at the Faculty of Applied Business Sciences in Peć, at the Teachers' College in Prizren and at the Faculty of Technology and Computer Science in Peć. These are the only higher education institutions under the competency of the Government of Kosovo where Bosniaks may receive university education in their language. The Ministry has ensured that a number of members of the minority communities, Bosniaks and Turks specifically, are educated at the faculty in Priština in Albanian. In order to motivate the members of minorities to enroll the studies, they are exempted from taking the entrance exam. Although the Ministry has enabled that the members of minorities enter the University of Priština, the decision did not include Serbs and the Roma who, hypothetically speaking, may wish to apply for studies in the university, nor did it ensure that students from minority communities may receive tuition in their respective languages.

Enforcement of Article 6 of the Convention

RIGHT TO APPEAL BEFORE NATIONAL COURTS AND OTHER COMPETENT STATE BODIES

The UNMIK police members and KFOR members are protected by the regulations on immunity stipulating that the originating country is the only country to

take action against them, usually after the defendant has been sent home, which practically prevents the possibility that the plaintiff learns about the outcome of investigation, if any. It is, therefore, necessary to subject the EU police and judiciary mission in Kosovo and Metohija to the jurisdiction of the Constitutional Court and Ombudsman, which would facilitate the achievement of the obligation arising from Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination relating to the right to appeal even before the national courts. The OSCE has been following the cases in which authorities failed to investigate properly on alleged inhumane and degrading treatment and/or alleged criminal offenses committed by officials or natural persons. The OSCE states that the police arrested a person in one case investigated by the prosecutor's office, allegedly for having committed a criminal offense. The defendant admitted to having committed the criminal offense during the first interrogation conducted in the police station. Later on the defendant told the prosecutor that he had admitted to the crime only because the police threatened and beat him. He also showed the prosecutor the torn clothes in which the signs of the alleged mistreatment were visible. The victim of the alleged criminal offense confirmed in the statement given before the prosecutor that the person witnessed the ill-treatment of the defendant by the police. Despite all this, the prosecutor did not institute investigation over the alleged ill-treatment. Instead the pre-hearing judge ruled for a one-month detention for the defendant. In another case, the public prosecutor turned down the criminal charges of the police stating that a husband assaulted and inflicted wounds on his wife, thus committing a criminal offense to be prosecuted per official duty. According to the information collected by the police, there had been previous similar violent incidents between the spouses. In a nutshell, the prosecutors did not urgently investigate and institute the prosecution against the possible inhumane and degrading treatment. This represented a breach of due care standards and the legal obligations of prosecutors in accordance with national legislation.

Particularly important is the uncovered fate of the missing and abducted Serbs and other non-Albanians in June 1999, in light of the data published in the book by Carla del Ponte "The Hunt: Me and War Criminals", stating that the potential victims of human organ trafficking were taken from Kosovo and Metohija to Albania, also stating claims against the current Prime Minister of Kosovo Hashim Tachi and the former Prime Minister and one of the commanders of the Kosovo Liberation Army (KLA) Ramush Haradinaj, who has been freed from all the claims by the Hague Tribunal. Although notified thereof, the UNMIK administration did not react, and the involvement of the highest officials of provisional Kosovo institutions in the stated crimes and the absence of an efficient protection of witnesses in the criminal proceedings does not give hope that the judiciary of Kosovo and Metohija shall somehow react in the said case. So far the Prosecutor's Office for War Crimes of the Republic of Serbia has reacted, submitting the proposal to the War Crimes Panel of the District Court of Belgrade to undertake specific investigative actions.