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Written replies by the Government of SERBIA* to the list of issues (CAT/C/SRB/Q/1) to be taken up in connection with the consideration of the initial report of SERBIA (CAT/C/SRB/1)

[28 April 2008]

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

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Articles 1 and 4

Question 1. ***The Committee notes that article 25 of the new Constitution states that "physical and mental integrity is inviolable" and that "nobody may be subject to torture, inhuman or degrading treatment or punishment, nor subject to medical and other experiments without their free consent". Please provide information on how the elements of article 25 of the Constitution and article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are reflected in the penal and criminal procedure codes of the Republic of Serbia. Please provide also clarification on how the State party interprets its recognition of torture as a crime under its criminal legislation.***

1. The Constitution of the Republic of Serbia:

- In its article 25 guarantees the inviolability of physical and mental integrity
- In its article 28 provides for the procedures of treatment of persons deprived of liberty and the prohibition of torture during criminal procedure and in other cases of detention
- In its article 22 secures the protection of human and minority rights, thereby also guaranteeing adequate court protection in cases of rights violations from article 25 of the Constitution. No one may be subjected to torture, inhuman or degrading treatment or punishment, nor subjected to medical or scientific experiments without their freely given consent

2. In the Republic of Serbia Penal Code, according to article 136, extorting statements is defined as a criminal act. At the same time, according to article 137 of the Republic of Serbia Penal Code, ill-treatment and torture are defined as criminal acts.

3. The Constitution guarantees respect for person and dignity, while one of the basic principles of the Penal Code is the prohibition of extorting confessions or any other statements from the accused or other persons subject to the procedure. Article 12 of the Criminal Procedure Code of the Republic of Serbia (hereafter ZKP) provides for the prohibition and punishment of all violence against persons deprived of liberty and persons whose liberty has been limited, as well as all extortions of confessions or other statements from accused or other persons subject to the procedure.

4. When a person deprived of liberty is brought before an investigative judge, they, their attorney, member of their family or person with whom they are living in an extra-marital of any other kind of permanent relationship, can request for the investigative judge to arrange for a medical examination. Such a request can also be submitted by the public prosecutor. If such a request is made, the investigative judge will make a decision on appointing a doctor who will carry out the examination. This decision, along with the minutes of the doctor's hearing will be adjoined by the judge to the investigative documentation (art. 228, para. 7, ZKP).

5. If, while giving their statement, the accused claims to have been subjected to torture or if the public prosecutor or the investigative judge suspects that this has taken place, i.e. notice that injuries were inflicted upon the accused, they are obliged to register it in the minutes and undertake necessary measures.

6. Article 89, paragraph 8 of ZKP explicitly provides that the accused must not be subjected to force, threats, deception, promises, extortions, exhaustion or other similar means of obtaining their statement or confession, or be compelled to any other action that might be used against them as evidence and that such evidence cannot serve as a basis for a court decision (art. 89, para. 10, ZKP).

7. Article 131 of ZKP provides that it is prohibited to subject the accused to medical interventions or to the administration of such methods as might affect their consciousness and will while making their statement. It is strictly prohibited to administer to the accused or a witness such instruments as might affect their consciousness and will while making their statements, or to conduct medical interventions of that type (certain medications that weaken the human will and strengthen human suggestibility - “truth serums”). Such instruments are strictly prohibited for two basic reasons; ethical, because their administration is a specific form of extortion of statements, and reasons of procedure-evidence, since, thus obtained, the accused person’s or the witness’s statement would not be authentic, but would be a result of the effects of “chemistry”. Another prohibited instrument is hypnosis. The use of either chemical means, hypnosis or medical interventions would constitute a criminal act of statement extortion if such instruments were used for obtaining the accused person’s or witness’s statements, while in the case a certain instrument was administered or hypnosis used for ends other than those of obtaining statements, that could constitute some other criminal act, before all the crime of ill-treatment and torture.

8. Also, ZKP provides the accused who, due to legal obstacles, is not able to request a review of the legality of an effective sentence (i.e. the accused person’s sentence is conditional), or in case the eventual legal violation can no longer be remedied by any other legal means, with the possibility of petitioning the Republic Public Prosecutor with an initiative to submit a request for legality protection before the Supreme Court of Serbia as an appeal against the effective guilty sentence, in case such a sentence was based on their extorted statement, or if they consider that the said sentence or procedure that preceded it (Article 419 ZKP) violated any law to their detriment.

9. In the course of a criminal procedure a situation may arise where it will be necessary to conduct a bodily examination of a person. Article 131 of the Penal Code provides for when and what kind of medical procedures may be conducted without the said person’s consent. A bodily examination may be conducted only on the basis of an order by an investigative judge of the competent court. Without the consent of a third party, a bodily examination may be conducted only in order to determine the presence of a trace or an effect of a criminal act on the body. In all cases, a bodily examination of an accused, and of a third party with their consent, may be conducted for the sake of other findings, i.e. determining age (when necessary, and no other possibilities exist), certain states (pregnancy), and similar. In cases of taking blood or performing

other medical procedures, no distinctions are made regarding whether they are being performed over the accused or over third parties. The Code considers that the taking of blood from the accused does not compromise their position in the criminal procedure and that it does not interfere with their right of refusing to give a statement, and thus provides for its exclusion only for health reasons.

10. Article 143, paragraph 3 of the new Penal Code (which will go into effect on January 1, 2009), provides that saliva samples for the purposes of DNA analysis can always be taken when necessary for the purpose of identification or comparison with other biological traces and other DNA profiles, and that this does nor require the said person's consent (or an investigative judge's order). This is a procedure that is never considered to be a health hazard, and it does not require the accused person's consent. This procedure is not an aggressive action vis-à-vis the human body and, thus, cannot endanger its health, while at the same time it prevents the accused from groundlessly refusing to allow the taking of their saliva sample for the purposes of DNA analysis, thereby seriously obstructing the criminal procedure against them or the discovery of other criminal acts. Of course, all this on the condition that this procedure has been undertaken under strict adherence to all medical standards.

11. A mentally ill person may be detained in a neuro-psychiatric health facility by their own free will, in which case they will sign their consent to be admitted, but can also be held against their will if necessary. The court is obliged to ascertain whether such detention and limitation of freedom of movement is an unjustifiable violation of the constitutional right to a citizen's individual liberty or whether such detention is medically justified and socially necessary in order to protect the person, rights and interests of the said individual, or all third parties. The individual can personally come to the health facility, which is then obliged to take their statement of consent to be admitted, which can be submitted in written form before an authorized person in the health facility, in the presence of two work-capable and literate witnesses not employed by the organization, who are not direct blood relatives of the admitted individual, laterally related to the fourth degree inclusive or to the second degree matrimonially, who is not the individual's spouse or the person who brought them to the health facility. When a health facility admits for treatment an individual without their consent or a court decision, it is obliged to report this within three days to the court in whose jurisdiction the organization is located. The health facility is also obliged to act in this manner when an individual who was consensually admitted to the said facility revokes their consent even though an authorized person or organ of the health facility considers that their further detention is necessary.

12. The court is obliged, within a period of 15 days or at most 30 days from the day of receiving the submission, i.e. from the day of finding out about the detainment, to bring a decision regarding the further detainment of the said individual or their release. A person who will remain held at a health facility must be examined by at least two doctors of relevant specialty who will give their findings and opinion regarding the said person's mental state and judgment abilities. When the court decides that the admitted person is to be further held at the health facility, it will determine the period of detainment, which cannot be longer than one year. The health facility is obliged to submit periodic reports about the state of health of the detained person to the court. If the health facility deems that the detained person needs to stay for treatment beyond the time given in the court decision it is obliged, 30 days before expiry, to recommend a prolongation of the detainment to the court. The court will decide on prolongation once at least two doctors have examined the detained person and given their opinion, who will

perform an expertise of the said person's mental state, and once the said person has been heard, if that is possible and not hazardous to their health. An appeal against the decision for confinement to a health facility can be submitted by the person who is the subject of the procedure and their guardian or temporary representative, within three days of receiving a copy of the decision. The ZKP also provides for the possibility of holding an accused person at a health facility. Article 130 of the ZKP states that, in case of suspicion that the accused person's sanity is absent or reduced due to mental illness, retarded mental development or other mental disorder, an expertise by way of a psychiatric examination of the accused will be conducted. If the expert considers that longer observation is necessary, the accused will be sent for observation to an appropriate health facility. Such a decision is made by the investigative judge, an individual judge or a council of judges (depending on the phase of the said criminal proceedings). Observation may be extended to more than two months only upon an explained recommendation by the head of the health facility, having previously obtained the expert opinion, but cannot in any case last longer than six months.

13. If court experts find that the accused person's mental state is impaired, they will determine the nature, type, degree and term of the impairment and provide their opinion regarding the influence such a mental state will have and has on the accused person's reasoning and actions, and whether and to what degree the mental impairment was present during the commitment of the crime in question.

14. If the accused being sent to a health facility has been detained, the investigative judge, individual judge or president of the council of judges will inform the said facility about the reasons for the detention, in order to undertake the measures necessary for securing the purpose of the detainment. The time spent at the health facility will be counted as time spent in prison, i.e. as part of the sentence, should one be given.

15. The new Penal Code that will come into force on January 1, 2009, provides that an appeal against a court decision to have an accused confined in a health facility can be made by the accused and his attorney within 24 hours of having received the decision.

16. A regular criminal procedure may be conducted only against a person of sound mind who has committed a criminal act. In the case of a mentally disordered person who has committed a crime, a procedure for the application of security measures is carried out. According to the Penal Code, the security measure of required psychiatric treatment and confinement in a health facility can be brought against a mentally deranged person or one of impaired stability. Depending on whether the mentally deranged or impaired person is dangerous to themselves and their surroundings or not, this measure can be of open or closed type. This measure can be brought only as a result of a committed criminal act.

17. If the accused has committed a criminal act in a mentally disorder state, the state prosecutor shall submit to the court a recommendation for the security measure of required psychiatric treatment and confinement of such an individual in a health facility, i.e. a recommendation for required psychiatric treatment in freedom should conditions for such a measure be provided by the criminal law. An imprisoned accused person shall not be released but shall, until the end of the procedure for applying security measures, be temporarily confined to a relevant health facility or an appropriate room. Once the recommendation for the security measure of required psychiatric treatment and confinement of such an individual in a health

facility has been made, the accused must be provided with an attorney. The competent, first instance court decides on the application of these security measures after the main inquest. In addition to the persons that must be summoned to the main inquest, psychiatrists from the health facility charged with conducting expertise on the accused person's mental state will also be summoned as court experts. The accused will be summoned if their state is such as to allow their presence at the main inquest. The accused spouse, parents or guardian and, depending on the circumstances, other close relatives, will be informed about the holding of the main inquest.

18. If the court finds that the accused was not mentally deranged, it will halt the proceedings by way of a decision to apply security measures.

19. Appeals against the court decision can be made within eight days from receiving the decision, by all persons having the right of appealing the decision, except the victim.

20. When a court pronounces sentence on a person who has committed a crime in a state of mental impairment, it shall, by the same judgment, prescribe the security measure of required psychiatric treatment and confinement in a health facility if it determines that legal conditions for such a measure exist.

21. An effective decision providing for the security measure of required psychiatric treatment and confinement to a health facility will be submitted to the court competent to rule on work competence. The organ of custody will also be informed about the decision.

22. The court that has brought the security measure will investigate, under official duty, whether the need for treatment and confinement at the health institution has ended. The health facility, organ of custody and the perpetrator to which the security measure has been applied can petition the court to repeal the measure. Upon hearing the public prosecutor, the court shall repeal the measure and order the release of the perpetrator from the health facility, if, on the basis of a doctor's opinion, the need for treatment and confinement at the health facility has ended, while it may also order required psychiatric treatment in freedom. If the petition to repeal the measure is rejected, it can be resubmitted after six months have passed from the time this decision was made.

23. When a perpetrator with significant mental impairment is released from the health facility after having spent less time in it than the prison term to which they was sentenced, the court shall, by way of its decision on release, decide whether the said person will serve the remainder of their sentence or be released on parole. The perpetrator who has been released on parole can be subject to security measures of required psychiatric treatment in freedom if the legal conditions for such a measure exist.

24. According to official duty or upon recommendation of the health facility in which the accused is being treated or should have been treated, and upon hearing the public prosecutor, the court can bring against a perpetrator against whom the security measure of required psychiatric treatment in freedom has been applied, the security measure of required psychiatric treatment and confinement in a health facility if it determines that the perpetrator has not been subjected to treatment or had willfully abandoned it or, despite the treatment, has remained sufficiently dangerous for their environment as to require their confinement and treatment at a health facility. Before making the decision, the court shall, as needed, obtain a doctor's opinion, while the

accused will be heard if their state allows it. These decisions are made by an extra-procedural council (Article 24, paragraph 6 ZKP). Information about the council's session is provided to the public prosecutor and the defense attorney. Before a decision is brought, the perpetrator will be heard if necessary and possible.

25. According to Article 172 of the Law on Obligatory Relations, a person who has been subjected to ill-treatment or torture, i.e. whose statement has been extorted by the use of force or threat or other illegal means, has the right of initiating legal proceedings against the state for damages. The outcome of this procedure is not affected by the existence of an effective criminal verdict stating that the said person was exposed to various means of torture on the part of official persons. Of course, the existence of such a verdict significantly eases the burden of proving damages.

Article 2

Question 2. Please provide information about the protection by the State party of the guarantees for detainees as to access to a lawyer, to contact her/his relatives and to receive medical attention.

26. The Constitution of the Republic of Serbia of 2006, regulates the status and treatment of persons deprived of liberty in the following articles:

- Article 28 (Treatment of Persons Deprived of Liberty)
- Article 29 (Special Rights in Case of Arrest and Detention without Decision of the Court)
- Article 30 (Detention)
- Article 31 (Duration of Detention)
- Article 33 (Special Rights of Persons Charged with Criminal Offense)
- Article 34 (Legal Certainty in Criminal Law)

The Constitution does not guarantee a detainee's right to health protection, but this has been remedied to an extent by the ZKP (Article 228, paragraph 7).

27. In its basic provisions the ZKP (Article 5) provides that a person deprived of liberty must immediately be informed in their language or a language that they understand about the reasons for detainment and everything they are being accused of, as well as about their other rights; that they are not obliged to say anything and that everything they say can be used as evidence against them; that they have the right to an attorney of their choice; that they have a right to freely communicate with their attorney; that the attorney has the right to be present at the interrogation; that they have the right to demand that all persons of their choice be informed without delay about the time, place and each change of place of detainment, and that a diplomatic-consular representative of their state of citizenship, or a representative of the appropriate international organization if the said person is a refugee or a person without citizenship; that they have the

right to freely communicate with the diplomatic-consular representative or representative of the appropriate international organization; that they have the right to demand at any time to be examined by a doctor of their choice or, if unavailable, by a doctor chosen by the detaining authority; that they have the right of initiating legal proceedings regarding the legality of their detainment; that they have the right of collecting damages for unjustified detainment.

28. The accused must have an attorney as soon as the police organ brings a decision on detainment. If the accused does not secure an attorney, the police organ shall secure one for him/her according to official duty, according to a list submitted by the appropriate bar association. The accused person's interrogation shall be delayed until the arrival of the attorney, or at the most for eight hours. If the presence of an attorney has not been secured by then, the police organ shall release the accused or conduct him/her without delay to the competent investigative judge.

29. Article 228 of the ZKP provides that the investigative judge is obliged to immediately inform the detainee conducted before him about their right to an attorney, and to enable them, in his presence, by use of telephone, telegraph or other electronic transmitter, to inform the attorney directly or via a family member or third party whose identity must be revealed to the investigative judge, or, if necessary, help the detainee find an attorney.

30. If a detainee does not secure the presence of an attorney within 24 hours of having been provided the opportunity, or if the detainee states that they do not want an attorney, the investigative judge is obliged to interrogate the detainee without delay.

31. If in case of obligatory defense (Article 71, paragraph 1, ZKP), a detainee does not avail themselves of an attorney within 24 hours of having been informed about that right or states that they shall not be availing themselves of an attorney, then the detainee will be assigned an attorney according to official duty. The attorney shall be from a list submitted to the president of the first instance court on the part of the appropriate bar association. In addition, when there is no possibility of an obligatory defense for a criminal act procedure carrying the punishment of over three years in prison, of, in other cases, if interests of justice so demand it, the detainee can, upon request, be assigned an attorney in case they cannot afford the cost of an attorney.

32. Immediately after the hearing, the investigative judge shall decide whether the detainee shall be released or incarcerated. A detainee must have an attorney (Article 71, paragraph 2, ZKP). Detention is determined by the submission of a decision of the competent court regarding the detention of the said person at the time of detainment or, at the latest, within 24 hours from the time of detention or bringing before the investigative judge. If the accused is mute, deaf or incapable of successfully defending themselves or if the procedure is being carried out for a criminal act for which a prison sentence of more than ten years can be given, the accused must have an attorney during the first hearing (Article 72, paragraph 1, ZKP).

33. The Republic of Serbia has a Law on Juvenile Perpetrators of Criminal Acts and the Criminal-Legal Protection of Juveniles, of 2005. According to Article 49 of the Law, a minor must have an attorney during the first hearing as well as during the entire procedure. If the minor, or their legal representative or relatives do not secure an attorney, one will be assigned on the part of a juvenile delinquency judge. A juvenile's attorney can only be one who has acquired special knowledge in the area of children's rights and juvenile delinquency. Further, Article 54

of the Law on Juvenile Perpetrators of Criminal Acts and the Criminal-Legal Protection of Juveniles of the Republic of Serbia provides that the minor be summoned through their parents or legal representative, except when this is not possible due to the need for prompt action or other circumstances. At the same time, when a juvenile is arrested in accordance with Article 135 of the ZKP, this is carried out by police officers in civilian clothing, who take care that this is done in a discrete manner. Finally, when it comes to the opinion of the European Committee for the Prevention of Ill-Treatment and Other Inhuman and Degrading Procedure and Punishment, which was expressed in the last Report submitted to the Republic of Serbia, Article 60 of the Law on Juvenile Perpetrators of Criminal Acts and the Criminal-Legal Protection of Juveniles regulates that, when collecting information from minors, police organs performing this according to Article 226, paragraph 1, paragraphs 3-6, and paragraph 10 of the ZKP, perform this in the presence of the minor's parents, adopted parents or guardians. The collection of information is performed by a juvenile delinquency police officer. A juvenile delinquency police officer is a person who has acquired special knowledge in the area of children's rights and juvenile delinquency.

34. If, at the time of hearing, the public prosecutor has not submitted a request for investigation and does not submit it within 48 hours from the time of detention, the investigative judge shall release the detainee.

35. If, within 48 hours of the submission of the request for investigation, the investigative judge does not bring a decision to investigate, he is obliged to release the detainee.

36. When a detainee is brought before an investigative judge, the detainee, the detainee's attorney, a family member or a person with whom the detainee is living in an extramarital or any other kind of permanent relationship, may request that the investigative judge order a medical examination. Such a request can also be submitted by the public prosecutor. If such a request has been made, the investigative judge shall bring a decision on determining the doctor who will conduct the examination. The investigative judge shall adjoin to the investigative records this decision as well as the minutes from the doctor's hearing.

37. Should in the course of pre-trial procedure citizens consider that the police organs have committed irregularities in conducting their duties, they can file a complaint with the competent state prosecutor as well as directly to a higher police organ.

38. Article 147 of the ZKP provides that the police organ or the court shall immediately, or within 24 hours from the time of detainment at the latest, inform the family of the detainee or other persons with whom the detainee is living in an extramarital or any other permanent relationship, except where the detainee explicitly opposes this.

39. If the detainee is an attorney, the police organ or the court is obliged to immediately, or during the next working day at the latest, inform the competent bar association.

40. The competent organ of social care shall be informed in case it is necessary to undertake measures for the care of children and other family members in the detainee's care.

41. For persons deprived of liberty, detainment represents a form of preventive deprivation of liberty within a criminal procedure and a measure of the severest procedural enforcement, but it

does nor represent a criminal sanction, which means that, on the one hand, a prohibition of all actions toward the detainee which are otherwise possible to take against persons serving a prison sentence and, on the other, that the detainee enjoys guaranteed protection of their person and dignity, which is especially founded in the fact that even persons who have been detained are treated according to the presumption of innocence. The detainee is subject only to such limitations that are necessary to prevent escape, the inducing of third parties to destroy, conceal, change or falsify evidence or traces of the criminal act, and direct and indirect contacts of the detainee directed toward influencing witnesses, accomplices.

42. Article 148 of the ZKP proclaims a prohibition on degrading the person and dignity of the detainee, and this is also a constitutional-legal category.

43. From the aspect of the space in which the detainee is held, detention can be either individual or collective. In the case of collective detention, detainees are grouped according to moral and correctional reasons, reasons of ensuring successful criminal proceedings, etc. In addition, some detainee separations are mandatory, while others are performed as a rule or if possible. Detainees of different genders cannot be held in the same room (mandatory separation). As a rule, the same room cannot be used for the detention of persons who are reasonably suspected of having participated in the commitment of the same criminal act, or for detainees and those serving prison sentences. Persons for which there is reasonable suspicion that they are repeat offenders shall not, if possible, be placed in the same room with other detainees on whom they might exert harmful influence.

44. A detainee is guaranteed the following rights:

- The right to an uninterrupted night’s rest each day, of at least eight hours in length.

- The right to spend at least two hours each day in open air - this right may be limited only in order to protect the detainee’s health.

- The right to eat at their own expense, to wear their own clothing, to use their own bed linen and to purchase and use at their own expense books, professional publications, print media, tools for writing and drawing and other things that fit their regular needs, except for objects that might inflict injury, imperil health or aid in escaping - however, during the course of the investigation, the investigative judge may make a temporary ruling in order to deny or limit the use of print media, if that would be damaging to the successful carrying out of the procedure; an appeal against the investigative judge’s ruling to an extra-procedural council is allowed).

- The right to work - if the detainee requests it, the investigative judge or the chamber president in agreement with the prison administration may permit the detainee to work within the prison premises jobs appropriate to his/her mental and physical characteristics, provided that this is not damaging to the criminal procedure; the detainee is entitled to compensation, which is set by the prison warden; on the other hand, the detainee may be obligated to perform work necessary for maintaining cleanliness in the room of their detention.

- The right to visitation and to correspondence - upon approval of the investigative judge and under his supervision or a that of a person delegated by him, within the bounds of house rules, the detainee may be visited by close relatives and, upon the detainee's request, by a doctor and other persons; certain visits may be prohibited if they might prove damaging to the criminal procedure; diplomatic and consular representatives of foreign states-signatories of the appropriate international conventions have the right to, with the knowledge of the investigative judge, visit and speak without supervision to detainees who are citizens of their state; the investigative judge shall inform the principal of the institution in which the detainee is being held about visits by diplomatic or consular representatives; the detainee may correspond with persons outside of the prison with the knowledge and under the supervision of the investigative judge; the investigative judge may prohibit the sending or receiving of letters and other sent items that are harmful to the criminal procedure; the prohibition does not pertain to letters sent by the detainee to international courts and domestic judicial, legislative and executive organs or received by the detainee from these, or to letters sent/received by the detainee to/from their attorney, except if monitoring of the detainee's correspondence with their attorney has been proven as justified (Article 75, paragraph 4, ZKP); the sending of petitions, complaints or appeals can never be prohibited.

45. The detainee is obliged to strictly adhere to the regime prescribed by the house rules. As a consequence of violating the prescribed house rules, the detainee is subject to the disciplinary measure of limited visits, except that this can never apply to the detainee's communications with their attorney.

46. The detainee can never be punished before being informed of the disciplinary violation with which they are being charged, before the detainee is allowed to make their defense and before the court has thoroughly investigated the case.

47. An appeal against a punitive measure to an extra-procedural council of the competent court is allowed within 24 hours of receiving the decision. The appeal does not delay the execution of the decision. The council shall rule on the appeal within eight days of receiving the appeal.

48. The court responsible for ordering the detainment is responsible for the conditions in which the detainee is held and the treatment to which detainees are subjected, by way of supervision of detainees performed by the president of the competent court. In this connection, the court president or a judge appointed by him is obliged to visit the detainees at least once per week and, if he finds it necessary, to inform himself without the presence of the prison supervisors and guards about the manner in which the detainees are fed, supplied by other necessities and in which they are treated. The president or the judge delegated by him is obliged to undertake necessary measures for doing away with the irregularities noted during the prison visit. The appointed judge cannot be the investigative judge. The court president and the investigative judge may at any time visit all detainees, speak with them and receive complaints from them.

49. In September 2005, the Minister of Internal Affairs formed a Commission for Monitoring the Implementation of the European Convention on the Prevention of Torture, Inhuman or Degrading Punishment or Procedures, with the task of uncovering and preventing all forms of

torture within the police. The Commission is made up of representatives of the department of internal affairs ("Department for Control of Legitimacy of Work"), the Department of Criminal Police and the Department of Police at the seat of the Ministry and the Belgrade Police Department.

50. The Commission has been tasked with visiting all the organizational units of the Ministry of Internal Affairs containing rooms for detention, in order to gain direct insight into the state of the buildings and rooms for detainment, insight into detainee documentation, hygienic conditions, the respect for human rights (whether the family and the attorney have been informed, whether medical treatment has been requested and provided), etc, interrogation rooms in order to check for the presence of unconventional objects used while conversing with the detainee, as well as added measures of protection for persons detained on the premises of the Ministry against maltreatment and torture.

51. The Commission charged with monitoring the implementation of the European Convention on the Prevention of Torture, Inhuman or Degrading Punishment or Procedures visited all 27 regional police departments and 108 police stations and precincts and interviewed 730 police employees regarding the procedures for the protection and respect for detainees' basic rights and liberties. The president of the Commission created a Program of professional education, training and advanced training of police employees in the prevention of torture and in public relations communication skills, which was implemented into the annual Program of professional advanced training of police employees in the Republic of Serbia. In this way, the Commission made a singular contribution to a more complete protection of human rights and liberties in the course of applying police powers, as well receiving assurance of the Ministry's commitment to secure full legality in the work of the police and sanction all illegal and unprofessional activity.

Question 3. ***The Committee requests information on legal and administrative guarantees with respect to "no exceptional circumstances whatsoever" and "order from superior officer of a public authority" may not be invoked as a justification of torture. Please provide information on actual cases (if any) where this has been referred to.***

Question 4. ***Please provide information about possible statutory limitations in Serbian legislation for acts that might be considered as torture.***

52. The Republic of Serbia guarantees to detainees and convicted persons contact with their attorney, representative, family members, other relatives and close persons on the basis of the ZKP and the Law on the Execution of Criminal Sanctions. The ZKP guarantees detainees the right to correspondence and conversation with an attorney. ZKP Article 75 provides that the attorney has a right to a confidential conversation with an accused person deprived of liberty even before they have been interrogated, as well as with a detainee. The duration of the conversation is not limited. Control of the conversation prior to the first hearing and in the course of investigation is allowed only in the form of visual observation, but not listening.

53. The detainee has a right to visits by close relatives and, upon personal request, to visits by doctors and other persons. On the basis of the ZKP, visits to detainees are approved by the investigative judge or the president of the judicial council. Approval of visits is a rule in practice, while prohibition is an exception, applied only when the court judges that the visit may be damaging to the criminal proceedings.

54. Detained and convicted persons have a right to free health care. Health services have been organized inside prison facilities. In case the said person cannot be provided with adequate health care in prison or if hospital treatment is necessary, they will be transferred to a Special prison hospital or other health facility.

55. Convicts' rights to visits and to maintaining contacts with the outside world are also regulated by the Law on the Execution of Criminal Sanctions. The convict has a right to be visited by their spouse, children, adopted children, parents, adoptive parents and other direct relatives and, in the lateral line, relatives to the fourth degree:

- Once a week in a prison or facility of an open type
- Twice a month in a prison or facility of semi-open type
- Once a month in a prison or facility of a closed type and in a closed-type, special security prison

The prison warden may also approve visits by other persons. A convict has a right to spend three hours in a special prison room once every three months with their spouse, children or other close person.

56. A convict has a right to be visited by their attorney or authorized representative, or one whom the convict has summoned in order to grant him authorization to represent them.

57. A foreign citizen has the right to be visited by a diplomatic-consular representative of their state of citizenship.

58. The Law on the Execution of Criminal Sanctions provides for special rights that the convict may acquire in case of exceptionally good behavior and work effort. Among others, these are the rights to an increased number of visits and a widened circle of visitors, to unsupervised visits in visiting rooms, to visits in special rooms without the presence of other convicts, visits outside the prison and weekend and holiday visits to their family and relatives.

59. The Rule Book of measures for maintaining order and security in prison facilities regulates the conditions and means of applying measures for maintaining order and security to convicted persons.

60. Article 5 of the above Rule Book provides for measures for maintaining order, work and security, both measures of compulsion and special measures. Measures of compulsion are: use of physical force, tying up, separation, the use of rubber clubs, the use of water hoses, the use of chemical agents and the use of firearms. Special measures are: increased surveillance, confiscation or periodic removal of things otherwise permitted to be kept, quartering in a

specially secured room without any dangerous objects, quartering under increased surveillance, solitary confinement and testing for contagious diseases and psychoactive agents. When applying measures for maintaining order and security, measures stricter than those that are necessary relative to the nature of the need for their application and contents cannot be applied. Also, in the course of applying measures for the maintenance of order and security, the human dignity of the convict must be respected and their state of health cared for. Medical findings necessary for the application of the measures must be available to an authorized representative, in accordance with Article 6 and 7 of the Rule Book. Special measures can be applied only exceptionally, in case danger cannot be removed by other means (Article 49 of the Rule Book). The application of special measures upon recommendation of the prison's expert services is determined by the prison warden or person authorized by him (Article 50 of the Rule Book).

61. The Rule Book prescribes the conditions for the application of measures of compulsion and who can apply them and how. Article 9 of the Rule Book provides that measures of compulsion against convicts can be applied only when it is necessary to prevent: escape, physical assault against another person, the inflicting of injuries to another person, self-injury, the causing of material damage and active and passive resistance on the part of a convict. A measure of compulsion can also be applied against a person who unlawfully frees a convict or illegally enters the prison premises. A measure of compulsion may be applied only by authorized personnel. The person against whom the measure of compulsion is to be applied shall be orally and clearly informed about the intention to apply the measure, except in the case of a simultaneous or immediately impending illegal attack. Article 14 of the Rule Book stipulates that measures of compulsion, except for physical force, shall not be applied against convicts who are obviously old, sick, severe invalids, under 14 years of age, or visibly pregnant. Compulsory measures shall be applied against such persons as well if they are directly endangering the lives of other people with firearms or other dangerous weapons.

62. The Law on the Execution of Criminal Sanctions stipulates that the overstepping of authority in applying measures of compulsion is considered a serious breech of working duties for which the measure of termination of employment may be applied (Article 265, Law on the Execution of Criminal Sanctions), which does not exclude criminal liability. Article 137 of the Law on the Execution of Criminal Sanctions defines as a qualified form of a criminal act ill-treatment and torture on the part of an official person, subject to punishment of 1 to 8 years of prison.

Question 5. Please provide detailed information with respect to the structures and activities of independent mechanisms for the inspection of places of detention, prisons, hospitals, psychiatric facilities and institutions engaged in the care of children. Please also provide information on follow-up to recommendations from such independent inspection mechanisms.

63. In the period of reporting, the independent mechanisms of prison inspection were governmental and non-governmental organizations. The Helsinki Committee for Human Rights has continually engaged in the monitoring of prison facilities since 2001. After each visit to a prison, regular reports with recommendations were submitted. The Helsinki Committee's annual reports contained a wholesale review of recommendations encompassing changes in the legal framework with the aim of harmonization with European standards, as well as measures to be taken toward improving prison conditions and a more successful realization and protection of the

rights of convicts. As well, the International Committee of the Red Cross regularly visits correctional facilities and submits reports with recommendations. The recommendations of these independent mechanisms of control of the prison system have been incorporated into the Strategy for the Reform of the System of Execution of Criminal Sanctions, which was brought in 2005, as priorities of the work of the Department for the Execution of Penitentiary Sanctions, as well as into the Law on the Execution of Criminal Sanctions, which came into effect on January 1, 2006, as well as its bylaws.

64. The Committee for Human Rights in Valjevo monitored the conditions of juvenile imprisonment, encompassing the following institutions:

- Juvenile Penitentiary in Valjevo
- Juvenile Penitentiary in Krusevac
- District Jail in Belgrade; and
- Penitentiary for Women in Pozarevac

65. The monitoring was carried out in several separate visits to each of the facilities, and the Committee for Human Rights in Valjevo issued a publication describing the results of the monitoring.

66. The Center for Human Rights in Nis engaged in monitoring the penitentiary in Nis in eight separate visits, also issuing a publication about the results of the visits, along with which it organized a press conference in order to present the work of this non-governmental organization in monitoring prisons.

67. As for facilities under the jurisdiction of the Ministry for Labor and Social Policy, in order to establish a strong legal basis for regular visits by bodies independent of organs of social policy to facilities that house children and youth in the Republic of Serbia, it is necessary to initiate proceedings for amending the Law on Social Protection and Securing Citizens' Social Security, which procedure the Ministry of Labor and Social Policy has already initiated. An expert working group for drafting a new law has been formed, which will prescribe mechanisms guaranteeing independent control mechanisms. For now, the Ministry of Labor and Social Policy encourages and regularly approves access to institutions of social protection that house users, including institutions housing children and youths, to non-governmental institutions, the Helsinki Committee for Human Rights in Serbia and other representatives of bodies independent of the organs of social protection.

68. A small number of representatives of the above-mentioned organizations submit their reports to this Ministry together with notes regarding eventual committed irregularities. In situations when this has been done, the state's control function has been activated, through: 1) inspection monitoring carried out by the Sector for Inspection Monitoring in the Ministry of Labor and Social Policy and 2) monitoring of expert work carried out by the institutions for social protection (republic and provincial).

Question 6. Please inform the Committee about the current situation and practice with respect to different places of detention and prisons for women and juvenile offenders, including composition of prison wardens, medical and other personnel etc.

69. The Law on the Execution of Criminal Sanctions provides for separate types of penitentiaries in accordance with separate categories of people. The Law stipulates that convicted women serve their prison sentences in the Penitentiary for Women in Pozarevac. Persons of the female gender and minors who have been detained are placed in separate sectors of the facility, in accordance with the seat of the court charged with the procedure. Minors sentenced to the correctional measure of confinement to a juvenile correctional home serve their sentence at the Juvenile Penitentiary in Krusevac, which has a special program adjusted to the needs of re-socialization of juvenile delinquents. Persons sentenced to juvenile prison are transferred to serve their sentence in a special facility - the Juvenile Penitentiary in Valjevo, until they turn 23 or, exceptionally, 25, if they have not finished their schooling. On the basis of defined priorities in housing and treating minors, individual programs of implementation are produced.

70. According to the administrative services at the facility, the employee structure at the Penitentiary for Women in Pozarevac is the following:

- Security service - 41
- Re-educational service - 7
- General affairs service - 16
- Health protection service - 3
- Training and employment service - 8

71. According to the administrative services at the facility, the employee structure at the Juvenile Penitentiary in Krusevac is the following:

- Security service - 48
- Reeducational service - 74
- General affairs service - 29
- Health protection service - 9
- Training and employment service - 94

72. According to the administrative services at the facility, the employee structure at the Juvenile Penitentiary in Valjevo is the following:

- Security service - 101

- Reeducational service - 17
- General affairs service - 18
- Health protection service - 3
- Training and employment service - 21

73. For the sake of overview, a total of about 3,800 persons are employed at the Department for the Execution of Prison Sanctions of the Ministry of Justice of the Republic of Serbia, of which:

- 2,100 are employed in the security service
- 270 in the treatment service
- 700 in the training and employment service
- 210 in the health protection service and
- 520 in the general affairs service

Question 7. Please provide information on the mandate, functions and activities of the Ombudsman Office (Protector of Citizens) with respect to prevention of torture and other cruel, inhuman or degrading treatment and punishment.

74. According to the Law on the Protector of Citizens, the Protector of Citizens (Ombudsman) is authorized to control the lawfulness and regularity of the work of administrative organs, including those of the Ministry of Justice - Department of Execution of Prison Sanctions, Ministry of Internal Affairs, Ministry of Health and Ministry of Labor and Social Policy, under whose jurisdiction are institutions for persons deprived of liberty.

75. In carrying out his controlling function, the Ombudsman initiates proceedings upon receiving a complaint from a person deprived of liberty or on his own initiative in the case he has obtained knowledge of a violation of an imprisoned person’s rights. If, having carried out the procedure, he finds that there were shortcomings in the work of the said organs of administration, i.e. that a rights violation has occurred, the Ombudsman submits a recommendation to the organ in the sense that the observed shortcoming should be removed, with the aim of improving the treatment and conditions in which persons deprived of liberty are being held, and of preventing torture.

76. Besides a controlling function, the Ombudsman also has a preventive function, reflected in the extension of good services, mediation, the extension of counseling and opinions regarding the improvement of the protection of the rights of persons deprived of liberty and the work of the competent administrative authorities.

77. Also, the Ombudsman has the right to submit draft laws and give an opinion regarding existing or proposed laws regulating the position of persons deprived of liberty.

78. The Ombudsman has the right of free access to penitentiary facilities and other places holding persons deprived of liberty, as well as the right to speak with such persons without the presence of others.

79. The administrative organs are obligated to cooperate with the Ombudsman and to allow him access to their offices and make available all data in their possession that are significant for the relevant procedure, i.e. to allow him to fulfill the goals of his preventive actions, regardless of the level of the data's confidentiality. An administrative organ is obliged to accommodate all the Ombudsman's requests and to submit all the requested information and documentation within the time limit set by him, which is within the lawful limit. In addition, the Ombudsman has the right to interview any administrative organ employee who might, in his judgment, be able to provide significant information. The Ombudsman may, in especially justified cases, conceal the identity of the person submitting the complaint and, due to the specific nature of the correspondence of persons deprived of liberty with the Ombudsman, such persons have the right of submitting their complaint in a sealed envelope.

80. For the sake of a more all-encompassing protection of the rights of persons serving prison sentences or subject to detention, having in mind the specific nature of the positions of such persons (it is assumed that they have limited in their ability to copy relevant documentation, access documentation, to communicate with the competent organs outside their facility), the Ombudsman has taken the position that the complaints of such persons shall not be rejected even if not accompanied by the necessary documentation.

81. The Law on the Protector of Citizens provides that, prior to filing a complaint to the Ombudsman, the person submitting it must first attempt to protect their rights within the appropriate legal procedure. Due to the specific position of persons deprived of liberty, the Ombudsman has taken the position that, upon receiving complaints from persons deprived of liberty, procedures will be initiated before the Ombudsman if there is a basis for it and if all other legal means have been exhausted, and that such complaints shall be considered so as to ensure the most efficient possible protection of the rights of persons deprived of liberty, and whenever there is a basis to think that they are a consequence of particularly unjust actions on the part of an administrative organ.

82. Since the establishment of the Ombudsman's Expert Service on December 24 2007, 44 procedures have been initiated as a result of complaints by persons deprived of liberty. Within such procedures, there have been three announced visits to district prisons, an announced visit to a foreigners' shelter (administrative detention), and an unannounced visit to a district prison. Within the scope of the Ombudsman's preventive actions, there was one preventive visit to a penitentiary for women. There was also an announced visit to an orphanage.

83. According to the Law, the Ombudsman is obliged, in the process of delegating authority to deputies, to secure the specialization of a deputy for the rights of persons deprived of liberty. The expected choice of deputies with special qualifications and training, as well as the filling of the ranks of the Expert Service, will create the conditions for intensified activity in the area of rights protection of persons deprived of liberty. This will allow the activation of the Ombudsman's controlling and preventive function in its full capacity, which will strengthen the role of the Ombudsman in preventing torture.

Article 3

Question 8. ***The Committee takes note of, inter alia, article 88 of the Criminal Code that prohibits expulsion of an "offender that enjoys protection pursuant to the ratified international treaties", and the Criminal Procedure Code (article 525, paragraph 2) that prohibits expulsion where there are "serious reasons to believe that the foreigner can be exposed to ill-treatment or torture in the State requesting extradition". Please provide information on how often and in which cases these provisions have been applied and what are the other safeguards against non-refoulement of foreign nationals to countries where they have reason to fear prosecution. Please provide information on legislative development in this field. Please also provide information on where asylum-seekers and foreigners demanding refuge are held while waiting for respective decisions by authorities.***

84. In practice thus far, there have been no cases where the extradition of foreigners has been refused to countries where there are reasons to believe that they will be exposed to inhuman treatment or torture. Beginning with 2006, the Republic of Serbia has demanded from countries requesting extradition guarantees that the person shall not be subjected to torture, inhuman treatment or ill-treatment. Also, the Republic of Serbia asks from such countries that they guarantee the respect for human rights as provided in the UN and European conventions on human rights and fundamental freedoms, in accordance with Article 548 of the ZKP.

85. Agreements on readmission, both bilateral and multilateral, encompass the procedure for the return and admission of persons - domestic and foreign nationals, as well as stateless persons, who do not fulfill, or no longer fulfill the conditions for entry or residence on the territory of a foreign state. These agreements incorporate the standards of all international conventions.

86. The process of readmitting Republic of Serbia citizens who illegally reside on the territory of other states is conducted with the full respect of the highest European standards from the area of the protection of human rights and citizen freedoms, as well as the *regula iuris* of other international conventions devoted to the protection of human rights and freedoms.

87. All readmission agreements pay special attention in their basic provisions to the issues of the protection of personal freedoms, ensuring total harmonization with international conventions (the Convention relating to the Status of Refugees of July 28, 1951, amended and augmented by the Protocol relating to the Status of Refugees of January 31, 1967, international conventions on determining which state is the one competent for reviewing asylum requests, the European Convention on the Protection of Human Rights and Fundamental Freedoms of November 4, 1950, international conventions against torture and other cruel, inhuman or degrading punishment and treatment of December 10, 1984, international conventions on extradition, multilateral international conventions and agreements on the readmission of foreign nationals - all remain inviolable).

88. Upon arrival to the Republic of Serbia, all persons returned in accordance to readmission agreements have a guaranteed right to freedom of movement and residence, thereby ensuring respect for the constitutional law from Article 39 of the Constitution of the Republic of Serbia (Freedom of Movement).

89. The principle of prohibition of *non-refoulement* is provided for by the Law on Asylum, which began to be applied on April 1, 2008. According to the Law, no person may be expelled or returned against their will to a territory where their life or liberty may be endangered due to their race, gender, language, religion, nationality, or membership in a social group or political views. This principle does not apply to persons reasonably suspected of endangering the state's security or who have been effectively convicted of serious crimes, thereby representing a danger to the public order.

90. No person may be expelled or repatriated against their will to a territory where there is a risk that they will be subjected to torture, inhuman or degrading treatment or punishment. As a result, the Law on Asylum, besides shelters as a form of protection, also provides for subsidiary protection as a form of protection the Republic of Serbia extends to a foreigner who, in case of repatriation to the country of origin, would be exposed to torture, inhuman or degrading treatment or whose life, security or liberty would be endangered by wholesale violence caused by external aggression or internal armed conflicts or mass violations of human rights.

91. Until the final decision regarding an application for asylum, all asylum applicants are provided with shelter and basic living conditions at the Asylum Center within the Office of the Commissioner for Refugees of the Republic of Serbia.

92. In case of a need to limit the movement of asylum applicants, they are housed at the Foreigners' Shelter of the Ministry for Internal Affairs of the Republic of Serbia in Padinska Skela near Belgrade, for the following reasons:

- To determine their identity
- To secure the foreigner's presence during the asylum processing procedure when there are grounds to believe that the application was submitted in order to avoid deportation or when it is not possible to ascertain other relevant facts on which the asylum application is based without the foreigner's presence
- When this is necessitated by reasons of the country's security and public order

Question 9. Please indicate whether it is the practice of authorities in the Republic of Serbia to seek diplomatic assurances from a third country to which an individual is to be extradited, returned or expelled.

93. Beginning with 2006, after the expiration of the State Union of Serbia and Montenegro, the Republic of Serbia has introduced the practice of requiring diplomatic assurances from third countries in the case of extradition of accused and convicted persons. Within the diplomatic guarantee the Republic of Serbia demands guarantees that the diplomatic representatives of the Republic of Serbia will be allowed contact with persons extradited to a third country by the Republic of Serbia. These guarantees also include a request that the extradited persons be allowed unobstructed contact with diplomatic representatives of the Republic of Serbia, in accordance with Article 549, paragraph 2 of the ZKP.

Question 10. Please provide information on what legislation determines asylum-seeking and refugee procedures. Provide also statistical information, disaggregated by age, sex and nationality, on:

(a) The number of asylum registered and the number of request granted;

(b) The number of deportation or expulsions;

(c) The number of rejected asylum-seekers and undocumented migrants who are held in administrative detention;

(d) The countries to which these persons were expelled.

94. The status of persons seeking asylum is regulated by the Law on Asylum of the Republic of Serbia. Issues regarding asylum procedure not regulated by this Law are subject to regulations applying to general administrative procedure.

95. As for the scope, contents and type of rights and obligations of persons seeking asylum, persons to whom sanctuary or temporary protection have been approved, and who do not come under the scope of this law, are subject to regulations applying to the movement and residence of foreigners.

96. Since the Law on Asylum has come into affect, a total of six applications for asylum have been submitted. Of these, four asylum applicants were males, aged 25 to 30. Two were citizens of Ethiopia and two were citizens of Nigeria. Two persons of the female gender have also applied for asylum, one a citizen of Ethiopia, 21 years of age, the other a citizen of Armenia, aged 50.

97. These asylum seekers were housed at the Center for Asylum in Banja Koviljaca. They were issued identity cards for asylum-seekers, valid for six months.

Article 5

Question 11. Please provide detailed information on actual cases and judgments related to the State party's universal jurisdiction to either extradite or prosecute acts of torture where the alleged offender is present in the territory of the State party. Please provide also information on the mechanisms to establish such a jurisdiction.

98. The Republic of Serbia, i.e. the Ministry of Justice of the Republic of Serbia does not have such statistical data.

Question 12. Please provide further information on the application of the provisions referred to in the State party report (paras. 302 to 304) on criminal offences against the constitutional order, including by aliens who commit, outside of the territory of the State party a criminal offence against the State party or its citizens.

99. Criminal charges brought against adult persons for a criminal act against the constitutional order and security of the Republic of Serbia during 2002-2006:

Table 1

	2002	2003	2004	2005	2006
Total	133	37	67	98	88

100. The table below shows the number of adult persons convicted for crimes against the constitutional order and security of the Republic of Serbia during 2002-2006.

Table 2

	2002	2003	2004	2005	2006
Total	2	1	1	1	12

Question 13. Please provide information on cases of torture before Serbian authorities originating as a consequence of the exercise of Serbian jurisdiction in Kosovo.

101. Since the coming of UNMIK and KFOR forces to the territory of Kosovo and Metohija on June 10, 1999, the Mission of the international community has been charged with and exclusively responsible for the security situation and the realization of all civil and political rights in Kosovo and Metohija.

102. On the basis of Resolution 1244 of the United Nations Security Council of June 10, 1999, the Mission of the United Nations has been carrying out all de facto and legal authority in Kosovo and Metohija, making it responsible for the respect of international human rights conventions. During the last nine years, UNMIK has been continually transferring the power of public authority to the Provisional institutions of self-government, which are chiefly Albanian. The culmination of this transfer of authority occurred with the illegal proclamation of the independence of Kosovo and Metohija on February 17, 2008 and the proclamation of the "constitution of Kosovo" on June 15, 2008 on the part of the Assembly of the Provisional Institutions.

103. In accordance with the above, we cannot provide an opinion regarding the violation of human rights on the part of the organs of the Republic of Serbia in Kosovo and Metohija, having in mind that the said organs have not exercised public authority on the territory of the Province since June 10, 1999.

Article 8

Question 14. The Committee notes the information in the State party report (paragraph 320) on a number of bilateral conventions and treaties regulating extradition matters. Has the State party rejected, for any reason, any requests for extradition by another State for an individual suspected of having committed a crime of torture, and thus engaging its own prosecution as a result?

104. International legal aid connected with committed criminal acts and, by extension, criminal acts entered into the criminal law of the Republic of Serbia as a result of accession to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, is regulated in the Republic of Serbia according to the ZKP and signed international agreements.

This Code stipulates that, when it comes to extending international legal aid, international agreements have primacy. This means that international legal aid in criminal matters is carried out in accordance with the said code only if there is no international agreement or, if it does exist, if certain issues are not regulated by it (Article 530 of the Code).

105. Except when it comes to executing foreign criminal convictions, the ZKP does not require the existence of a signed international agreement as a condition for extending international legal aid. In a separate section, the Code regulates the issue of extradition of accused and convicted persons (Articles 539-555 of the Code).

106. In the case of this, specific type of international legal aid, the ZKP gives primacy to international agreements, i.e. stipulates that extradition shall be performed in accordance with the Code only in the absence of an international agreement or, if one exists, if it does not regulate certain issues (Article 539, ZKP).

107. The ZKP provides for the preconditions for the extradition of accused and convicted persons as well as for the procedure for determining the existence of such preconditions. As a precondition for extraditing a person from the Republic of Serbia, the Code stipulates that the person is not a citizen of the Republic of Serbia, that the act for which the person is wanted was not executed on the territory of the Republic of Serbia, either against it or a citizen of the Republic, that the act for which extradition is requested is a criminal act both according to domestic law and the law of the state in which it was executed; that, according to domestic law, the crime has not expired in terms of criminal prosecution or execution of punishment or that it is not encompassed by an amnesty; that the foreigner whose extradition is being sought has not already been convicted by a domestic court for the same offense or that they have not been effectively freed by a domestic court for the same offense, except if there are conditions for repeating the criminal procedure as provided by the Code, or that criminal proceedings have not been initiated against the foreigner in the Republic of Serbia for an act committed against the Republic of Serbia, and, if proceedings have been initiated concerning an act against a citizen of the Republic of Serbia, that security has been deposited for the purposes of compensating the legal-property claim of the damaged party; that the identity of the person whose extradition is being sought has been confirmed; that there is sufficient proof for justified suspicion that the foreigner whose extradition is sought has committed a criminal act or that there is an effective verdict against the person (Article 540, ZKP).

108. The ZKP provides for an exception to the rule of prohibiting the extradition of citizens of the Republic of Serbia, whereby extradition of a foreigner or citizen of the Republic of Serbia may be approved to an international court recognized by confirmed international agreements, under the condition that the act for which extradition is sought is a criminal act both according to domestic law and the law of the state where it was carried out, that the crime has not expired in terms of criminal prosecution or execution of punishment or that it is not encompassed by an amnesty; that the identity of the person whose extradition is being sought has been confirmed; that the person has not already been convicted for the same criminal act by a domestic court (Article 540, ZKP).

109. The procedure for extraditing accused and convicted persons is initiated upon an application from a foreign state submitted to the Ministry of Justice of the Republic of Serbia (Article 541, ZKP).

110. The procedure upon application is carried out before the district court of the foreigner's residence or last location. The person whose extradition is sought has a right of appeal to the Supreme Court of the Republic of Serbia. Should the court determine that the preconditions for extradition have been fulfilled, it forwards its decision to the Ministry of Justice, which makes the final decision on extradition (Articles 546 and 547, ZKP).

111. The Ministry of Justice shall not allow extradition of a foreigner who enjoys the right of asylum in the Republic of Serbia, if this concerns a political or military criminal act, if the foreigner's life or liberty are endangered due to race, religion, ethnicity, social position or political beliefs, if there are serious reasons to believe that the foreigner can be exposed to inhuman treatment or torture in the State requesting extradition, or if the foreigner was not allowed representation by an attorney in the procedure preceding extradition. The Ministry of Justice may reject extradition in case of criminal acts for which domestic law provides punishment of up to three years or if a foreign court has issued a sentence of deprivation of liberty of up to one year (Article 548, ZKP).

112. If the court determines that the preconditions for extradition have not been fulfilled, it decides the case on its merits, i.e. makes a ruling by which the foreign state's application is rejected, in which case the Ministry of Justice is bound by the decision (Article 454, ZKP).

113. In the extradition process, the investigative judge can order a foreigner's detention, under the conditions provided for ordering detention, except if it is obvious from the application itself that there are no grounds for extradition. Detention can last until the execution of the extradition decision at the latest, but not longer than one year from the day of detention. In the process of extradition the investigative judge is obliged to inform the foreigner that they can engage an attorney or that one will be assigned to them on official duty if, according to the Code, defense is required, and must also without delay inform the foreigner as to why and on the basis of what evidence their extradition is being sought, at the same time inviting them to offer anything they have in their defense (Article 542, ZKP).

114. The ZKP also provides for the obligation of adherence to the principle of so-called speciality, by which the extradited person cannot be prosecuted for another criminal act committed prior to extradition, that punishment cannot be executed against the said person for another criminal act committed prior to extradition, that the person cannot be subject to a punishment heavier than that to which they have been sentenced, or to a death penalty, and that they cannot be extradited to a third country for prosecution of a criminal act committed before approved extradition.

115. The Republic of Serbia has not received applications from other states for the extradition of persons who have committed the crime of torture.

Article 9

Question 15. Please provide information on the cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) and in particular information on apprehensions, arrests and transfers to the custody of the Tribunal of the remaining fugitives indicated by the ICTY, including Ratko Mladic and Radovan Karadzic. The Committee also request information on ICTY's access to archives and documents, and the implementation of legislation and the "Action Plan" for ICTY cooperation. Provide information with respect to any particular challenges that the State party may face with respect to this requirement.

116. Out of more than 1700 requests for aid that the Office of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia (ICTY in further text) has submitted to the Republic of Serbia up to the present, more than 95 per cent of the requests have been answered completely, while most of the remaining requests have been at least partially answered and are in the phase of realization. It is also important to emphasize that some of the requests have been submitted only recently to our organs and that they have entered regular procedure for realization. Since December 10, 2007, when the ICTY Office of the Prosecutor submitted to the United Nations Security Council its last report on cooperation, the Republic of Serbia has received 42 requests for aid from the Office of the Prosecutor of the ICTY up to and including May 15, 2008. In the said period, the Republic of Serbia has answered 50 requests[1] for aid by submitting documentation, replies and data, and it should also be emphasized that a total of 321 documents with a total of several thousand pages have been submitted as part of the said 50 answers. As an illustration of cooperation in this area, the following fact can be presented: In his letters of February 22 and April 8, 2008, the ICTY Prosecutor referred to 18 requests for aid to which, in the opinion of the Office of the Prosecutor, the answers have been incomplete or totally lacking. Of the 46 indicted persons sought by the ICTY from the Republic of Serbia, only two are still at large, and the competent authorities are constantly conducting searches with the aim of finding them and turning them over to the ICTY.

117. An important advance in the cooperation of the Republic of Serbia with the ICTY occurred through the acceptance of the ICTY Prosecutor's proposed agreement on the practical modalities of inspection of state organ archives, signed in March 2006. Thus far, a total of 20 visits to our state organs' archives on the part of Tribunal representatives have been made, including the archives of the Security-Informational Agency of the Ministry of Internal Affairs (BIA), the Ministry of Defense and other organs. In the period from December 2007 to the present there have been no visits to the archives of the state organs of the Republic of Serbia, since there were no requests on the part of the ICTY Office of the Prosecutor to that effect. It should, however, be pointed out that, in May 2008, the Office of the Prosecutor requested two visits for the purposes of looking into the archives of the Security-Informational Agency and the Ministry of Defense, with both the requests being approved on the part of the competent organs.

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[1] Fifty (50) requests by the ICTY Office of the Prosecutor have been answered, of which some were delivered even before December 2007, which means there is nothing illogical about the fact that, during this period, the Office of the Prosecutor has sent "only" 42 requests for aid.

118. In addition to the above, during this period a total of five persons were released from the obligation of keeping State, official and military secrets, i.e. all the persons for which the ICTY Office of the Prosecutor asked release from the obligation of keeping secrets during the said period. It is very important to emphasize that, from the beginning of the cooperation to the present, all persons for whom the ICTY Office of the Prosecutor asked release from the obligation of preserving secrets have been thus released, without exception.

119. In the period from June 2007 to May 2008, the Ministry of Internal Affairs has acted on the basis of two received directives from the ICTY for the forced bringing of witnesses due to contempt for the Tribunal as well on the basis of 39 requests for delivering summonses and subpoenas to witnesses for procedures before the ICTY. In the said period, on the basis of orders of the ICTY Office of the Prosecutor, protection was extended to eight witnesses and members of their families.[2] Also, in the said period, the Office for the Discovery of War Crimes of the Ministry of Internal Affairs acted on the basis of decisions by ICTY judicial councils regarding the escort and surveillance of 12 indictees who were or are still temporarily released. It is important to emphasize that all requests from this group have been put into procedure and realized.

120. The 1996 agreement with the ICTY Office of the Prosecutor on the opening of the Prosecutor's bureau in Belgrade gave representatives of the ICTY Office of the Prosecutor a very broad scope of authority on the territory of the Republic of Serbia when it comes to access to witnesses, gathering of evidence and information, and movement and communication in general.[3]

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[2] Witness protection was extended in all cases where the Tribunal requested it, excepting one, in the case of ind. Ramush Haradinaj et al. Namely, this was a request that protection be granted to an active member of the Ministry of Internal Affairs of the Republic of Serbia. Following consultations with the person for which protection was requested and the carrying out of necessary security checks, it was judged that the furnishing of protection in this case was not necessary, with which the said person agreed, and about which the Tribunal was informed. Thus, action was taken in all cases requested by the Tribunal.

[3] By this agreement the ICTY Office of the Prosecutor obtained, among other things, the following authorities: (a) unlimited freedom of movement throughout the country for personnel, property, equipment and means of transportation; (b) access to all documentary materials of a public nature relevant to the efficient work of the Liaison Office; (c) the right to speak with victims and witnesses, to gather evidence and other useful information, including on locations outside the Liaison Office. The Liaison Office shall invest all its efforts toward speaking with persons wishing to provide information; (d) the right to make its own arrangements for the transfer of all data and all information it gathers.

121. Thus far, a total of 123 persons charged with war crimes committed on the territory of ex-Yugoslavia have been processed before the War Crimes Chamber of the Belgrade District Court. The War Crimes Chamber of the Belgrade District Court and the Office of the War Crimes Prosecutor of the Republic of Serbia have demonstrated the professional and technical capability of processing the said cases in accordance with internationally recognized standards. This view was also expressed by the ICTY Office of the Prosecutor in the case of charged Kovacevic, which the Tribunal ceded to the Serbian justice system, as well as on numerous other occasions.

122. Just in the period from June 2007 to mid May 2008, the Republic of Serbia answered 156 requests for aid, while all 25 witnesses requested by the ICTY Office of the Prosecutor in this period were released from the obligation of preserving secrets. In the period since the last report of the ICTY Office of the Prosecutor (December 2007), the Republic of Serbia has answered 50 aid requests by submitting documentation, answers and data, and it should also be emphasized that, in accordance with these 50 requests, 321 documents containing several thousand pages were submitted.

123. In the period from December 2007 to the present, there were no visits to the archives of the state organs of the Republic of Serbia, since there were no requests to that effect on the part of the ICTY Office of the Prosecutor. It should, however, be repeated that, in May 2008, the ICTY Office of the Prosecutor requested two visits in order to inspect the archives: the first visit was to have been conducted at the end of May 2008 and had to do with the archives of the Security-Information Agency, while the second visit was to have been conducted in the first half of June 2008, and was concerned with the archives of the Ministry of Defense. Both the Ministry of Defense and the Security-Information Agency approved the realization of the announced visits.

124. Activities of the Ministry of Internal Affairs of the Republic of Serbia that concern cooperation with the ICTY encompass, among other things, the following:

- Search for persons indicted before the ICTY: In the period of June 2007 to May 2008, members of the Ministry of Internal Affairs participated in activities aimed at locating indictees before the ICTY who were still at large, and cooperated with the Ministry of Internal Affairs of Montenegro concerning the delivery of information on the basis of which indictee Vlastimir Djordjevic was located and arrested on the territory of Montenegro on June 17, 2007.

- Acting upon requests for identification, locating, delivering summonses and securing the presence of witnesses in processes before the ICTY: In the period from June 2007 to May 2008, the Ministry of Internal Affairs acted on the basis of two received directives from the ICTY for the forced bringing of witnesses due to contempt for the ICTY, as well as on the basis of 39 requests for delivering summonses and subpoenas to witnesses in processes taking place before the ICTY.

- Monitoring and reporting on measures of police protection of personal security and witnesses before the ICTY and their family members: In the said period, acting on orders of the ICTY Office of the Prosecutor, in cooperation with the Protection Unit and other organizational units, protection was extended to eight witnesses and members of their families. There were no problems in the realization of protection in any of these cases.[4]

- Transfer and monitoring of temporarily released persons and reporting on the respect of conditions of temporary release: In the period from June 2007 to May 2008, the Office for the Discovery of War Crimes acted on the basis of ICTY Trial Chambers regarding transfers and monitoring of 12 indictees before the ICTY, who were or still are temporarily released. There were no problems in the realization of the said activities.

Article 10

Question 16. The Committee notes the information provided in the State party report, in particular paragraphs 323 to 338, on a number of education and training activities organized for police and law enforcement officials, including in cooperation with international, regional and non-governmental organizations. Please provide further information on how prison wardens, medical personnel, public official, border guards and other persons who may be involved in the custody, interrogation or treatment of individuals subject to any form of arrest, detention, or imprisonment are trained in the application of human rights norms and the Republic of Serbia's international obligations. The Committee would also welcome information on progress made with respect to the reform of the police training and how and by whom respective trainings are being monitored, evaluated and the impact assessed.

125. The Judicial Center for Training and Professional Improvement is an institution responsible for educating judges and prosecutors in the Republic of Serbia. Within the scope of its regular program, the Judicial Center deals with topics connected with the fight against torture and other forms of inhuman and degrading treatment. The annual plan and program of training is divided into the areas of criminal, civil, commercial, and administrative law, and human rights. The program of training judges and prosecutors in the area of human rights has developed training programs tied to the European Convention on Human Rights, the European Convention on the Prohibition of Torture, the United Nations human rights conventions and its Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Also, within the program of training in the area of criminal law, in the course of covering regular thematic wholes, also included are topics connected with the issues of torture, inhuman treatment or degrading punishment. These topics are especially included when the seminar participants are prosecutors and investigative judges.

[4] See footnote 3.

126. In cooperation with the OSCE Mission to Serbia, the Handbook for judges and prosecutors acting in cases of torture has been translated and published. The Handbook has become a part of the regular working material at seminars dealing with the topic of torture and inhuman treatment.

127. Thematic wholes covered or being covered in the process of education organized by the Judicial Center:

- The UN mechanisms for the prevention of torture and inhuman treatment: 25 one-day seminars for investigative judges and prosecutors were organized, attended by 800 judges and prosecutors. Lecturers were judges, prosecutors and legal experts in this area.

- The European Convention on the Protection of Human Rights and Fundamental Freedoms, Article 3 and Article 5 - torture and limitation of liberty: A special cycle of 32 two-day seminars was organized for judges of criminal sections of municipal and district courts. The seminars were attended by 734 judges. A special cycle of seminars on this topic was organized for municipal and district court prosecutors, numbering 25 seminars, attended by 583 prosecutors.

- Promotion of the Handbook for judges and prosecutors involved in cases of torture: A total of 15 promotions at which the handbook was presented were held, with an introduction to the mechanisms of investigation and standards prescribed by the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The promotions were attended by 453 judges and prosecutors from municipal and district courts and prosecutor's offices in Serbia.

- Implementation of the new Criminal Procedure Code: One of the topics at the seminars held in connection with the implementation of the new Criminal Procedure Code was that of rules of process in investigations of torture and inhuman treatment.

- A regular training program for judges employed in criminal units: Within the framework of the regular training program for judges employed in criminal units, the topical whole Main Inquest is covered. Within the framework of this topical whole, another topic is that of evaluating evidence gathered through torture and inhuman treatment.

- A regular training program for prosecutors and investigative judges: Within the framework of the regular training program for prosecutors and investigative judges, the topical whole "Gathering of Evidence and Investigative Activities" is covered. Another topic of this topical whole is the investigation of torture and inhuman treatment.

- Specialist training for judges acting within the Law on Juvenile Crime Perpetrators and Juvenile Criminal Protection: The Law provides for the compulsory specialization of judges, prosecutors, attorneys and policemen. Within the program of specialized training, the prohibition of torture and inhuman and degrading treatment of minors and children is covered as a separate topical whole.

- Specialist training of judges acting within the Family Law: This law provides for the compulsory specialization of judges involved with family relations. Within the program of specialized training, violence in the family and inhuman and degrading treatment of children is covered as a topical whole.

128. Officials employed in correctional facilities in the reporting period attended compulsory training for acquiring rank in the security service. The training program covers treatment of persons deprived of liberty, training for the proper and lawful use of enforcement tools, the bases of the system of executing penitentiary sanctions and penology and the realization and securing of rights of persons deprived of liberty. In the period since 2002, in cooperation with the OSCE Mission in the Republic of Serbia, numerous training courses for penitentiary employees have been organized, with a special accent on the lawful treatment of persons deprived of liberty and procedures for the realization and protection of their rights in accordance with international conventions and recommendations in this area.

129. Through the efforts of people from the Office for the Execution of Penitentiary Sanctions, with support from the OSCE Mission, the Center for the training of the Office's employees was formed in September 2004, with the aim of providing for all those employed, as they are the most important resource of the system of execution and the carriers of reform, training, professional advancement, improvement of knowledge and qualifications and increased work motivation, thus contributing to the reform of the system of execution as a whole.

130. Since 2006, the Center has taken the leading role in the organization and coordination of all forms of training being realized in the entire system of penitentiary sanctions execution.

131. In replying to this question, the Ministry of Internal Affairs of the Republic of Serbia submitted data classified into two time periods and in accordance with views expressed in the Report on the Execution of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for the 1992-2003 period:

(a) The 1992-2003 period

- Paragraph 324 of the Report - In the course of schooling at the Secondary School of Internal Affairs (within the framework of the following subjects: Civil Education, The Constitution and Civil Rights, Criminal Law, International Public Law and The Fundamentals of State Security), the Junior College of Internal Affairs (within the framework of the following subjects: Constitutional Law, Criminal Law and International Public Law) and at the Police Academy (within the framework of the following subjects: Criminal Law, Constitutional Law and Political Institutions, Police Science, Criminal Procedure - Tactics, Criminal Procedure - Methodology, Police Law, The Fundamentals of Security, The Methodology of Suppressing Organized Criminality, Police Ethics, International Public Law, Criminal Process Law and Misdemeanor Law). At seminars and courses special attention is paid to professional training for the respect of human rights, proper and lawful conduct, especially when applying instruments of enforcement and certain other powers.

- Paragraph 329 of the Report - During 2003, in cooperation with the Council of Europe, the Training of Police Trainers of Serbia Concerning Ethical and Human Rights was realized (19 trainees). The preparatory portion of the training, with the aim of equalization of previous knowledge, was realized in Belgrade, followed by study abroad for 9 trainees in Germany and 10 in Great Britain.

- Paragraph 331 of the Report - It is necessary to amend the information concerning the number of cycles and the number of seminar trainees in the area of human rights. Instead of "four", five five-day seminars were held, and instead of "120 police officers", it should stand 150 police officers.

- Paragraph 335 of the Report - It is important to add that, in the course of 2002, in cooperation with the International Committee of the Red Cross, along with the already mentioned seminar on human rights, humanitarian law for police and security forces, the seminar Use of Force and Firearms, Arrest and Detention was held for 30 members of the police with general jurisdiction.

- Paragraph 336 of the Report - Although work on the Draft Law on Police Schooling was performed during the reporting period, this law was not passed; instead, the Law on Police was augmented with basic provisions on professional education, training and improvement, in Articles 152-154. This subject matter will be provided for through a special rule book, the proposal of which is in procedure.

(b) Period after 2003

- Higher education - The Junior College of Internal Affairs and the Police Academy have been integrated into the Criminal-Police Academy, an institution organized outside the Ministry of Internal Affairs, but with firm functional interconnection between them.

  The teaching plans and programs of the Criminal-Police Academy call for basic academic and professional studies, as well as master's-level studies and academic specialized studies, harmonized with the Bologna Process. Study subjects offered during basic studies, which are related to topics such as the execution of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and similar are: Constitutional Law, Criminal Law - General Portion, Criminal Law - Special Portion, Sociology with Social Pathology, Special Physical Education, Criminal Tactics, Administrative Law, Criminology, Fundamentals of Criminal Process Law, The Police in Criminal Procedure, Misdemeanor Law, Internal Affairs Law, Crime Prevention, Police Tactics, The Police in the Community, Police Ethics, Human Rights, Communications and Public Relations, International public Law, Criminal Psychology, Police Organization and Duties, International Police Cooperation and Illegal Migrations and Human Trafficking. Special (practical) forms of education should also be mentioned, such as: professional informational practice, practical training in the handling of official handguns, professional-field practical training, professional elective practice, professional criminal practice, professional methodological practical training, professional organizational-methodological practice, etc.

- Within the framework of the Criminal-Police Academy scientific-research work is also being conducted, whose carrier is the accredited Scientific-Research Center. During the preceding period and the existence of the Junior College of Internal Affairs and the Police Academy, research was conducted within the bounds of several research projects: Measures of Criminal, Misdemeanor, Disciplinary and Other Prosecution of Police Officers in Cases of Abuse, Overstepping of Authority, Disciplinary and Other Violations; Adjusting the Role of Police Services to the Needs of the Protection of Human Rights and Liberties; Criminal-Legal, Misdemeanor-Legal and Other Protection of Police Officers; Legal Control of Police Organs' Administrative Powers; Comparative Models of Police Organization, with Special Accent on Police Powers. Projects devoted to professional training for proper and lawful conduct are currently being prepared at the Criminal-Police Academy: International Police Cooperation and Police and Human Rights. In reviewing the above subjects of study and scientific-research projects, an all-encompassing, methodologically consistent and multidisciplinary approach to the relevant subject matter can be observed.

- Secondary Education and Basic Police Training - In the 1992-2003 period, the means of educating and training of students for basic police work varied, including: four-year schooling in the Secondary School of Internal Affairs in Sremska Kamenica, six-month courses for students who previously completed civil secondary school and four-month courses for women.

- The strategy of the Ministry of Internal Affairs of the Republic of Serbia for developing the system of training and education for the needs of the police provides that the Secondary School of Internal Affairs in Sremska Kamenica be transformed into the Center for Basic Police Training. The transformation is in process, and the last generation of the Secondary School of Internal Affairs, which has not been admitting students for the last three years, will be graduating in 2009. In the meantime, at the end of 2007, basic police training of the first class of students began, in accordance with the new study plan and program, lasting 12 months.

- Having in mind the Report on the Execution of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for the period from 1992 to 2003, which was submitted in 2005, and paragraphs 323, 324, 326, 328 and 336 of the Report, it is necessary to emphasize that significant improvement was achieved in the period between 2005 and the present, both in terms of regulations and the implementation of passed legal acts and bylaws into study plans and programs of education, training and professional improvement of police employees, especially in the area of rights of detained, interrogated and arrested persons, i.e. persons deprived of liberty on any basis.

- This claim can be made on the basis of provisions built into the Study Plan and Program of the Secondary School of Internal Affairs in Sremska Kamenica, in which the subject The Constitution and Citizens' Rights, which was taught in the second grade, outlines within its program of study an introduction to basic rights

and liberties and, even more significantly, the aim of understanding the significance of adherence to the Constitution as the basic act that guarantees the rights and liberties of man.

- In both the second and fourth grades, the subject Rules of Duty at the Ministry of Internal Affairs included a detailed study of the provisions of the Law on Police and the Criminal Procedure Code related to the bringing and arrest of persons. Especially elaborated are areas regulating the relations between the police and the public. In the fourth grade, the same subject deals with democratic principles in the work of the police, human rights, police procedure in a multiethnic society, gender equality and, as a special segment, mastering the skills of practical police conduct in the application of powers.

- Within the framework of the subject Introduction to Philosophy with Police Ethics, in third grade, attention is devoted to the study of the Codex of Police Ethics, brought on October 19, 2006, whose provisions, in the first place Article 34, “prohibit the ordering, execution, instigation or tolerance of any kind of torture or cruel and inhuman treatment degrading to human dignity …”.

- When it comes to the new concept of professional police duty training, in accordance with Article 154 of the Law on Police, on May 18, 2007, the Ministry of Internal Affairs brought a Study Plan and Program for the professional training of students of basic police training. Expert help from the area of the methodology of producing and developing the Study Plan and Program was extended by representatives of the OSCE Mission in Serbia, who gave an extremely positive evaluation of the new Study Plan and Program for the professional training of students of basic police training.

- The new model of basic police training is harmonized with police training models in other European countries.

- The goal of basic police training is to train students to competently carry out basic police duties, in accordance with the laws and other regulations and acts of the Republic of Serbia, as well as with international agreements and conventions adopted by the Republic of Serbia and the standards of police conduct.

- In addition to other things, the trainees study the following subjects and professional modules: Police Employees: Rights, Obligations and Duties (25 hours), Human Rights and the Codex of Police Ethics (35 hours), Police Work in the Local Community (30 hours), Application of Police Powers and Use of Enforcement Instruments (256 hours), Crime Suppression (114 hours), etc.

- The subject Human Rights and the Codex of Police Ethics includes the study of human rights and the basic rights of man, and the Codex of Police Ethics. The students are introduced to the Codex of Police Ethics through case studies, situational training and role playing. Special insistence is placed on the understanding of the connections between the Codex of Police Ethics, police powers and human rights.

- Within the modular units Arresting Suspects and Seeking Information, the students need to acquire knowledge on the rights of arrested persons and internalize views about the necessity of respecting the rights of arrested persons, respecting the presumption of innocence, respecting the human dignity, reputation and honor of the arrested, respecting the principle of adequacy of applied instruments of enforcement in the course of arrest, showing concern for the health needs and security of the arrested, opposing all forms of torture, inhuman and degrading treatment.

- Professional improvement of police employees - Permanent professional improvement takes place in accordance with annual programs brought by the minister of internal affairs and is required for all authorized police employees. It has always included the subject matter, with a tendency of the greatest possible congruence with the needs of practice, through the inclusion of case studies and other appropriate methods during the realization of the course of study, for the sake of a better understanding and internalization of the study contents. Some of the topics encompassed by the program, common for all police employees, are the following: human rights, police ethics, communication in the function of police work, legal bases for the application of police powers, police work with marginalized, minority and socially vulnerable groups, etc.

- Beginning with 2005, in cooperation with the OSCE Mission a special program of additional training was prepared and realized for the police in southern Serbia (police stations in Medvedja, Bujanovac and Presevo), which was incorporated into the common program for all police departments, i.e. for all police employees in 2007. In the same year, the OSCE Mission in Serbia was allowed insight into the Program for the Professional Improvement of Police Employees of the Ministry of Internal Affairs of the Republic of Serbia for the year 2007.

- Specialist training - The above contents are also applied within the framework of specialist courses for various lines of work (i.e. the Plan and Program of Professional Training for students of the Border Police Course contains, among other things, the following subjects: Fundamentals of the Law and Police Ethics, Legal Regulations in the Area of Internal Affairs, Police Organization, Duties and Powers, Psychology with Communication, etc.), and other courses of study and programs are similarly conceived.

132. The Aliens Shelter of the Ministry of Internal Affairs of the Republic of Serbia, located near Belgrade, has been visited on several occasions by representatives of the European Committee for the Prevention of Torture and Inhuman Treatment or Degradation and Punishment, who had no serious complaints other than taking note of the fact that the Shelter does not have its own medical staff but uses the medical services of the nearby prison in Padinska Skela, and that foreign nationals at the Aliens Shelter should be enabled to spend more time in the open air.

133. The police employees at the Aliens Shelter did not take part in specialized forms of education dealing with citizens' rights and liberties and the related international obligations taken by the Republic of Serbia, but they are acquainted with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

134. Up to now, education has been carried out only in the area of human trafficking, encompassing police employees, social workers, judicial employees, diplomats, journalists, staff of the Serbian Red Cross, members of non-governmental organizations. Some of the above-mentioned educational courses have a general character, while others were conceived for the specific demands of target groups such as members of the Ministry of Internal Affairs of the Republic of Serbia and the public prosecutors' offices, judges, centers for social work, and similar.

135. During the last several years a larger number of police employees have been educated in order to recognize cases of human trafficking in the field, to initiate and conduct investigations, and to interview human trafficking victims. The majority of the held seminars, discussions and round tables saw the active participation of experts from international organizations (OSCE, IOM, ICMPD, Council of Europe, etc.) and domestic non-governmental organizations (Astra, Beosuport, Victimological Society of Serbia, Atina and the Counseling Center for Family Violence).

136. On several occasions, professional training of trainers for the fight against human trafficking was organized. The first training was organized during 2003 by UNDP, ICMPD and IOM. During September 2005, training for trainers was organized in Budapest by IOM. Also, training was organized in cooperation with the Council of Europe (CARDS Program - June 2006) and UNODC, at the beginning of 2008.

Article 11

Question 17. Please provide statistical information, disaggregated by sex, age, and origin of persons taken into custody in relation to respective prosecutions during the last five years. Provide also information on use of incommunicado detention and statistical information on the duration of pre-trial detention, including use and application of maximum length of pre-trial detention.

137. See table below for information on adults taken into custody, Republic of Serbia, 2002-2006.

Table 3

	2002	2003	2004	2005	2006
Total	33 675	33 017	34 239	36 901	41 422
Female	2 860	2 853	2 973	3 293	3 930
%	8.5	8.6	8.7	8.9	9.5
Male	30 815	30 164	31 266	33 608	37 492
%	91.5	91.4	91.3	91.1	90.5

138. See table below for information on minors taken into custody, Republic of Serbia, 2002-2006.

Table 4

	2002	2003	2004	2005	2006
Total	2 322	2 080	1 983	2 234	1 566
Female	92	97	92	106	71
%	4.0	4.7	4.6	4.7	4.5
Male	2 230	1 983	1 891	2 128	1 495
%	96.0	95.3	95.4	95.3	95.5

139. See table below for information on convicted adults, according to the sentence and the length of pre-trial detention, Republic of Serbia, 2002-2006.

Table 5

	Total	Up to 3 days	Between 3 and 15 days	Between 15 days and 1 month	Between 1 and 2 months	Between 2 to 3 months	Between 3 to 6 months	Over 6 months
2002	3 499	253	609	817	620	354	466	380
Found guilty	3 155	230	531	737	558	314	427	358
Found not guilty	344	23	78	80	62	40	39	22
2003	3 211	192	562	731	558	333	420	415
Found guilty	2 927	179	495	669	514	303	385	382
Found not guilty	284	13	67	62	44	30	35	33
2004	3 169	195	566	749	469	336	435	419
Found guilty	2 913	168	507	682	428	316	415	397
Found not guilty	256	27	59	67	41	20	20	22
2005	3 207	242	546	663	497	326	418	515
Found guilty	2 903	208	486	596	446	305	377	485
Found not guilty	304	34	60	67	51	21	41	30
2006	3 423	253	595	775	441	351	511	497
Found guilty	3 029	192	508	685	383	313	475	473
Found not guilty	394	61	87	90	58	38	36	24

Articles 11 and 12

Question 18. Please provide information on the number of investigations and prosecutions of cases involving allegations of torture and other cruel, inhuman or degrading treatment or punishment during the last five years, including convictions, sentences and acquittals in the different courts. Please provide information on the time frame for the consideration of cases in the respective courts.

Table 6

	Offenses	Convictions	Sentences
2003			
Extortion	50	10	1
Use of abuse in the line of duty	180	88	35
2004			
Extortion	15	17	7
Use of abuse in the line of duty	170	84	36
2005			
Extortion	11	13	5
Use of abuse in the line of duty	149	79	28
2006			
Extortion	30	10	2
Use of abuse and torture	171	110	36

Question 19. Please provide information on the structure, functioning, including cases, and composition of the War Crimes Chamber of the Belgrade District Court.

140. The War Crimes Chamber as a Special department of the Belgrade District Court was established in October of 2003. The Chamber was established as a result of adopting the Law of the Republic of Serbia on Organization and Jurisdiction of Governmental Authorities in Proceedings against Perpetrators of War Crimes in July of the same year. Based on that law, the District Court President has on 1 October 1 2003 adopted a War Crimes Chamber Internal Organization Court Manual of the Belgrade District Court which defines the internal structure of the Administrative and Technical and Witness Protection Departments, and provides prerequisites for implementing procedural regulations of the Law.

141. The War Crimes Chamber of the Belgrade District Court at the moment has 8 judges on staff, out of which two are Investigating Judges, while the others are ordained for major investigative proceedings. 8 judicial assistants and the adequate number of administrative staff are assigned to the War Crimes Chamber. The judges are appointed by the President of the District Court for a 4 year term, with a prior consent from the concerned judge. The mandate of the War Crimes Chamber is unlimited.

142. Currently 10 war crimes proceedings are being investigated before the War Crimes Chamber, including:

- K.B.4/06 *(Ovcara)* Case, where 18 individuals are indicted for war crimes against prisoners of war under Article 144 of the Criminal Law of the FRY in respect to the Article 22 of the Criminal Law of the FRY. Case or a proceeding joined to this case is a proceeding against convicted Sasa Radak and Milorad Pejic.

- K.B.2/06 *(Suva Reka)* Case where 8 individuals are indicted before the Office of the War Crimes Prosecutor and charged with committing war crimes against civilians under Article 142, paragraph 1 of the Criminal Law of the FRY in respect to the Article 22 of the FRY Criminal Law.

- K.B.6/07 *(The Hunter)* Case where 14 individuals are indicted before the Office of the War Crimes Prosecutor and charged with committing war crimes against civilians under Article 142, paragraph 1 of the Criminal Law of the FRY in respect to the Article 22 of the FRY Criminal Law.

- K.B.5/07 *(Tuzla's Line - Tuzlanska kolona)* Case where one individual is indicted and charged with the offense of using illegal means of combat under Article 148, paragraph 2 of the FRY Criminal Law.

- K.B.3/08 Case where the Office of the War Crimes Prosecutor indicted two individuals for committing crimes against civilians under Article 142, paragraph 1 of the FRY Criminal Law in respect to Article 22 of the FRY Criminal Law.

- K.B.1/08 Case where the Office of the War Crimes Prosecutor indicted one individual for committing a crime against civilians under Article 142, paragraph 1 of the FRY Criminal Law in respect to Article 22 of the FRY Criminal Law.

- K.B.4/08 Case where the Office of the War Crimes Prosecutor indicted 4 individuals for war crimes against civilians under Article 142, paragraph 1 of the FRY Criminal Law in respect to Article 22 of the FRY Criminal Law.

- K.B.5/08 Case where the Office of the War Crimes Prosecutor indicted one individual for committing crimes against civilians under Article 142, paragraph 1 of the FRY Criminal Law in respect to Article 22 of the FRY Criminal Law.

- K.B.6/08 Case where the Office of the War Crimes Prosecutor indicted two individuals on the grounds of committing war crimes against civilians under Article 142, paragraph 1 of the Criminal Law of the Socialist Federative Republic of Yugoslavia (SFRY) in respect to Article 22 of the Criminal Law of SFRY.

- K.B.3/06 Case *(Bitici brothers)*, where the Office of the War Crimes Prosecutor indicted two individuals on the grounds of committing war crimes against prisoners of war under Article 144 of the Criminal Law of the FRY in respect to Article 22 of the Criminal Law of the FRY.

- In the K.B.5/05 *(Zvornik)* Case a verdict was reached on 29.05.2008 and publicly announced on 12.06.2008 sentencing convicted Dragan Slavkovic to 13 years in prison, Sinisa Filipovic to a 3 year prison sentence for committing war crimes against civilians

under Article 142, paragraph 1 of the Criminal Law of the SFRY, while the same verdict acquitted Dragutin Dragicevic for the same war crimes conviction. A written dispatch of the verdict is currently being devised.

- Regarding K.B.4/07 *(Slunj)* Case a verdict was reached and publicly announced on 08.03.2003 sentencing Zdravko Pasic to 8 years in prison for committing war crimes against civilians under Article 142, paragraph 1 of the Criminal Law of the FRY in respect to Article 22 of the FRY Criminal Law.

- Regarding K.B.6/05 *(The Scorpions)* Case a verdict was reached on 04.10.2007 sentencing two defendants to 20 years in prison, one to 13 years and one to 5 years, while against one defendants charges were dropped. The appeal is underway.

- Regarding K.B.2/07 Case a verdict was reached on 20.12.2007 acquitting defendant Sinan Morina for charges of war crimes against civilians under Article 142, paragraph 1 of the Criminal Law of the FRY in respect to Article 22 of the SRJ Criminal Law. The appeal is underway.

- In the K.B.3/07 Case, Vladimir Kovacevic was on 26.07.2007 indicted for war crimes against civilian population under Article 142 of the FRY Criminal Law. During the investigation and questioning which took place on 05.12.2007 the charges against Kovacevic were dropped based on the Court decision which entered into force on 14.12.2007, and Kovacevic was, based on some specific evidence declared unfit to stand trial.

- In the K.B.2/05 Case, the verdict from 30.01.2006 sentenced indicted Milan Bulic to 8 years in prison on the account of committing war crimes against prisoners of war under Article 144 of the SFRY Criminal Law. This verdict was, by the decision of the Supreme Court of Serbia, altered and the jail sentence changed from 8 to 2 years due to fragile health conditions of the defendant.

- In the K.B.4/05 Case, the verdict from 18.09.2006 sentenced indicted Anton Lekaj on account of committing war crimes against civilian population under Article 142 of the FRY Criminal Law to 13 years in prison, and the Supreme Court of Serbia confirmed this verdict.

143. Twenty (20) investigative proceedings involving 80 individuals indicted for war crimes are currently being investigated before the War Crimes Chamber of the Belgrade District Court.

144. In June of 2006 the Witness Protection and Assistance Unit of the War Crimes Chamber for the Belgrade District Court was instituted. This Unit was established thanks to the assistance provided and administered by the U.S. Department of Justice's Resident Legal Advisor's Office and the U.S. Marshals Service. This Unit is established to enhance Serbia's capacity to obtain and secure witnesses and victims so that it can effectively investigate, prosecute and adjudicate organized crime, war crimes, corruption, human trafficking and other cases. During 2007, the Unit dealt with cases involving 483 witnesses, out of whom 237 testified in trial cases and 218 testified in investigative cases. Between 1 January and 1 July 2008, out of the total number of 208 witnesses who participated in the witness protection program of the Unit, 148 testified in

trial cases, and 36 testified in investigative cases. Out of this number, 9 witnesses testified via teleconference. The Witness Protection Unit of Bosnia and Herzegovina engaged two witnesses who testified via teleconference from the Bosnia and Herzegovina's court, while our Unit was involved in cases where five witnesses testified via video link connection for the purpose of a trial at the Croatian County Court, and 2 witnesses testified via video link connection from Kosovo and Metohija.

145. In the field of regional cooperation of crucial importance are the Contractual agreement concluded between the Republic of Croatia and the FRY on legal assistance in civil and criminal matters, as well as the Memorandum of Agreement in Establishing and Improving Cooperation in Fighting all Forms of Crimes concluded between the Public Prosecutors Office of the Republic, and the War Crimes Prosecutors Office of the Republic of Serbia and Bosnia and Herzegovina. A similar memorandum was concluded between the Public Prosecutors Office of the Republic, the War Crimes Prosecutors Office of the Republic of Serbia and the Public Attorney's Office of the Republic of Croatia.

146. The Agreement signed on 26.01.2007 between the War Crimes Chamber of the Belgrade District Court and Cantonal Prosecutors Office in Tuzla established the War Crimes Investigative Team of the Zvornik Municipality for crimes committed in Zvornik area in Bosnia and Herzegovina during 1992.

147. The Agreement of Understanding and Cooperation between the War Crimes Witness Protection Unit of the Belgrade District Court War Crimes Chamber and Witness Protection Unit of the Bosnia and Herzegovina Court was also signed.

Article 12

Question 20. The Committee notes the information provided by the State party report on responsibilities, functions and activities of the Office of the Inspector General (paras. 339 to 344) and in particular its investigation into alleged abuse and violations. Please indicate whether the same Office, or another authority or judicial body, is in charge of reviewing detention measures regularly. What are the procedures to be followed with respect to review of practices?

148. The Office of the Inspector General at the Department of Public Security of the Ministry of Internal Affairs was formally instituted on 12 March 2001, but in reality became operational in June 2003, after the Office of the Inspector General Rules of Procedure were adopted.

149. The existing Department of Public Security was, by adoption of the Law on Police in November of 2005, and its enactment in January of 2006, transformed into the General Police Directorate, while the Office of the Inspector General of the Department was transformed into a department of internal affairs ("Department for Control of Legitimacy of Work") as an independent organizational unit within the Ministry of Internal Affairs of the Republic of Serbia with its immediate authority being the Minister of Internal Affairs himself.

150. The Department for Control of Legitimacy of Work is consistently enacting all legal regulations and bylaws of the Republic while respecting provision of international conventions ratified by the Republic in the field of human rights (European Convention for Protection of

Human Rights and Fundamental Freedoms, United Nations Basic Principles on the Use of Force and Firearms by Law Enforcing Officials, European Convention for Preventing Torture and Inhuman and Degrading Treatment or Punishment, the European Code of Police Ethics and other international acts relating to law enforcement).

151. The Department for Control of Legitimacy of Work acts upon recommendation, appeal and application from both natural persons and public entities, upon written correspondence from the law enforcing personnel, and upon its own initiative, based on obtained information and other knowledge pertaining to the work and conduct of the law enforcing personnel in the line of duty. With this in mind, the Department controls and investigates all allegations indicating possible abuse and overstepping of the authorities committed by the law enforcement officials when dealing with detained and investigated individuals.

Question 21. Please indicate whether recommendations from international, regional, and non-governmental organizations, the Ombudsman Offices or other detention and prison monitoring or visiting mechanisms are taken into consideration and what are the mechanisms for cooperation with them.

152. Preventing torture when dealing with detained individuals is secured through monitoring programs carried out by both international and domestic human right organizations and through the workings of the Ombudsman Office. The Administration for the Execution of Penitentiary Sanctions of the Ministry of Justice successfully cooperates with mentioned organizations thus allowing them permanent visits to the correctional institutions. Basic priorities of the Administration are in accordance with human rights organizations' recommendations and are geared toward improving living and working conditions of inmates, educating employees working in detainment and correctional institutions, and organizing individual treatment programs for successful reintegration of inmates into the society.

153. The Ombudsman Office in the Autonomous Province of Vojvodina since 2003 represents a monitoring body in correctional facilities. This office arranged for special boxes for transmitting convicts' complaints in sealed envelopes to be placed in correctional facilities providing for and guaranteeing confidential correspondence with detainees.

154. The Law on the Ombudsman introduced the procedure for controlling the operation of the Ombudsman's Office on the entire territory of the Republic, which is realized by the independent public body. The Ombudsman Office was appointed on 29.06.2007 at the National Assembly of the Republic of Serbia. On the basis of the Law, the Ombudsman Office has unlimited and unobstructed access to all correctional and detainment facilities, permission to speak with inmates in private, while mentioned institutions are obliged to provide, and make available all information the Ombudsman Office requests. Article 73 of the In-house Rules in correctional facilities and district prisons states that all inmates posses a right to file a complaint to the Ombudsman's Office in a sealed envelope. Detainees are informed of this right and use it regularly. Correctional institutions are obliged to respect all recommendations made by the Ombudsman Office.

155. The Ombudsman Office, based on received complaints or upon own initiative may initiate a controlling proceedings. If, upon determining all relevant facts and circumstances it concludes that the administration operated inadequately and with shortcomings, the Ombudsman Office

addresses a letter of recommendation to the concerning body with instructions on how to rectify the situation. The concerned administration is obliged to, at the latest, 60 days from receiving the recommendation, inform the Ombudsman Office of actions taken to overcome the mentioned shortcoming, or, if none is taken, of reasons for not taking any action. In exceptional cases, if there is a danger of permanent and major violation of plaintiff's rights from not amending mentioned operational shortcomings, the Ombudsman Office may, in its recommendation to a particular administration set a shorter deadline, however, not shorter than 15 days for documenting requested changes.

156. If the concerned administration does not act upon the received recommendation, the Ombudsman Office may thereof inform the public, the Parliament, and the Government, and suggest appropriate action to be taken to determine responsible officials in charge of the mentioned administration.

157. The Ombudsman Office submits an annual report to the Parliament listing all activities and actions taken in the past year, administrative operational shortcomings noticed, and dispatched recommendations for improving the position of citizens in dealing with the administration.

158. The Ombudsman Office has in January of 2008 sent a recommendation to the Administration for the Execution of Penitentiary Sanctions stating that all correctional and detainment institutions must provide envelopes for inmates' complaints, sealed by the inmate filing a complaint and directly delivered to the Ombudsman Office. The Administration has responded in time and informed the office of its compliance. Subsequent visits followed and it was noted that all correctional facilities complied with dispatched recommendations, and provided sealable envelopes for inmates' complaints.

159. Former experiences acquired through various forms of communication between the Administration and the Ombudsman exemplifies the Administration's willingness to respect the Ombudsman's recommendations, and to become involved in improving the state of inmates' rights and their protection.

Article 13

Question 22. The Committee notes the information in the State party report (paras. 351 to 358) on the appeals procedures as enshrined in the Constitution (inter alia article 36) and in the Criminal Procedure Code (articles 255 and 282). Please provide further information on the mechanisms to handle complaints related to torture or acts amounting to cruel, inhuman and degrading treatment in places of detention and prisons, including follow-up to such complaints. In addition, the Committee requests information on the number and type of complaints against police or prison wardens that have been filed during the last five years as well as information on the investigations, prosecutions and penal or disciplinary sentences imposed if any.

160. By adopting the Law on Execution of Penitentiary Sanctions which entered into force on 01.01.2006, the domestic legislature became harmonized with international standards relating to the execution of penitentiary sanctions and detainees' rights protection.

161. The Law on Executing Penitentiary Sanctions, Article 114 thereof provides for detainee's right to file a complaint to the penitentiary warden regarding violations of his rights, or some other irregularities that may have occurred at the institution, thus introducing a two instance system of detainees' rights protection. The penitentiary warden is obliged to, within 15 day of the receipt of a complaint, examine it and decide on its validity. The inmate who does not receive an answer regarding his complaint has a right to bring his case before the director of the Administration who is obliged to, upon completing the second instance procedure, reach a decision on the case within 15 days. Furthermore, based on Article 165 and 166 of the Law on Executing Penitentiary Sanctions the inmate may file a complaint on the final decision that limits or violates his rights prescribed by this Law to the Supreme Court of the Republic and request protection, while the Supreme Court must reach a decision on the case within 15 days. Since 2006, by applying this model, we were able to create new grounds for providing effective protection of rights prescribed by the new Law on Executing Penitentiary Sanctions. Also, shortcomings of the previous law from 1998 not prescribing the right to detainees to court protection were amended.

162. The Law on Executing Penitentiary Sanctions which entered into force on 01.01.1998 was implemented in the period between 2003 and 2006. In 2003 sentenced individuals filed 160 allegations, in 2004 170, and in 2005 180 allegations dealing with complaints on irregularities and rights violations committed at the correctional facilities, although none of them dealt with torture or inhumane and degrading treatment or punishment by the correctional facilities guards.

163. During 2006, ever since the new Law entered into force, the number of detainees' right violations complaints filed to the penitentiary warden was 217. 35 complaints dealing with penitentiary wardens' decisions regarding inmates' rights were filed to the director of the Administration. During 2007, 322 complaints were filed. During this period, out of the total number of complaints filed, 7 were based on poor conduct of uniformed officials toward inmates. During this period 7 complaints were filed to the Supreme Court of the Republic of Serbia and were based on poor treatment of inmates serving sentence. As a response to mentioned complaints, court proceedings were initiated and three complaint cases were honored, new proceedings within the Administration were ordered, while 4 complaint cases were rejected on the grounds of being unsubstantial.

164. In cases when there is a valid suspicion that individual law enforcing officials used extortion measures in dealing with convicted individuals, they were subjected to a disciplinary action, and if there are reasonable grounds for believing that such actions constitute a felony, criminal charges against the concerned official are also filed to the competent persecuting office.

165. Between 2004 and 2006, five disciplinary actions against official personnel were initiated based on the excessive use of extortive measures, and as a punishment they were sanctioned with fines.

166. In 2007, five disciplinary actions against the official personnel were initiated based on the fact that they overstepped their authorities in dealing with inmates. Four out five cases resulted in fines, while one case resulted in suspending career advancement for a 2-year period. One case

of excessive use of extortion measures by the law enforcing official is in the process of internal investigation at the Administration, and was also forwarded to the competent internal affairs authority, and is still ongoing. There were no criminal proceedings in 2007.

167. Internal and external control of the police forces in Serbia is regulated by the Law on Police (Articles 170-181). The Department for Control of Legitimacy of Work conducts internal control of legality of the police work, particularly in regards to respecting and protecting human rights while on duty.

168. Complaints against police officers are handled according to the procedure determined by the Rules of Procedure for Handling Complaints. The Police keeps record of all complaints filed under Article 76, paragraph 1, point 12 of the Law on Police.

169. In accordance with the authorities and the line of duty, internal control officials of the Ministry of Internal Affairs work very intensively on investigating citizen's complaints and all other implications that may suggest the abuse of police authority and the use of extortion measures. Ever since it was established in 2003, and up until the end of June of 2008, the Department has dealt with 618 allegations and other documents received from both citizenry and nongovernmental organizations indicating the abuse of authority and the unauthorized use of extortion by law enforcement officers. Upon investigation of received allegations, the Department concluded that 41 of received allegations or 6.63 per cent were valid.

170. The Department filed criminal charges against all authorized and responsible officials (six charges were based on the grounds of abusing the authority, while 4 were for physical abuse and torture), or has suggested concrete disciplinary measures to be taken depending on the police officer's rank (disciplinary action, termination of contract, transfer, pay cuts, calls for rapport and so on).

171. Other forms of internal police control exist at the Ministry, such as disciplinary responsibility control (according to the Regulation and the Disciplinary Responsibility at the Ministry of Internal Affairs), use of extortion measures and abuse control, (Rules on Technical Signage and the Use of Extortion were adopted providing for establishing the Commission on Deliberating the Justifiability of Use of Extortion Measures), hierarchical and other control measures prescribed by the Law on Police.

172. Also, finding and reporting such cases represents a duty and an obligation of every police officer, regardless of his line of duty, and it also serves as an important element in the management system since it includes permanent behavior and performance monitoring of every individual within the system and prescribes the use of disciplinary measures for all who with their improper behavior jeopardize this honorable calling. At the same time, it is clearly stated that offending law enforcing officials, as members of the Ministry of Internal Affairs, are treated just the same as all other convicted criminals.

Article 14

Question 23 bis. ***The Committee notes the information in the State party report, in particular paragraphs 395 to 377, with respect to the legal provisions for redress and compensation as laid out in the Constitution (inter alia, article 36) and the Criminal Procedure Code (inter alia article 7 and Chapter 36) and other relevant legislation. The Committee however request more specific information, including disaggregated statistical data by sex, age and ethnicity and type of crime, on the number of cases where redress and/or compensation measures have been ordered by the courts, and on those actually provided to victims of torture or cruel inhuman or degrading treatment or punishment, or their families, during the past five years.***

173. The Constitution of the Republic of Serbia in Article 35 thereof guarantees the right to rehabilitation and damage reimbursement. ZKP in Article 14, Chapter XXXVI thereof provides that an individual unlawfully deprived of its freedom has a right to rehabilitation and a right to suffered damage reimbursement, along with all other rights prescribed by the law.

174. At the Public Defenders Office of the Republic all cases are recorded in order they were received, and are not sorted according to the type of complaint, type of defendant or the subject matter.

175. Based on internal records of the Department representing the Ministry of Internal Affairs, with remark that used records are not comprehensive, Public Defenders Office may offer approximate information on the number of active cases, currently, about 20 of them, on the subject matter of abuse of authority, inhumane procedure and the abuse of force and ill treatment in the police officers' line of duty. The complaint's subject matter in mentioned cases is reimbursement of suffered damages entailing physical pain, fear, violation of human dignity and deteriorating physical ability due to suffered physical damage or fear. The verdict in the majority of cases is favorable for the plaintiff, and the reimbursements are anywhere between 300.000.00 and 600.000.00 Serbian dinars. Charges were dismissed in a substantially smaller number of filed complaint cases. Basis for dismissal in such cases are mostly related to the fact that sued official acted according to the rules and conditions set by the Extortion Procedure and the excessive use of force never occurred.

176. It is significant to mention that in cases of excessive use of extortive measures and the abuse of authority by the law enforcement officials, the actual lawsuit is preceded by the disciplinary action and criminal charges, and is initiated within the Ministry of Internal Affairs which criminally prosecutes the offenders, thus illustrating how the authority sanctions inappropriate behavior.

Article 15

Question 24. The Committee notes the information in the State party report (paragraphs 378 to 382) on the legal framework in the Criminal Procedure Code (articles 9 and 15) relating to use of evidence as a result of torture, cruel inhuman or degrading treatment. Please provide information on actual cases where such evidence has been excluded and decisions or judgments revoked as a result of this provision.

177. According to the ZKP (Articles 178 and 337, paragraph 3) the record of interrogation of an indicted individual whose statement was extorted, or is a result of torture and abuse must be extracted from their file and must not be used as grounds for verdict.

178. If the decision or a verdict is based upon extorted statement of an indicted individual, such verdict contains (an absolute) substantial violation of criminal procedure regulations under Article 368, paragraph 1, point 10 of the ZKP and must be revoked due to the fact that is based on non-relevant evidence.

179. As an additional guarantee that the judgement in a criminal proceeding will not be based upon extorted statement, Article 380 of the ZKP provides for the second instance court to investigate the appealed verdict. The second instance court is then obliged to determine whether a violation of criminal procedure regulations under Article 368, paragraph 1, points 1, 5, 6, and 8 through 11 of this Code occur, and whether the main defense trial was held contrary to regulations of this Code, without the presence of the indicted, or without the presence of the defense attorney.

180. In actual cases this means that the second instance court, regardless of appeal allegations and the fact that the appeal benefits or harms the defendants, in the line of duty must examine whether the verdict was based on relevant or extorted evidence, and if it determines the latter, it is its duty to repeal the verdict regardless of the appeal.

181. Also, the court has a legal obligation to inform the competent public prosecutor of any suspicious evidence during the proceedings that suggest a possibility that mentioned, or a similar felony took place, who in return must examine submitted allegations and initiate a criminal proceeding.

182. The defendant, on whose extorted statement a criminal ruling was based, or his attorney may request for the trial to be repeated against the valid decision, if such decision was based on misconduct of the judge, the juror, or the investigator in the case (Article 407, paragraph 1, point 2 of the ZKP), and if so, the evidence and a valid decision indicating such misconduct must be provided.

183. This is common in cases when there is no knowledge of the felony committed by mentioned individual during the main trial, or it was concealed, or was not concealed but was not awarded faith.

184. By using this legal remedy the defendant may emphasize the unlawful treatment by the internal affairs officials (abuse, extortion, planting evidence and so on) only if such behavior can be proven by the valid verdict against them.

185. The valid decision was reached by violating criminal procedure regulations under Article 368, paragraph 1, point 10 of the ZKP, and the defendant was awarded a jail sentence, himself or his defense attorney may, within a month's time from the receipt of a verdict, and if the defendant exercised his right to appeal, use a legal remedy intended for extreme cases, and file a request for examining the validity of a legal verdict.

186. Also, the ZKP prevents the use of extortion in gathering information not only to the defendant, but equally to the citizens too (Article 226, paragraph 4 of the ZKP). An official record or the minutes about the given notification is read to the person issuing the notification for the purpose of revising it, while the internal affairs body is responsible to duly record any changes. The copy of the official record or minutes can be issued to the citizen if he so requires (Article 226, paragraph 5 of the ZKP).

Article 16

Question 25. Please provide detailed information concerning the legal and policy framework for the prevention and combat of the phenomenon of violence against women and girls, including domestic violence. Please provide information on how this is monitored by the authorities and information on any awareness raising programmes. The Committee requests information on training for law enforcement officials for the prevention and recognition of such phenomenon, and information on actual court cases, and available mechanisms of redress for possible victims.

187. The new Constitution of the Republic of Serbia, adopted at the end of 2006 regulates equality among men and women, and guarantees that the Republic will pursue a policy of fostering equal opportunity among genders (Article 15 of the Constitution of the Republic of Serbia), introducing particular measures for attaining full equality among men and women (Article 21), outlawing and sanctioning sexual harassment and exploitation(Article 26), fostering equality in family and marriage and freedom of choice in giving birth (Articles 62, 63, 64 and 65), particular protection of mothers and motherhood (Article 66), along with the policy that all laws and bylaws in the Republic must be harmonized with international contracts and generally adopted provisions of the international law (Article 194 of the Constitution).

188. Criminal legislature of the Republic of Serbia, up until 2002, did not have any special provisions for regulating the question of responsibility of individuals jeopardizing other members of their family. Domestic violence was sanctioned under Article 6 of the Public Order Law of the Republic of Serbia (regulating quarrelling, fighting, yelling, impinging on the security of a family member or the abuse in the family) or the domestic violence cases were handled by the social services.

189. A new article, Article 118a was on 01.03.2002 introduced into the Criminal Law of the Republic of Serbia and it deals with domestic violence. This criminal act involves any use of force or any serious threat to life or person jeopardizing physical or moral integrity of a family

member. Therefore, by regulating domestic abuse as a criminal act, protection is extended not only to women, but to all family members, particularly children who are extremely vulnerable to abuse. At the same time, another substantial change of the criminal legislature took place, which next to incrimination, amended Article 103 of the same Law (dealing with rape) regulating rape in marriage as a criminal act, thus marking a colossal advance in changing existing stereotypes in marital relations in our country.

190. Along with the above mentioned changes of the Criminal Law of the Republic of Serbia, on 11.04.2003, as a part of Title XII - Criminal acts against personal and moral dignity - Criminal acts of sexual abuse (Article 102a), Exploiting minors for pornography (Article 111a) and Human trafficking (Article 111b) were incriminated given that these criminal acts mostly target young women and children.

191. New Criminal Procedure Code of the Republic of Serbia was adopted in 2005 and it, among other things, amended descriptions of previously regulated criminal acts of domestic abuse, particularly incriminating and sanctioning family legal rights for domestic abuse protection, improved witness protection procedure from abuse, threats and all other sorts of intimidation, improved human trafficking prevention and protection while creating conditions for implementing restorative justice. Article 194 of this Code incriminates any form of domestic abuse. According to provisions of this article any attempts to threaten human life, person, physical integrity, peace or psychological state of a member of the family with careless and insolent behavior will be punished either financially or by imprisonment from 3 months to 3 years. However, if in the course of the above mentioned events, a member of the family suffers physical damage from weapons, dangerous or other harmful objects, a perpetrator will be punished with a 3 months to a 3 year prison sentence. If the damage suffered is substantial, seriously harming a person’s life or health, or a victim is a minor, the perpetrator will be punished with a 1 to 8 year prison sentence. If the damage caused death to a family member, the perpetrator faces a 3 to 12 years prison sentence. Also, whoever violates the domestic violence protection measures ordered by the court, based on the law, will be either fined or sentenced to prison up to six months.

192. The Family Law, adopted in 2005 established a system of legal domestic violence protection in the family, and outlawed domestic violence, recognizing family members’ rights to protection from domestic violence and for that purpose provided five legal domestic violence protection measures and prescribed a special procedure for domestic violence lawsuit trials. Domestic violence protection measures (eviction notice warrant, regardless of ownership, rental agreement or mortgage; warrant ordering moving into a family home, regardless of ownership, rental agreement or mortgage; restraining order for a family member; residence restraining order or work restraining order; restraining order against disturbance of a particular family member) are all provided under Article 198 of the Family Law.

193. Existing legal protection instruments against violence are improved through raising fines for certain offenses involving the use violence, and introducing restraining orders regulating access to the residence, to the injured person or the place of offence - the Public Order Law and the Offense Law.

194. In the following period the law in this field should be adopted (such as the Anti-discriminatory Law and the Law on Gender Equality) to fully round up the legal framework

for dealing with issues involving women's rights in the Republic of Serbia which will be in accordance with the international law and generally accepted standards. The draft of the Anti-discriminatory Law is ready and is currently undergoing interdepartmental coordination.

195. Women's rights and improvement of women's rights issues, including abuse protection are integrated into crucial national strategies.

196. *National Millennium Development Goals in the Republic of Serbia* (document adopted in 2007 - National task number 4: By 2015 develop the system for protection of female victims of violence and the system for prevention of violence against women as provided by the UN Millennium Declaration - Goal 3: Promote gender equality and empower women):

- *Strategy for eradicating poverty (adopted in 2002*) follows indicators on the status of women and in the part relates to the abuse against women. The Strategy Implementing Team has so far published 2 reports.

- *Strategy for Social Protection Development (adopted in 2005)* (a) Developing a network of services in the community (b) Adopting a Protocol on Cooperation (... for victims of abuse), (c) Strengthening professional capacities of social services officers (child, adults and elderly abuse and neglect protection, and domestic abuse protection) (d) Developing immediate intervention services (24 hour watch and response unit, establishing and supporting SOS services) and (e) introducing an accreditation and licensing system.

- *National Strategy Framework for Fighting Violence (adopted 2005)* Main objective of the future National Strategy on Fighting Violence is to prevent all forms of violence, especially violence over children, women, disabled and elderly, refugees and others vulnerable groups.

- *National Employment Strategy (adopted in 2005)* Provides support to gender equality in employment and earnings, with particular need to coordinate professional and family lives of women.

- *Strategy to Combat Human Trafficking (adopted in 2006)* offers direct support to the victims of human trafficking and victims of all sorts of exploitation.

- *Strategy on Improving the Status of the Disabled (adopted in 2006)* Specific target 10: Develop and secure equal opportunity for disabled women to actively participate in the community. 10.5. Undertake measures to prevent violence, abuse and exploitation of disabled females.

- *National Strategy on Aging (adopted in 2006)* - One of the goals of the Strategy is improving and taking care of gender equality - 1.6. To prevent negligence occurrences, abuse and violence against aged people, particularly women, to alleviate and eliminate resulting consequences by way of adoption and application of protocols on cooperation among all participants in protection of victims - from the republic to a level of local self- government, as well as by way of leading campaigns against several different sorts of discrimination and violence through creating local systems of support for the victims of negligence, abuse and violence.

197. Issues and measures for improving the status of women are integrated into the most important national strategies. In that light the most important strategic document is the Draft of the National Strategy for Improving the Status of Women and Gender Equality (2008-2014) directly defining measures necessary for improving the status of women. This action plan is in draft form but it provides sets of measures for solving issues in following areas: (a) Participation of women in the government and decision making; (b) Improving the status of women in pursuing economic activities and job searching; (c) Improving women's health and promoting gender equality in health policy; (d) Abuse prevention and protection; (e) Removal of gender stereotypes and promoting gender equality in the media.

198. Mentioned reform measures are best illustrated through building institutional mechanisms for establishing gender equality and including gender perspective into the most important national strategies. Crucial institutions and organizations established in the past few years to improve the general status of women, and include the gender equality aspect in reaching other direct goals are:

- Gender Equality Board of the National Parliament of the Republic of Serbia
- Gender Equality Council of the Republic of Serbia
- Gender Equality Board of the Autonomous Province of Vojvodina Parliament
- Gender Equality Administration at the Ministry of Labor and Social Policy
- Provincial Secretariat for Labor, Employment and Gender Equality of the Autonomous Province of Vojvodina
- Provincial Gender Equality Service
- Provincial Ombudsman
- Local Gender Equality Commissions

199. Regarding special measures for accelerated achievement of gender equality *de facto*, in the field of political rights, the Law on Local Elections from 2002 has for the first time in Serbia introduced measures of positive discrimination of women in a way that every individual submitting an election list at the local elections (elections for the members of the municipal and city parliament) is obliged to have a certain number of female candidates according to the rules and criteria prescribed by this Law (we'll speak more in detail about the mentioned rules in following answers). Special measures were at the national level introduced in 2004 by amending the Law on Electing National Parliament Representatives. The amended law provides that every election list must have at least 30% of candidates of the less represented gender. At the provincial level, the Decision on Electing Representatives for the Parliament of the Autonomous Province of Vojvodina from 2004 introduced the same rule.

Question 26. Please provide information on laws, their application, and the practices with respect to the protection of minority of marginalized groups, in particular Roma, in the Republic of Serbia. The Committee requests information with respect to specific activities directed towards protecting minority or marginalized groups from possible torture, ill-treatment and discrimination.

200. The Ministry of Internal Affairs is taking all measures in accordance with the competent legislature to protect human rights and freedoms in the Republic of Serbia from all socially unacceptable and punishable behaviors, especially from activities causing national and religious animosity. This is of crucial importance if one has in mind the fact that the Republic of Serbia represents a highly multinational and multi-confessional state dedicated to nurturing and promoting rights and freedoms of minorities.

201. The Ministry of Internal Affairs of the Republic of Serbia conducts its duties in a way that, at all times, to every single individual, guarantees equal protection and opportunity to exercise their constitutional rights and freedoms, and is governed by the rules and procedures defined in the Police Ethics Code which eliminate any form of discrimination in treatment based on national, racial, religious or any other grounds. The officials of the Ministry are governed by the principle of non-bias in executing the laws, regardless of national or ethnic origin, race, language or social status of the individual to whom the law should be applied. Also, police officers when conducting their duties act in a humane manner respecting the dignity, honor and face of every individual and their fundamental rights and freedoms while always first providing assistance to the oppressed and respecting the rights of the third parties. Further more, the Ministry as the executive body is dedicated to eliminating, preventing and discovering all criminal activities, including those involved in spreading racial and xenophobic ideas and actions, which are incriminated by the Criminal Code.

202. With that in mind, operational work and closer cooperation were intensified among all branches of the Ministry in collecting information on possible forms of international provocation instigations, while simultaneously the police forces are performing preventative watch, control, monitoring, operational and other forms of preventative activities. The priority cases are cases involving international conflicts and provocations disturbing the public. In all cases of inter-national or inter-racial conflicts immediate measures are taken to find explanations and obtain all relevant information according to the particular plan devised for each and every case individually. The mentioned plan is implemented by joint effort of the crime unit members and administrative officers with a goal to identify and detain offenders and take measures provided by the law.

203. Next to the above mentioned, the Ministry, according to the determined methodology, follows, records and undertakes appropriate measures and activities in respect to its authorities toward informal social groups fostering violence and racial and religious animosity and hate (The National Squad, *Skinheads* and so on).

204. The Police Department of the Republic of Serbia secures objective and fair police investigations suited to the needs of particular individuals, such as children, minors, women, minorities, including ethnic minorities and vulnerable groups. In regards to that, appropriate measures are taken to further educate police officers and raise their awareness regarding different

specific traits of particular social groups and appropriate activities when dealing with such groups. The program of professional advancement of the law enforcement officials in organizational units of the Ministry of Internal Affairs of the Republic of Serbia consists of numerous educational topics concerning human and minority group rights and freedoms of citizens, and consistent implementation of security protection measures.

205. Police officers of this Ministry are familiar with the OSCE Recommendations for Policing in Multiethnic Societies and general principles of policing mechanisms in multiethnic environments, recruiting and introduction, training and professional development of police forces, cooperation with ethnic communities, operation practice and conflict prevention and management.

206. With the aim of improving the state of security, respecting and protecting human rights and improving police officers work productivity through achieving better cooperation with citizens, particularly with the members of different ethnic communities in Bujanovac, Presevo and Medvedja municipalities, in cooperation with the OSCE Mission in Belgrade and local self-governance in the mentioned municipalities for the period between 2003 and 2006 a project entitled Policing in the Local Community was implemented. Consultants from the International Development Department of the government of Great Britain offered immediate support in establishing local security advisory bodies and their functioning. The Ministry of Internal Affairs has accordingly realized a Multiethnic Police Forces Development Program in Presevo, Bujanovac and Medvedja. To support this program the Ministry of Internal Affairs hired officers from the local community (mostly of Albanian nationality) who were after a comprehensive training assigned to posts in Police precincts in Presevo, Bujanovac and Medvedja. The goal of this program is to have an ethnic structure of the police force that truly represents the structure of population in a given area, which has been our goal for years now. Also, next to the mentioned program, a number of educational activities of the local self governance were organized emphasizing the need for the populations' participation in improving the state of security. This included courses, seminars, forums, roundtables and workshops organized for the representatives of the mentioned communities to prepare them to participate in projects, action plans and programs geared toward improving security in the area. Also, an Advisory Citizens Group was instituted within the local community operating on the level of one or more municipalities. A primary function of these groups is to represent a communication bridge between the citizens, police forces and other relevant subjects in the community. Members of these groups represent a local community's structure (education, healthcare, youth, and the minorities). During their meetings, the members of these groups directly communicate with the representatives of police forces about noticed security problems and the work of police officers. Also, through open conversation concrete solutions for existing problems are found.

207. Minorities in regional police administrations may initiate proceedings and get acquainted with the facts in their own language. Also, these administrations are obliged to, in the units of local self governance in their area, secure for the minorities that, along with Serbian, other languages of recognized official minorities in the local community are officially used. The bilingual principle in posting signs at the Ministry of Internal Affairs in areas with nationally mixed population is absolutely being respected (in both Serbian and other languages officially spoken in the municipality). The new identification documents project has for the first time allowed for the forename and the surname to be inscribed in its original form in the language of the national minority person belongs to (personal ID, passport, drivers license and so on). The

Regulations, Administration and Minorities Secretariat of the Autonomous Province of Vojvodina has in cooperation with the Ministry translated all personal documents request forms (ID request form, passport request form, request forms for driver license, registration, and so on). These forms are filled out and submitted at provided windows at precincts for each official language used on the territory of the Autonomous Province of Vojvodina. ID forms were also translated to all the official languages of national minorities spoken in the province, and were printed in 2006, while the citizens where informed through the media, bulletin boards in police precincts and so on of the opportunity to obtain IDs on the bilingual forms.

208. When publishing an open call for applying to police schools, the Ministry of Internal Affairs takes affirmative action toward the minorities. At that time, the Ministry gets in touch with the minority groups representatives and members and informs them about the application process in their mother tongue and invites them to apply. In fact, hiring conditions for the minorities at the Ministry of Internal Affairs are neither regulated nor limited by the law, nor are based on their national, regional or any other traits.

209. In accordance with the Law on Working Relations in Public Services (from 01.07.2006, the Law on Public Services) prescribing equal access to public services, along with the Law on Police does not limit granting a working contract on national, ethnic and racial basis, rather it bases its selection on the fulfillment of general and selective criteria provided by the Law. This means that everybody is invited to apply and has an equal opportunity to be selected if they satisfy desired conditions, regardless of their national and religious affiliation.

210. In accordance with the previously mentioned, all activities within the Ministry of Internal Affairs are implemented in a way that guarantees full and effective equality among members of both minority groups and majorities.

211. Based on the OSCE Mission in the Republic of Serbia and the ODIHR Office's initiative, the Ministry of Internal Affairs has started the Policing Marginalized, Minority and Socially Vulnerable Groups Project geared toward primarily providing police officers with adequate training on the rights of the mentioned groups, activities to adjust policing practices to secure the needs of these groups and ability to make a choice to nurture contact and cooperation development with minority, marginalized and socially vulnerable groups in the Republic. At the Ministry of Internal Affairs level the coordinator for contact and cooperation improvement with minority, marginalized and socially vulnerable groups was appointed. In cooperation with the OSCE Mission and the Police of Kent (England) various activities were initiated with the aim of training police officers who will in their regional precincts be in charge of establishing a better communication and cooperation with mentioned groups. Mentioned projects also involved a Police Officers Educational Plan proposal which will cover more educational topics involving police work in a multicultural, multiethnic and multi-confessional society as well as all issues regarding religious differences and prevention of religion based criminal acts, misdemeanors and offenses. Furthermore, the representatives of the Ministry along with the ODIHR representatives have initiated cooperation in fighting hate crimes which is incorporated into the Policing Marginalized, Minority and Socially Vulnerable Groups Initiative.

212. The Department for Control of the Legitimacy of Work of police forces has, with the assistance from the OSCE Mission, compiled a joint brochure of the Department on informing and protecting fundamental human rights and the rights of marginalized, minority and socially

vulnerable groups and foreign citizens from potential torture, harassment and discrimination, and printed it in 127 thousand copies in Serbian, English and the languages of national minorities living in Serbia: Hungarian, Albanian, Roma, Croatian, Romanian, Slovak, Bulgarian, Ruthenian and Ukrainian along with the ”how do we do” forms for kudos and complaints printed in 60,000 copies in Serbian and English and the promotional posters printed in 500 copies, all available, since June of 2008 in all police precincts and at the national border crossings. Also, a new internet presentation of the Department (http://prezentacije.mup.sr.gov.yu/sukp/sukp.htm) was launched. The Department has through this action substantially influenced raising the sense of awareness and responsibility among law enforcing officials thus producing an important preventative effect in preventing possible torture and other cruel, inhumane and degrading punishments and treatment.

213. In the Republic of Serbia, particular attention is paid to improving the status of the Roma minority. To that end a number of measures have been undertaken internally, including establishing the National Minorities Council of the Republic of Serbia. According to the provisions of Articles 2 and 4 of the Law on Protecting the Rights of Minorities in the Republic of Serbia, the Roma community was recognized as an official minority group. Also, the Strategy for Integration and Authority Provision to the Roma Community, adopted by the National Roma Council in April of 2004, along with the regional program A Decade of Roma Inclusion 2005-2015 were adopted in the Republic.

214. According to the 2002 census, the population of the Republic of Serbia, excluding the Autonomous Province of Kosovo and Metohija was 7,498,001. Along with Serbs who are a majority, - 1,321,807 or 65.04%, in Serbia also lives 108,193 or 1.44% Roma. The highest population of Roma is in Belgrade - 19,191, then in the Pcinjski District - 12,073; Jablanica District - 9,900; Nisava District - 9,224; South Banat District - 6,268; South Backa District - 6,053; Mid Banat District - 5,682, and so on.

215. The Ministry of Internal Affairs of the Republic of Serbia is carrying out a number of activities for improving the cooperation with Roma population: attempts to increase Roma representation in the law enforcement; participation of law enforcing official in seminars, meeting and round tables organized for the purpose of improving communication with the Roma community’s representatives; implementing law enforcement officials’ training programs in the field of understanding differences and fighting discrimination; including the Roma community’s representatives in the various security advisory bodies.

216. As a part of the Policing Marginalized, Minority and Socially Vulnerable Groups Project, organized by the Department for Control of the Legitimacy of Work, Ministry of Internal Affairs of the Republic of Serbia and the OSCE Mission, round tables entitled ‘Roma Community and the Law Enforcement’ were held in Nis and Kragujevac in September of 2007. Roma representatives used this opportunity to point out existing security problems that are a burden to the Roma community in Serbia.

217. At the above-mentioned roundtable series it was concluded that such meeting are extremely useful for identifying problems the Roma community is facing today which are within the authority of the police, as well as for finding best solutions for overcoming them, while respecting opinions and solutions offered by both sides. Also, these gatherings serve as an example to other governmental authorities and Roma community representatives that it is

possible to successfully overcome existing problems the Roma community is facing through mutual communication and by establishing mutual trust, eventually leading to a broader integration of the Roma into the system's institutions.

218. The Department for the Control of the Legitimacy of Work has, with the assistance of the OSCE Mission in Serbia in 2006 commenced with implementing Roma and the Law Enforcement Project, by periodically organizing mutual gatherings with the representatives of the Roma community in Serbia geared toward establishing better mutual communication, understanding, tolerance, fighting bias and reaching a higher degree of mutual trust.

Question 27. Please provide information on the current national legislation and/or administrative procedures providing protection to refugees. If such legislation does not exist, please provide information on how the international legal framework has been used to protect refugees from forcible return or expulsion to countries where individuals might face torture and persecution.

219. The Law on Asylum of the Republic of Serbia entered into force on April 1st of 2008. It regulates issues of refugees and individuals seeking asylum, procedure for determining the validity of grounds for granting asylum in the Republic of Serbia, and securing the status of individuals who have refuge in the Republic. The Law guarantees, and is based on fundamental principles for protecting these individuals, meaning:

- *Non-refoulement* principle.
- Non-discrimination principle outlawing all kinds of discrimination regardless of its basis, but in particular discrimination based on race, color, gender, national origin, social status or similar status, birth, religion, political or other affiliation, assets, culture, language, age or intellectual, sensory or physical invalidity.
- Non-punishment principle for illegal entering or stay in the country.
- Family union principle.
- The right to be informed and a right to legal help, based on which an asylum seeker may use free legal help and representation by the UN High Commissioner for Refugees and nongovernmental organizations who work to provide legal help to refugees.
- Translation services free of charge, including sign language, available materials in Braille and other available formats.
- Free access to the representative of the UN High Commissioner for Refugees (UNHCR).
- Personal delivery principle, according to which all letters and correspondence are delivered in person to the asylum seeker or his legal representative, and are considered as delivered when one of them signs for it.

- Principle of gender equality securing that the asylum seeker is interrogated, represented or uses translating services of an individual of the same sex, except when this is not physically possible or it entails disproportional difficulties for the body managing the asylum process. This same principle applies when conducting searches, body checks and other activities involving physical contact with the asylum-seeker.

- Principle of care for individuals with special needs in dealing with minors, individuals partially or fully incapacitated, disabled, elderly, pregnant women, single parents with minor children and individuals who were subject to torture, rape and other severe forms of psychological, psychical and sexual violence.

- Principle of representation of unaccompanied minors and incapacitated individuals.

- Immediacy principle according to which every individual seeking asylum has a right to be orally and immediately heard by the competent official of the Ministry of Internal Affairs authority, regarding all relevant facts related to the right to refuge or awarding subsidiary protection.

- Confidentiality principle guaranteeing that all information about the asylum seeker obtained during the procedure for applying for asylum are kept as an official secret, and are available to authorized personnel only, and are not to be revealed to the asylum seeker's mother country unless when the asylum was not granted and concerned individual must be returned to the country of origin. In that case, the following information can be shared and revealed:

    - Personal identification information

    - Information regarding members of the family

    - Information on documents issued by the country of origin

    - Temporary address

    - Fingerprints and

    - Photographs.

220. The Law requires the authorities to establish:

- The Asylum Office: the organizational unit of the Ministry of Internal Affairs.

- The Asylum Commission: in charge of second-degree decisions on complaints on the Asylum Office decisions, consisting of the president and eight members appointed by the Government for a four year term, independent in its proceedings, and decides based on the majority of votes of its members; and

- The Asylum Center: center providing room and board for the asylum-seekers awaiting a final decision regarding their request for asylum. The Asylum Center represent a part of

the Commissariat for Refugees as a separate organization, under the Law on Public Administration and Public Officers, where the government of the Republic of Serbia adopts an act establishing one or more asylum centers.

221. The Law on Asylum regulates asylum seeking procedure from the initial point when a foreign citizen intends to file a written or verbal request for asylum in the Republic of Serbia before the Ministry of Internal Affairs authorized official. The mentioned individual is recorded and sent to the Asylum Office or/and the Asylum Center. The foreign citizen is obliged, within 72 hours, to report to the Asylum Office and/or Asylum Center's authorized official. An authorized law enforcement official of the Ministry of Internal Affairs who received initial written or verbal request for asylum must record it, and issue a certificate containing either personal information the asylum seeker disclosed, or information obtained from his available personal documents. The Asylum Office authorized officer registers the asylum-seeker and the members of his family, determining and validating his, and the identity of his family members, takes their photographs and fingerprints. At that time the authorized official may decide to hold on to documents obtained from the asylum seeker that may be of importance in the asylum seeking process, however, in that case the asylum seeker must receive an official note saying that his documents are held by the authorities.

222. A foreign citizen who possesses a passport, ID card or some other identifying document, residence permit, a visa, birth certificate, travel documents or any other document or writing of importance for the asylum granting procedure must submit them to the authorities either during the registration or when filing a request for asylum, or, at the latest before the hearing date. Upon registration, a foreign citizen seeking asylum is issued an asylum seeker identification card.

223. The asylum granting procedure is initiated by filing an asylum request with the Asylum Office authorized official and filling out the provided form within the 15 days from the registration date. In justifiable cases, the Office may extend this 15-day period upon asylum seekers' request. Prior to filing the request for asylum, the foreign citizen is briefed on his stay and residence rights, complementary translation services, legal help and the right to access to the *UNHCR*. Upon completing the procedure, the Asylum Office forms a decision on either:

- Honoring the asylum request and granting asylum to the asylum seeker recognizing his right to refuge and awarding him subsidiary protection or

- Refusing the request and ordering the asylum seeker to, in due time, leave the territory of the Republic of Serbia, unless there are other justifiable grounds for him to stay in Serbia

224. The Asylum Office adopts a decision recognizing the asylum-seeker's right to refuge and awards him subsidiary protection upon determining that the asylum-seeker has fulfilled all conditions required for granting him rights to refuge and subsidiary protection, unless there are reasons for the contrary.

225. The Asylum Office adopts a decision refusing the asylum seeker's request upon determining that the filed request is not based on substantial grounds, or there are legal circumstances for refusing the request. The Asylum Law of the Republic of Serbia also

distinguishes the unsubstantial asylum request in cases when the asylum seeker does not fulfill the conditions for granting the right to refuge and subsidiary protection, in particular when:

- The asylum request is based on false grounds, false information, ID's or documents, unless the seeker can provide justifiable reasons for this

- If statements contained in the asylum request regarding substantial facts crucial for making a decision are contrary to the statements given at the hearing, or other evidence obtained during the asylum seeking procedure (if the authorities determine, contrary to the asylum request statements, that the purpose for obtaining the asylum is to avoid deportation, or the reasons for obtaining the asylum are purely economic in nature and so on)

- The individual seeking asylum refuses to make a statement about the reasons for seeking the asylum, or the given statement is unclear, or does not contain evidence of expulsion

226. The right to asylum will not be granted to an individual for whom there are strong reasons for believing that:

(1) He committed a crime against peace, a war, or a crime against humanity, in accordance with provisions of international conventions regulating prevention of such crimes;

(2) Prior to his arrival in Serbia he committed a severe crime, not political in its nature, outside the borders of the Republic of Serbia;

(3) He is responsible for actions that are contrary to the United Nations mission and principles.

The right to asylum will not be granted to an individual who enjoys protection or assistance of the United Nations institutions or agencies, except the UNHCR. The right to asylum will not be granted to an individual who enjoys the same rights and obligations, recognized by the authorities of the Republic of Serbia, as the citizens of the Republic of Serbia themselves.

227. A foreign citizen whose request for asylum was previously refused in the Republic of Serbia may file a new request, if this time he can provide all necessary reasons proving that the circumstances for granting the right to refuge and subsidiary protection have substantially changed since the time the last request was filed. Otherwise the new request will also be refused.

228. The Asylum Office will refuse any requests for asylum without further examining whether the asylum seeker fulfills the conditions for granting the asylum if it determines:

(1) That the individual seeking the asylum could have obtained efficient protection in the other part of his country of origin, unless, based on circumstances, it cannot be expected for him to do so;

(2) That the individual seeking the asylum enjoys protection or assistance of the United Nations body or organ, except the UNHCR, or was granted the asylum in some other country;

(3) That the individual seeking the asylum is a citizen of a third country;

(4) That the individual seeking the asylum may receive protection in the country of origin, unless he can prove that such possibility is uncertain;

(5) That the individual who filed a request for asylum did so previously in some other country respecting the Geneva Convention and was refused, and in the meantime there hasn't been a substantial change in circumstances based on which the request was filed, or has previously filed a request to asylum in some other country respecting he Geneva Convention;

(6) That the individual seeking the asylum came from a secure third country, unless he is able to prove that third country is not secure for him;

(7) That the individual seeking the asylum has purposefully destroyed his passport, ID card or other written document of importance for reaching a decision on the asylum, unless he is able to cite justifiable reasons for doing so.

229. Appeal against a first degree asylum decision may be filed within 15 days from the receipt of the first degree decision.

230. In cases of massive arrival of citizens from a foreign country where their life, security of freedom are jeopardized by large scale violence, outside aggression, internal fighting, massive human rights violations, or other events seriously endangering public order, and when due to large numbers it is impossible to conduct individual asylum seeking procedures, temporary protection according to social, economic and other opportunity of the Republic of Serbia will be granted to the group. The government decides on conditions for granting temporary protection. Temporary protection may be awarded to individuals who, when reaching the decision from paragraph 1 of this Article have had a legal residence in the territory of the Republic of Serbia, but their residence rights have expired before their temporary protection expired, however, they satisfied all other conditions prescribed by the legislature. Temporary protection seizes to be provided after its expiration date, or when the conditions for granting, based on the government's decision are no longer fulfilled. A foreign citizen who is awarded temporary protection has a right to:

(1) Reside in the country up until the temporary protection expiration date;

(2) Posses a document proving his status and residence right;

(3) Health protection in accordance with provisions for health protection of foreign citizens;

(4) Free elementary and high school public education in accordance with specific regulations;

(5) Legal help and assistance under the same conditions as for the asylum seekers;

(6) Freedom of religion under the same conditions as the citizens of the Republic of Serbia;

(7) Room and board in accordance with the specific provisions;

(8) Affordable room and board for the disabled.

A foreign citizen who was awarded temporary protection enjoys equal rights as the individual who was awarded asylum.

231. During the asylum granting process the individual who has filed the request for asylum is allowed to reside in the Republic of Serbia, and during that time, if there is a need, is provided with the room and board at the Asylum Center where he is also provided with basic living conditions: clothing, food, financial assistance and other conditions, all according to the specific asylum procedure provisions and principles. The asylum seeker and a person, to whom the asylum was granted, in accordance with the provisions regulating health protection of foreign citizens, are entitled to the same health protection services. They also have a right to free elementary and high school public education and the right to social security, in accordance with specific provisions. Social security provisions for the asylum seekers and individuals to whom asylum was granted are determined by the minister in charge of social policy. Individuals who are granted the right to asylum in the Republic of Serbia have equal rights as the citizens of the Republic of Serbia in areas relating to protection of their intellectual property, free access to courts, legal help, waiver of judicial and other public court expenses and the right to practice their own religion. Individuals who were granted asylum in the Republic of Serbia have equal rights as foreign citizens with permanent residence, in regards to obtaining employment and employment based rights, entrepreneurship, right to permanent residence and freedom of movement, right to movable and immovable assets and the right to association.

232. The Republic of Serbia will within it possibilities provide conditions for including refugees in all spheres of social, cultural and economic life of the country, and provide for their integration into the community.

233. At the same time, the asylum seeker is obliged to:

(1) Respect all measures limiting accesses and freedom of movement, if prescribed;

(2) In writing inform the Asylum Office, within three weeks of any changes in address;

(3) Respect house rules if residing at the Asylum Center;

(4) Respond to calls and cooperate with the Asylum Office and other competent authorities during all phases of the asylum granting procedure;

(5) Turn in all identifying documents, passports and other documents that may be of importance for identifying him to the authorized official;

(6) Cooperate with the authorized personnel during registration and health examination;

(7) Remain on the territory of the Republic of Serbia until the asylum granting procedure is completed;

(8) To vacate the Asylum Center upon issuance of the final asylum decision.

234. The individual to whom the asylum was granted has a right to unify with his family.

235. All passport requests submitted by the individuals older than 18, who were awarded asylum in the Republic of Serbia, will be honored by the Asylum Office and their passports issued on the provided form, valid for 2 years and in accordance with the law. In extreme humanitarian cases, passports, valid 1 year, will be issued to individuals enjoying subsidiary protection who do not posses a national passport.

236. Starting from 1 April 2008, when the Law on Asylum entered into force, up until July of 2008 a total of six asylum requests were submitted. Out of those six, four asylum seekers were men age between 25 and 30. Two of them were nationals of Ethiopia and the other two were nationals of Nigeria. Two females filed asylum requests, one being a national of Ethiopia older than 21 and the other Armenian, age over 50.

Question 28. Please provide information on the current national legislation and/or administrative procedures providing protection for victims of trafficking. Provide also statistical information on the number of cases investigated, alleged offenders prosecuted and the type of sentences handed down.

237. Provisions of Article 26 of the Constitution of the Republic of Serbia, in the section dealing with human rights and freedoms, explicitly prescribes that no individual can be held captive or be in position similar to captivity, outlawing all forms of human trafficking and forced labor, including sexual and economic exploitation of an individual in disadvantaged position.

238. The Republic of Serbia inherited international legal obligations previously undertaken by signing the United Nations Convention on Transnational Organized Crime and its Protocols - the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children the Protocol against the Smuggling of Migrants by Land, Sea and Air Convention - adopted in Palermo in 2000.

239. Article 111.b of the Criminal Code of the Republic of Serbia from April of 2003 regulates all forms of human trafficking (incriminating cases of human trafficking and smuggling).

240. Amendments of the criminal legislature in the Republic of Serbia from 01.01.2006 introduced a new Criminal Code separating and specifically sanctioning Human Trafficking (provisions of Article 288) and Illegal Crossing of the State Border and Human Trafficking (provisions of Article 350).

241. Also, Article 389 of the Criminal Code and its provisions prescribe sanctions for criminal acts of Trafficking in Children for Adoption, while provisions of Article 390 of the Criminal Code prescribe sanctions for criminal acts of Holding in Slavery and Transportation of Enslaved Persons.

242. In regards to international and regional human trafficking victim’s standards for protection, and international obligations of our country, the Minister of Internal Affairs of the Republic of Serbia has in 2004 adopted the Instruction of the Ministry of the Internal Affairs on permits for

temporary residence for victims of human trafficking. Up until now, 22 humanitarian residence permits were granted to victims of human trafficking. The Instruction was adopted in accordance with the existing Law on the Movement and Stay of Foreign Nationals.

243. Article 27, paragraph 5 of the proposed new Law on Foreign Nationals, currently in the procedure of adoption at the National Assembly of the Republic of Serbia, provides for granting temporary residence to foreign nationals who are victims of human trafficking, if such actions are in compliance and beneficial to the criminal procedure for persecuting human trafficking, while paragraph 6 of the same Article regulates that a foreign national lacking means for survival, who is granted a temporary residence permit will be assisted in obtaining room and board and basic living conditions.

244. In regards to combating human trafficking on the territory of the Republic of Serbia, of significant importance are also the Law on Juvenile Delinquents and Criminal Protection of Minors, and the Law on Protection Program for Participants in Criminal Procedure.

245. The Republic of Serbia, as a legal international subject, succeeded the previous state unions of Serbia and Montenegro, Federal Republic of Yugoslavia, Social Federative Republic of Yugoslavia, Federative National Republic of Yugoslavia, Kingdom of Yugoslavia and Kingdom of Serbs, Croats and Slovenes and the Kingdom of Serbia, and therefore has overtaken and inherited all legal obligations that supervene from signed international agreements:

- The International Agreement for the Suppression of the White Slave Traffic (1904)
- The International Convention on the Suppression of the White Slave Traffic (1910)
- The International Convention on the Suppression of Traffic of Women and Children (1921)
- Slavery Convention (1926)
- Convention No. 182: Worst Forms of Child Labor Convention (1999)
- Convention on the Elimination of all forms of Discrimination against Women - CEDAW
- Council of Europe Convention on Action against Trafficking of Human Beings, adopted in 2005, entered into force on 1 February 2008 for the first 10 signatory countries that ratified this Convention (the Republic of Serbia signed the Convention but has not yet ratified it)

246. To date, 22 humanitarian residence permits for human trafficking victims were granted (in 2004, one permit to an Iraqi female minor; in 2005, 11 permits were granted - 5 to Ukrainian female nationals, 4 to Moldavian female nationals, 2 to Romanian female nationals where one of them was a minor; in 2006, 4 humanitarian residence permits were granted - 1 to a minor female national of Albania, 1 from Romania and 2 from Moldova; in 2007, 6 humanitarian permits were granted - 2 to female nationals of Ukraine, 1 to a Romanian, 1 to a Bulgarian, 1 to a Macedonian, and 1 to a Moldova female national).

247. A coordinated action LEDA, planned and conducted by Interpol and the Ministries of Internal Affairs of all European Union Member States and SECI members was carried out on the territory of the Republic of Serbia between 05.05 and 12.05.2003, representing the first action of this kind exclusively dedicated to combating human trafficking.

248. During the LEDA operation the following results were obtained:

- 143 service industry institutions were controlled and monitored
- 440 individuals were routinely ID-ed out of which 383 domestic and 57 foreign nationals
- The total of 431 vehicles were routinely checked
- Eight individuals, out of which 4 were domestic and 4 foreign nationals, were detained
- 64 misdemeanors and offences were filed, 59 against domestic and 4 against foreign nationals (mentioned offences were mostly related to the offences under the Law on Identification Cards and the Law on Residence for domestic nationals, and the Law on Movement and Stay of Foreign Nationals for foreign nationals)
- 19 individuals, who were suspected as victims of human trafficking, were interviewed (15 domestic and 4 foreign female nationals) while it was proven that one domestic female national actually was a victim of human trafficking
- Criminal charges were filed against two individuals committing a crime of human trafficking under Article 111.b of the Criminal Law, as a result of an intensive operational action involving the case of a domestic female individual who was proven as a victim of human trafficking
- Based on obtained operational knowledge, and as a part of regular police cooperation, in six cases request for identification and check of obtained information involving individuals connected to human trafficking chains were filed with Interpol

249. Also, cooperation at the regional level is conducted through the SEEPAG - the South-Eastern European Prosecutors Advisory Group.

250. Statistical information and records regarding human trafficking are kept and updated at the Ministry of Internal Affairs of the Republic of Serbia (for human trafficking criminal offenders) and at the Agency for the Coordination of Protection of Victims of Trafficking and the Ministry of Labor and Social Policy of the Republic of Serbia (for human trafficking victims). Also, all relevant information is recorded at the Statistical Office of the Republic of Serbia (regarding results of criminal proceedings and persecutions according to filed criminal charges for Human Trafficking).

251. In 2003, 10 cases of criminal charges were filed involving cases of human trafficking.

252. In 2004, based on the reasonable doubt that they have committed 24 human trafficking criminal offences under Article 111.b of the Criminal Code, criminal charges were filed against 51 individuals (excluding the cases of smuggling migrants). By executing these criminal actions 35 individuals were victims of human trafficking, out of which 31 individuals were nationals of the ex-union of Serbia and Montenegro, 2 Ukrainian female nationals, one Romanian female national and one Bulgarian male national. Out of the above mentioned number of cases, 13 were charges of human trafficking where 22 victims were minors and children - individuals younger than 18 (13 children were victims of sexual exploitation - 12 female and 1 male, eight children were intended for begging - four male and four female while one female child was intended for arranged marriage).

253. Out of the total number of victims of child trafficking (22), eight of them are Roma (six planned for begging and two for sexual exploitation). The remaining 11 criminal charges involved victims who were female adults (over 18), ten of them nationals of Serbia and Montenegro and three foreign female nationals (two from Ukraine, and one from Romania). Nationals of Serbia and Montenegro were recruited mostly for sexual exploitation for the territory of Italy and Serbia and Montenegro, while three cases of foreign nationals were victims of organized criminal groups whose members are individuals from Serbia and Montenegro operating in Ukraine, Hungary, ex Serbia and Montenegro, Bosnia and Herzegovina, and Italy.

254. In regards to filed charges (24), two first degree verdicts were ruled in Nis and Pancevo, sentencing six individuals to 2,5 to 3,5 years in prison, and 15 investigations were conducted, four bills of indictment were proclaimed while three cases of criminal charges were dismissed.

255. In 2005, based on the reasonable doubt that they have committed crimes involving human trafficking under Article 111.б of the Criminal Code, members of the Ministry of Internal Affairs of the Republic of Serbia filed 20 cases of criminal charges against 43 adults (cases of smuggling migrants are excluded), out of which 36 are domestic nationals (32 male and four female), while the rest are nationals of Ukraine (3 male and 1 female) Bosnia and Herzegovina (one male), Austria (one female) and Moldova (one female).

256. In committed crimes, 26 individuals were victims of human trafficking: 24 females (15 adults and 9 minors), and two male children. According to nationality, 18 of them were from the territory of the ex-union of Serbia and Montenegro, three from Moldavia, two from Ukraine, and one from Croatia. Police forces in cooperation with the Agency for Coordination of Protection of Victims of Trafficking have accommodated 44 females (23 nationals of Serbia and Montenegro, 21 foreign nationals, six from Ukraine, three from Romania, eight from Moldova, and one from Bulgaria, Croatia, Russian and Congo) at the Shelter for Victims of Human Trafficking. Out of that number, seven victims were minors, nationals of the ex union of Serbia and Montenegro, one was a national of Romania and one was a national of Bulgaria.

257. Out of 20 cases of filed criminal charges for crimes involving human trafficking for the purpose of sexual exploitation (19) and labor exploitation (1) in procedure are 13 of them (two cases are pre-qualified into charges under article 118, paragraph 2, of the Criminal Law), six cases were sentenced to prison ranging from 8, 6, 4, and 2 years; a 3 month prison sentence was redefined into a criminal charge under Article 115, paragraph 3 of the Criminal Law - Illegitimate out of wedlock union with a minor - and was sentenced to 5 months in prison,

a 9 months prison sentence, and a 2 year and 10 months prison sentence and redefinition into charges under Article 251 of the Criminal Law - Instigating Prostitution was sentenced to up to 3 months in prison, while one charge was dropped (the prosecutor dropped charges out of humane reasons).

258. During 2006, 37 criminal charges under Article 388 of the Criminal Law - Human Trafficking, were filed, out of which 33 were related to sexual, and four to labor exploitation of victims, against 84 perpetrators (76 domestic nationals and following foreign nationals: Moldavia two, Montenegro one, Romania one, Turkey one, Bosnia and Herzegovina one, Germany one and the Czech Republic one).

259. Criminal charges involved 56 victims, whose age structure involved 29 minors and 27 adults, out of them 42 females and 14 males. Victims included 52 domestic nationals, three from Macedonia and one from Bulgaria. Next to this number, the Agency for Coordination of Protection of Victims of Trafficking identified 62 victims and offered them assistance, while 42 individuals, out of mentioned 62, were identified by the Ministry of Internal Affairs of the Republic of Serbia. Out of the total number of identified victims, 33 were accommodated at the Shelter for Victims of Human Trafficking: female nationals from the Republic of Serbia (24), Bosnia and Herzegovina (2), Moldova (2), Bulgaria (1), Albania (1), Macedonia (1), Ukraine (1) and Romania (1). Remaining 29 victims were provided assistance from the Agency, accommodated in foster families, assisted by foster homes and the Center for Social Work, placed in foster homes and so on.

260. Law enforcement officials of the Republic of Serbia in 2007 filed 34 criminal charges under Article 388 of the Criminal Law - Human Trafficking against 74 adults. The mentioned crimes involved 96 victims.

261. The Agency for Coordination of Protection of Victims of Trafficking has in 2007 identified 60 victims of human trafficking, out of which 26 were minors and 34 adults. Identified individuals were victims of sexual exploitation - 26, labour exploitation - nine, beggars and forced criminal offenders - ten, forced marriage - two and selling newborns - two.

262. The Agency for Coordination of Protection of Victims of Trafficking has in 2007 out of total number of identified victims placed 20 victims in the Shelter for Victims of Human Trafficking, while remaining 60 were provided with other forms of assistance (placement with foster families, assistance from the Center for Social Work, placement in foster homes and so on).

263. A standard procedure for reporting criminal activities in the Republic of Serbia involves submitting and filing criminal charges against perpetrators at the local precinct or persecutors office. All public bodies are legally obliged to report criminal activities that are prosecuted according to the official authority.

264. Reporting human trafficking is simplified by introducing a separate phone line at the on duty Operational Center of the Border Police Administration, active 24 hours a day, seven days a week, and by launching a contact email address (ozs@mup.sr.gov.yu). Also, reporting a crime is possible through local organizational units of the Ministry of Internal Affairs of the Republic of Serbia. Taking statements from victims regarding the circumstances involved in human

trafficking crimes is conducted by specifically trained and sensitized law enforcement officials. Also, nongovernmental agencies offer a substantial contribution to solving human trafficking crimes.

265. For the purpose of coordinating protection of human trafficking victims, the Ministry, assisted by the OSCE Mission in Serbia, has in 2004 established the Agency for Coordination of Protection of Victims of Trafficking. This Agency is a central operational body of the national mechanism in combating human trafficking and protecting human trafficking victims, and is included in the Combating Trafficking in Human Beings Team of the Republic of Serbia.

266. In 2004 the Government of the Republic of Serbia established the Council to Combat Trafficking of Human Beings.

267. Bearing in mind that human trafficking is a multilevel, complex and dynamic social phenomenon requiring a comprehensive (both legal and social) approach to the problem, and the application of effective prevention, suppression and punishment measures for perpetrators and victim protection programs, the Government of the Republic of Serbia adopted a Strategy for Combating Trafficking in Human Beings of the Republic of Serbia, establishing clear strategic goals, measures and activities for all actors involved in combating this social phenomenon.

268. A program for improving assistance and protection offered to human trafficking victims in the Republic of Serbia, approved by the Government of the Republic of Serbia was devised. Means and resources for this program were obtained by the Regulation on Issuance of Additional Postage - Combating Trafficking in Human Beings. This program anticipated that attained resources will secure funding for the activities of the Agency related to identifying human trafficking victims, providing urgent help, translation services, communication, primary care, reintegration, solving legal and civil status, medical and legal assistance and help, psychosocial help, education and skill training, workshops and training, sustainable integration - funds for independent living.

Question 29. Please provide information, disaggregated by sex, age, ethnicity and type of crime, on the current prison population and the regime of activities for remand prisoners.

269. Total number of imprisoned individuals on 3 July 2008 was 9,063. Out of this figure, 306 are females (3.38 per cent), and 8,757 are males (96.62 per cent).

270. Age structure of the current prison populations is the following:

- 14 to 18 years of age - 60 individuals (0.66 per cent)
- 18 to 21 years of age - 308 individuals (3.41 per cent)
- 21 to 27 years of age - 2,711 individuals (29.91 per cent)
- 27 to 40 years of age - 3,334 individuals (36.79 per cent)
- 40-50 years of age - 1,668 individuals (18.4 per cent)

- 50 to 60 years of age - 734 individuals (8.1 per cent)
- 60 to 70 years of age - 189 individuals (2.08 per cent)
- Over 70 years of age - 59 individuals (0.65 per cent)

Out of the total current prison population, 57 per cent are return or repeat offenders. Based on the conducted analysis and success estimate of existing behavioral programs in correctional facilities in relation to the behavior of inmates and their participation in the program, with the aim of improving their reintegration into the society and reducing the repeat offenders number, it was concluded that the existing behavioral programs are outdated, lacking single unified criteria, personnel and team spirit. Upon completing the analysis a working group was created to devise a Procedure on treatment, code of conduct, classification and additional classification of convicts. This Procedure is based on the new concept of re-socialization, introducing best practice examples from experiences with implementing sanctions, and risk, needs and capacities estimate methodology based on unified criteria, presented in a form of a questionnaire. Particular attention is dedicated to creating personalized behavioral treatment programs targeting specific needs of individual inmates (recovering from drug abuse, curbing aggressive behavior, building capacities for living in the community, education and so on). Along with the new approach in devising behavioral treatment programs prison staff is also being trained and educated.

Other

Question 30. Please indicate whether there is any legislation aimed at preventing and prohibiting the production, trade, export and use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment. If so, please provide information about the content and implementation of such legislation. If not, please indicate whether the adoption of such legislation is being considered.

272. In the Republic of Serbia there are no factories or plants producing equipment specifically intended for torture, inhumane and other cruel and inhumane activities.

Question 31. Please provide information on the legislative, administrative and other measures the State party has taken to respond to the threat of terrorism acts, and please describe if, and how, these measures have affected human rights safeguards in law and practice. Please describe the relevant training given to law enforcement officers, the number and types of convictions under such legislation, the legal remedies available to persons subjected to anti-terrorist measures, the number of complaints of non-observance of international standards, and the outcome of these complaints.

273. The legislature of the Republic of Serbia does not include a particular law dealing specifically with perpetrators of terrorist acts. Perpetrators of terrorist acts are handled according to the provisions of the Criminal Code and ZKP, meaning general provisions of the criminal legislature. Therefore, for example, Article 312 of the Criminal Code incriminates and prescribes sanctions for activities involving tampering with explosives, causing explosions or open fire, or involving in any other activity endangering public safety, abduction or any other form of

violence, tampering and use of nuclear, chemical, bacteriological or any other hazardous substance that produce the sense of fear or insecurity among the general population. At the same time, Article 313 of the same Code of the Republic of Serbia prescribes sanctions for all activities endangering constitutional order or security by burning, destroying or damaging industrial, agricultural and other economic objects, traffic resources, equipment or plants, communication equipment, water, heating, gas or electricity equipment for public use, dams, warehouses, buildings and all other facilities of importance for securing normal living conditions of the general public, economy or public services.

274. Article 391 of the Criminal Code of the Republic of Serbia specifically emphasizes and deals with international terrorism and the intention to cause harm to a foreign country or an international organization, conduct an abduction or other form of violence, cause explosion or an open fire or cause any other widespread dangerous activity, pose a threat by tampering with or using nuclear, chemical, bacteriological or any other similar substances. The most severe punishments are intended for those who provide or procure means for funding criminal activities related to terrorism (Article 393 of the Criminal Code of the Republic of Serbia). Besides, this Code prescribes punishments for endangering civil aviation and transportation security through violence or high-jacking of aircrafts, boats or any other form of mass transportation.

275. Chapter XXXI (Criminal offences against public order) of the Criminal Code of the Republic of Serbia incriminates acts causing panic and disarray, violent behavior, accomplices in conducting criminal offence, criminal association, devising and procuring weapons and equipment for executing a criminal act, unauthorized possession of weapons and explosives, participation in criminal groups and taking hostage.

Question 32. Please provide information on State party's position in respect of its responsibilities in relation to the conduct public officials in Kosovo and Metohija.

276. We would like to point out that the Report on Implementing the Convention Against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment, submitted by the national union of Serbia and Montenegro for the period from 1992 to 2003 contains information on violations of human rights conducted by the security officials of the Federal Republic of Yugoslavia and the Republic of Serbia. This information also applies to the events that occurred on the territory of the Autonomous Province of Kosovo and Metohija for the period from 1998 to 1999.

Question 33. Please provide information about the State Party's consideration of the ratification of the Optional Protocol under the Convention.

277. The Republic of Serbia is, since 1991, a signatory state of the Convention against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment, as the country that succeeded the ex Socialist Federative Republic of Yugoslavia (Succession statement of the FRY, 12.03.2001).

278. The Republic of Serbia accepted the authority of the Committee against Torture to deliberate on applications of other countries in accordance with Article 21, paragraph 1 of the Convention against Torture, and to deliberate on individual applications of citizens in accordance with Article 22 of the Convention against Torture.

279. The Republic of Serbia signed the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 25 September 2003 and ratified it in 2006.

280. Bearing in mind the membership in the above mentioned international instruments, the Republic of Serbia offers full support to the global ratification of the Optional Protocol to the Convention against Torture and its implementation.
