



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of Discrimination  
against Women**

**Consideration of reports submitted by States parties under  
article 18 of the Convention on the Elimination of All Forms  
of Discrimination against Women**

**Initial report of States parties**

**Serbia\***

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\* The present report is being issued without formal editing. The present report, submitted as the initial report of Serbia and Montenegro, was received by the Secretariat on 5 May 2006, prior to the declaration of independence by Montenegro, which was adopted by the National Assembly of Montenegro on 3 June 2006, following the referendum in the Republic of Montenegro on 21 May 2006 pursuant to Article 60 of the Constitutional Charter of Serbia and Montenegro.

Following the declaration of independence by Montenegro on 3 June 2006, the Republic of Serbia, by letter dated 3 June 2006, notified the Secretary-General that the Republic of Serbia continued the membership of Serbia and Montenegro in the United Nations, including all organs and organizations of the United Nations system on the basis of Article 60 of the Constitutional Charter of Serbia and Montenegro. Moreover, with respect to multilateral treaties deposited with the Secretary-General, the Republic of Serbia notified the Secretary-General, by letter dated 30 June 2006, that all treaty actions undertaken by Serbia and Montenegro will continue in force with respect to the Republic of Serbia with effect from 3 June 2006, and that all declarations, reservations and notifications made by Serbia and Montenegro will be maintained by the Republic of Serbia until the Secretary-General is notified otherwise.



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## **Part one**

### **Serbia**

#### **Introduction**

1. The Initial Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter referred to as the Convention) for the period from 1992 to 2003 (the first six months) relates to the Federal Republic of Yugoslavia (hereinafter referred to as the FRY) and the State Union of Serbia and Montenegro (hereinafter referred to as S&M). Having in mind the changes in the organization of S&M in relation to the FRY as well as the position of its member states, it has been agreed that the Initial Report should consist of two parts. The competent organs of the State Union and the competent organs of Serbia participated in the preparation of the part relating to the FRY and Serbia, whereas the competent organs of Montenegro participated in the preparation of the part relating Montenegro. Enclosed with the Report is also the part prepared by the Coordination Centre of Serbia and Montenegro and the Republic of Serbia for Kosovo and Metohija relating to the situation in that region, submitted in the integral version.

2. It should be mentioned that, in view of the period under review, the acronym FRY is mainly used as the name of the country. Also, having in mind the contents of the Report, certain legal provisions have been cited several times, as and when necessary, in its various parts.

3. The FRY ceased to exist on 4 February 2003. On the basis of the Starting Points for the Restructuring of Relations between Serbia and Montenegro of 14 March 2002, the Federal Assembly adopted the Constitutional Charter of the State Union of Serbia and Montenegro, hereinafter referred to as the Constitutional Charter, (Official Gazette of S&M, No. 1/2003). The Charter on Human and Minority Rights and Civil Liberties (hereinafter referred to as the Charter on Human Rights), as an integral part of the Constitutional Charter, was adopted by the Federal Assembly on 23 February 2003 (Official Gazette of S&M, No. 6/2003).

4. The creation of the State Union of Serbia and Montenegro is based on the respect for human rights of all its citizens, as pointed out both in the Constitutional Charter and in the Charter on Human Rights. The latter was adopted proceeding from the stand that human and minority rights are the foundation of any community committed to democracy, peace, tolerance, respect for human rights, rule of law and social justice.

5. According to the Constitutional Charter, the new state, i.e. the successor state of the FRY, whose name is Serbia and Montenegro, is based on the equality of the two member states, the State of Serbia and the State of Montenegro (Articles 1 and 2). The territory of Serbia and Montenegro is made up of the territories of the member states; the state border is inviolable; the border between the member states is unchangeable, except by mutual consent (Art. 5). The State of Serbia includes the Autonomous Province of Vojvodina and the Autonomous Province of Kosovo and Metohija, currently under the international administration in accordance with United Nations Security Council resolution 1244 (Decision on the promulgation of the Constitutional Charter of the State Union of Serbia and Montenegro).

6. Serbia and Montenegro is a single personality of international law and the member states may be members of international global and regional organizations which do not set international personality as a requirement for membership (Art. 14).
7. The organs of the new State are: the Assembly of Serbia and Montenegro (unicameral, made up of 126 deputies, 91 are from Serbia and 35 from Montenegro); the President of Serbia and Montenegro (elected for a four-year term of office); the Council of Ministers (Foreign Minister, Minister of Defence, Minister for International Economic Relations, Minister for Internal Economic Relations and the Minister for Human and Minority Rights); the Court of Serbia and Montenegro, made up of eight judges. (Rulings of the Court are binding and cannot be appealed against. The Court is authorized to invalidate laws, other regulations and enactments of the institutions of State that are contrary to the Constitutional Charter and the laws of Serbia and Montenegro). The Army of Serbia and Montenegro is under democratic and civilian control (Art. 54).
8. The Constitutional Charter stipulates that the aims of Serbia and Montenegro are respect for human rights of all persons under its jurisdiction; to preserve and promote human dignity, equality and rule of law; to join European structures, particularly the European Union; to harmonize regulations and practices with European and international standards; to create a market economy based on free enterprise, competition and social justice and to establish and ensure the smooth operation of the common market in the territory of the State Union, through coordination and harmonization of the economic systems of the member States, in line with the principles and standards of the European Union (Art. 3).
9. The FRY, now S&M, is situated in the south-eastern part of the European continent and occupies the central part of the Balkan peninsula covering the area of 102,173 square kilometres (Serbia covers the area of 88,361 sq. km., Montenegro 13,812 sq. km). From the point of view of geography, Serbia and Montenegro is a Balkan, Central-European, Mediterranean and Danubian country.
10. The population is multi-ethnic, multi-lingual and multi-confessional. According to the data of the past two censuses Serbia has 7,498,001 inhabitants (the 2002 census, without Kosovo and Metohija) and Montenegro has a population of 614,579 (the 1991 census).
11. According the census referred to above, out of 7,498,001 inhabitants of Serbia, 6,212,838 declared themselves as Serbs (82.86 per cent); 293,299 as Hungarians (3.91 per cent); 136,087 as Bosniacs (1.82 per cent); 108,193 as Roma (1.44 per cent) and 80,721 as Yugoslavs (1.08 per cent). The share of other national and ethnic communities taken individually does not exceed 1 per cent of the total number of inhabitants. The overwhelming majority of the inhabitants mentioned Serbian as the mother tongue, i.e. 6,620,699 inhabitants, followed by Hungarian – 286,508 inhabitants, Bosniac – 136,749 and Roma – 82,242 inhabitants. The Serbian Orthodox confession is the most widespread – 6,371,584, followed by Roman Catholic – 410,976 and Islamic – 239,658, etc.
12. According to the gender structure, out of 7,498,001 inhabitants of Serbia, 3,645,930 are men (about 49 per cent) and 3,852,071 women (about 51 per cent). The average age is 40.2 years, the average age of men being 39 and that of women 41.5 years.

13. In the Balkan region, a process of post-conflict consolidation and deep-going and complex internal changes in the majority of countries has been going on in the past few years, including the determining of the place of individual countries and of the region as a whole in the new international constellation. Apart from certain military-political reasons, underlying this process is the determination of the leading world countries, European in particular, to establish a political and economic system in the region, a system that has already proved its efficiency and viability as compared to other historical models.

14. About a dozen years ago the FRY (as the successor of the SFRY) was, according to the majority of the most important parameters, closer to the Western-European integration processes than any other Eastern European country. Today it is lagging behind them, primarily as a consequence of the policies pursued in the last decade of the 20<sup>th</sup> century. Therefore, Serbia and Montenegro faces the task of making up for the lost time and undertaking necessary political and economic changes that have already occurred in Eastern European countries, now members or about to become members of the European Union. However, it should be borne in mind in this context that these countries were not faced with the consequences of the disintegration of the State, armed conflicts and international sanctions, a large number of refugees and other problems. Also, the situation in the FRY, especially in Serbia, following the October 2000 changes, proved more difficult and more complex than originally thought. This is equally true of all spheres of social life, the economy in particular. It means that the consequences of political, economic, moral and civilizational disintegration of society that occurred during the previous regime need to be overcome. In this respect, the support and assistance of the international community have been and still are very important, both as regards the consolidation of the situation in the country and as regards its getting out of isolation.

15. Serbia and Montenegro is determined to fulfil all its international obligations. This includes compliance with the Dayton Agreement, to which the promotion of relations with Bosnia and Herzegovina and Croatia is a contribution, as well as the overcoming of the problems in Kosovo and Metohija. Serbia and Montenegro, although dissatisfied with the situation in which the non-Albanian population in Kosovo and Metohija finds itself, is determined to cooperate constructively with international representatives and to work with them towards the solution of the existing problems in line with UN Security Council resolution 1244.

16. Serbia and Montenegro is ready to fully cooperate with the International Criminal Tribunal for the Former Yugoslavia in The Hague. To that effect significant steps have been taken so far. Among them, mention should be made in particular of the adoption of the Law on Cooperation with the Tribunal in The Hague. On the basis of that Law a number of persons have been delivered to the ICTY, including the former president of the FRY, Slobodan Milošević.

17. In these circumstances and in accordance with the proclaimed objectives of the State Union, the foreign-policy priorities of S&M are the rapprochement to the European Union and the membership thereof as the ultimate goal; normal relations with neighbouring countries, primarily with the former Yugoslav republics (this being a question of great importance to the citizens of S&M, refugees in particular); strengthening of regional cooperation; balanced relations with the great Powers and

respect for and consistent implementation of internationally assumed obligations, particularly those based on international treaties relating to human rights.

### **Background information**

18. The Convention was adopted and became open for signature and ratification or accession by UN General Assembly resolution No. 34/180 of 18 December 1979. It became effective on 3 September 1981 after the depositing of the twentieth instrument of ratification or accession. The then SFRY signed the Convention in July 1980 and ratified it in 1981 (Official Gazette of the SFRY – International Treaties, No.11/81). For the SFRY, the Convention came into force in 1982. In addition to becoming a Party to the Convention, the FRY also became a Party to the Optional Protocol to the Convention, adopted by the United Nations in October 1999, which took effect in 2000 (Official Gazette of the FRY – International Treaties, No. 13/2002).

19. As a signatory of the Convention, the SFRY prepared two reports. After the outbreak of conflicts, on the basis of the decision of the Committee on the Elimination of Discrimination against Women (hereinafter referred to as the Committee) adopted during its 12<sup>th</sup> session held in 1993, the FRY submitted in 1993 also a Special Report on the Implementation of the Convention (doc. CEDAW/C/Jug/SP 1). The Special Report was considered at the 13<sup>th</sup> session of the Committee held in New York in January/February 1994 (CEDAW/1994/L.1/Add. 16, CEDAW/C/1994/L.1/WP 16). The Special Report relied on the two previous reports submitted by the SFRY, to the extent to which these reports related to the Republics of Serbia and Montenegro, members of the FRY at the time. Likewise, during the preparation of the Special Report account was taken also of the comments (questions raised) of the Committee made during the consideration of the Second Periodic Report of the SFRY.

20. After considering the Special Report which covered also violence committed against women during the war and the consequences that the UN Security Council sanctions had on the socio-economic status of women, the Committee made certain assessments. It also expressed its regrets at the status of women from the territory of the former SFRY and the acts of violence they were exposed to in these specific circumstances.

21. At the same time, the Committee appealed for the solidarity of women and noted that the international community expected their intensified activity with a view to putting a stop to the war and violence and to helping women who are the victims of violence. The Special Report considered the implementation of the Convention in more detail and pointed to the difficulties in this respect, in view of the specific circumstances in which the FRY had found itself following the secession of the former Yugoslav republics and the imposition of the Security Council sanctions. The latter particularly affected children, women and the oldest population.

22. The Special Report was followed by the Third Periodic Report of the FRY on the implementation of the Convention sent to the Committee in June 1998 in accordance with the standard procedure. The Committee confirmed the receipt of the report in October the same year and published its English and French versions (CEDAW/C/YUG/3 – 16 October 1998) but did not consider it. The Third Periodic

Report included also an account of the facts, data, normative regulations and measures that constituted a novelty and a change in relation to the state of affairs described in the Special Report.

23. The Third Periodic Report also pointed out that a dramatic change of the overall way of life was taking place in the territory of the former SFRY that was going to have long-term and very serious consequences. The problem of refugees and the great burden shouldered by women in this context were stressed as the most dramatic ones.

24. Following the October 2000 changes, the FRY made a statement in the UN in March 2001 relating to succession and to the new accession to international legal instruments in the field of human rights, including the Convention. It was agreed with the relevant UN bodies that, due to the specific circumstances in which the FRY had found itself in the period from the dissolution of the SFRY to October 2000, initial reports were to be submitted covering the period 1992-2003 (the first six months). The initial reports were to be submitted instead of the periodic reports on the implementation of the conventions on the protection of human rights. Therefore, irrespective of the previously submitted reports, the present Report has been prepared in the form of an initial report for the already mentioned period 1992-2003.

25. It should be noted that the FRY was or became a member also of other international conventions concerned with the rights of women, such as the Convention on Political Rights of Women (Official Gazette of the FPRY, No. 7/54); the Convention on the Nationality of Married Women (Official Gazette of the FPRY, No. 6/59); the Optional Protocol on the sale of children, child prostitution and child pornography to the Convention on the Rights of the Child (Official Gazette of the FRY – International Treaties, No. 22/2002), the Optional Protocol on the participation of children in armed conflicts to the Convention on the Rights of the Child (Official Gazette of the FRY – International Treaties No. 22/2002); the UN Convention against Transnational Organized Crime and the (Supplementing) Protocol for the Prevention, Suppression and Punishment of Trade in Human Beings, in particular in Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air (Official Gazette of the FRY – International Treaties, No. 6/2001).

### **General considerations**

26. The basis for the implementation of international treaties and, consequently, those relating to human rights, is provided for by the Constitution of the FRY in its Art. 10 stipulating that the FRY recognizes and guarantees the rights and freedoms of man and the citizen recognized under international law. Article 16 of the Constitution of the FRY stipulates that the FRY will fulfil in good faith the obligations contained in international treaties to which it is a contracting party. The same Article also provides for that the international treaties ratified and promulgated in accordance with the Constitution of the FRY and the generally accepted rules of international law are integral part of the internal legal order.

27. The Constitutional Charter contains similar provisions and in its Art. 10 it is stated that the provisions of international treaties on human and minority rights and civil freedoms applying to the territory of Serbia and Montenegro are directly enforced. In Article 16 of the Constitutional Charter it



is said that the ratified international treaties and generally accepted rules of international law will have precedence over the law of Serbia and Montenegro and the law of the member states.

28. The legislative-legal system of the FRY and of S&M is based on the principle of equality of men and women and thus excludes any normative discrimination based on sex. The objective of the legislator is to ensure the full development of women and the promotion of their status in the political, social, economic and cultural spheres in order to enable women to fully realize and enjoy human rights and fundamental freedoms on an equal footing with men.

29. Women in the FRY and in S&M are completely equal in the enjoyment of all the rights embodied in the Convention. These rights include: the rights to citizenship, education, work and employment; full and accessible health care, participation in all spheres of economic and social life (family allowances, bank loans, participation in sports activities), marriage and family relations (free choice of spouse, choice of occupation, choice of name, property).

30. However, despite the normative equality it is indisputable that the impoverishment of society in general substantially affects human rights, consequently the rights of women. The difficult socio-economic and political situation in the country prevailing over a number of years, especially mass inflows of refugees and displaced persons, have adversely affected the legally regulated rights to the basic conditions for life and housing, the right to work and employment, education, health care. The crisis of the family, housing shortage and material problems in the first place, had an adverse effect on the status and rights of women.

31. Grey or informal economy, i.e. work without a work permit (street vending and reselling of goods in a situation of unregulated labour rights or unregistered work for private owners) have resulted in breaches of the right to work and employment provided for by law. This is applicable not only to women but to men as well. In the period of the struggle for survival, the situation of women deteriorated, in particular that of self-supporting or unaccompanied mothers whose number noticeably increased as a consequence of armed conflicts.

32. In order to overcome these problems, it is necessary to take a series of measures aimed at improving the status of women and preventing discrimination against them, encountered in practice occasionally. It is necessary, among other things, to amend the laws which regulate the right to work in economic sectors not earning an income, i.e. those relating to the overall unpaid work of women (work in rural areas, work at home, i.e. recognition of certain benefits to housewives). Also, it is necessary to bear in mind that work on the development and emancipation of women implies their getting better knowledge of their rights and access to information about their rights, possibilities and various forms of assistance in coping with family, health and other problems and crises.

33. In this context, it is important to bring to the attention of the public at large the activities of numerous organizations concerned with enhancing the status of women, which also implies the change of traditional stereotypes relating to the division of the roles in society according to gender. Also, it is essential to extend assistance to women with respect to the obligations associated with childbirth and the upbringing of children (unpaid work of women in the household). In this way, the

burden of unequally distributed work, which indirectly influences reduced participation of women in political and public life, would be avoided.

34. Equally necessary is a better protection of women from violence (physical, sexual, psychological) and mistreatment in the family, the wider community or at work. Special mention should be made of the phenomenon of a more recent date, i.e. trafficking in human beings. The victims are mostly women and a number of appropriate measures should be taken, legislative in the first place, aimed at suppressing all forms of sex trafficking and their prostitution. It should be stressed that the amendments to the Penal Code of the Republic of Serbia of April 2003 introduced the criminal act 111a incriminating trade in people and the criminal act 118a incriminating sexual abuse. In this way an essential change has been made in the legal system because the position of the protection of public peace and order has been replaced by the position of the protection of and assistance to the victims of violence (trafficking in people, domestic violence, prostitution, sexual abuse).

35. A particularly sensitive question in the FRY and in S&M is the question of refugees. According to the 2001 data, nearly 452,00 refugees have been registered in Serbia and about 53 per cent of them are women. The Law on Refugees (Official Journal of the Republic of Serbia, No. 18/92) provides for equal rights of men and women to assistance, accommodation, employment, health care and education. It also provides for their right to return to their previous place of residence or other forms of integration in the territory of the Republic of Serbia.

36. The projects of integration provide for various types of durable solutions of the housing problem of refugees through the programme of building houses by themselves, supply of building material and loans available to small businesses as well as assistance in enabling their return to the former place of residence. The solving of the housing problem or providing assistance for self-employment alleviates the extent of poverty of the refugee population. Thus, various forms of discrimination placing women in an unequal position in relation to men are also eliminated.

37. The specialized humanitarian organizations concerned with providing psychosocial support to refugees and other persons have noticed sporadic problems of violence and mistreatment in refugee families living in extremely difficult conditions of life with respect to housing, financial and other problems. Being aware of the situation these organizations extend assistance in the surmounting of conflicts and problems, thus affirming a positive attitude towards women that are able to face and to overcome the existing problems of domestic violence.

## **The Convention – Articles 1-16**

### **Article 1**

38. The freedoms, rights and duties of man and the citizen are regulated in a separate section of the Constitution of the FRY (Official Gazette of the FRY, No. 1/92). According to Article 20 of the Constitution of the FRY all citizens are equal irrespective of their nationality, race, sex, language, faith, political or other beliefs, education, social origin, property, or other personal status. Also, all are

equal before the law and each person is duty bound to respect the rights and freedoms of others and is held responsible for it.

39. Furthermore, in its Article 67 the Constitution of the FRY provides for that the freedoms and rights of man and the citizen are exercised and duties fulfilled in conformity with the Constitution. Also, that the manner in which various freedoms and rights of man and the citizen are to be exercised may be prescribed by law when so provided by the Constitution or when necessary for their implementation. The abuse of the freedoms and rights of man and the citizen is unconstitutional and punishable and the freedoms and rights recognized and guaranteed by the Constitution enjoy the protection of the courts.

40. The Constitutional Charter contains no specific provisions relating to equality of citizens. However, its Article 9 specifies that the member states regulate, ensure and protect human and minority rights and civil freedoms in their respective territory and that the attained level of human and minority rights, individual and collective, and of civil freedoms may not be lowered. Serbia and Montenegro monitors the exercise of human and minority rights and civil freedoms and ensures their protection in the case when such protection has not been provided in the member States.

41. With a view to protecting human rights, the Charter on Human Rights, in its Article 1, specifies that human dignity is inviolable. Also, that everyone has the duty to protect it, as well as that everyone has the right to the unrestricted development of his/her personality, on condition that he/she does not infringe on the rights of others guaranteed under the Charter.

42. In its Article 2 the Charter on Human Rights states that everyone has the duty to respect the human and minority rights of others. The human and minority rights guaranteed under this Charter are directly applied in accordance with the Constitutional Charter of the State Union of Serbia and Montenegro, as well as that these rights are directly regulated, secured and protected by the constitutions, laws and policies of the member States.

43. The Charter on Human Rights, in its Article 3, specifies that everyone is equal before the law and prohibits discrimination in explicit terms:

Everyone shall be equal before the law.

Everyone shall have the right to equal legal protection, without any discrimination.

Any direct or indirect discrimination on any grounds, including those relating to race, colour, sex, ethnic affiliation, social background, birth or similar status, religion, political or other convictions, financial standing, culture, language, age or mental or physical disability, shall be prohibited.

Special measures necessary for the achievement of equality, appropriate protection and progress of persons or a group of persons, with a view to making it possible for them to fully enjoy human and minority rights on equal terms.

The special measures referred to in paragraph 4 of this Article may be applied only until the achievement of the aims for which they are undertaken.

44. The Constitution of the Republic of Serbia (hereinafter referred to as the Constitution of the RS, Official Journal of the Republic of Serbia, No. 1/1990) provides for, in its Article 13, that the citizens are equal in their rights and duties. Furthermore that they have equal protection before the State and other authorities, irrespective of their race, sex, birth, language, nationality, religion, political or other belief, level of education, social origin, property status, or any other personal attribute.

45. It is necessary to mention that the Constitution of the RS needs to be conformed to the Constitutional Charter. It means that in addition to the position of principle about the prohibition of discrimination, provision should be made for the prohibition of direct or indirect discrimination, as well as make it compulsory for the State to adopt measures of affirmative action in the field of gender equality.

46. These principles have been taken over and elaborated in the laws and other enactments regulating individual spheres of social life, which will be discussed later in this report. Thus, for instance, the Penal Code of the Republic of Serbia (hereinafter referred to as the PC RS, passed in 1977), in its Article 60, provides for additional guarantees for equality of sexes by defining the criminal act of violation of equality of citizens. Under this Article, the denial or restriction of the rights of citizens or granting of any concessions or privileges to citizens on the grounds of nationality, race, religion, political or other belief, ethnic affiliation, sex, language, education or social status is prohibited.

47. The Penal Code of the FRY (hereinafter referred to as the PC FRY, Official Gazette of the SFRY, No. 44/76 as amended subsequently) contains a similar provision. After the establishment of S&M, the PC FRY, following certain amendments, was renamed the Basic Penal Code (hereinafter referred to as the BPC, Official Journal of the RS, No. 39/2003). The BPC, in its Article 186, provides for the protection against the violation of equality of citizens. Article 154 stipulates that whoever, on the grounds of race, colour, nationality or ethnic origin, violates fundamental human rights and freedoms recognized by the international community will be punished. Also, whoever persecutes an organization or an individual for supporting equality of people will be punished.

48. It should be mentioned that the implementation of the principle of prohibition of discrimination based on sex is particularly interesting in the context of relations in the Army as a specific organization and/or in the overall system of defence. As such it will be dealt with in the relevant chapters of the present report.

## **Article 2**

49. Consistent implementation of the Convention is ensured by the Constitution of the FRY, the Constitutional Charter, the Charter on Human Rights, the Constitution of the RS as well as by series of legal enactments, the basis of which, as already pointed out, is equality of citizens irrespective of sex. The concrete legal solutions and their application in practice will be dealt with in more detail in the relevant chapters of this report.

50. Besides Article 20 of the Constitution of the FRY mentioned above, it should be noted that the Constitution of the FRY also provided for the protection of certain categories of the population, i.e. children, expectant mothers and the elderly. Thus, Article 60 provided for that everyone is entitled to health care, in accordance with the law. Also, that children, expectant mothers and the elderly are entitled to publicly financed health care, if they are not covered by another insurance program, while other persons will receive such care under the conditions stipulated by law. Article 61 proclaimed that the family, mothers and children enjoy special protection and that children born out of wedlock have the same rights and duties as children born in wedlock.

51. The Charter on Human Rights contains similar provisions as the Constitution of the FRY. In addition to Article 3 of the Charter, which prohibits any discrimination, Article 39 stipulates that the family, mother and child enjoy special protection afforded by society and the member states. It also provides for the right of the mother to the support and protection of the member States within a period prior to and after childbirth specified by law is guaranteed. In this context, Article 45 stipulates that everyone has the right to health care and that the member States will provide health care for children, mothers-to-be and elderly people, unless they are enjoying it on some other grounds.

52. Special protection of the mother and child, minors deprived of parental care and persons unable to take care of themselves is also provided for by the Constitution of the RS in its Article 28. The Constitution of the RS stipulates that the family enjoys special protection and that parents have the duty to care for their children. It also determines that children are bound to care for their parents in need of assistance and that children born out of wedlock have the same rights and duties as those born in wedlock.

53. In addition to the special protection of vulnerable categories of the population enumerated in the country's highest legal acts, attention should be drawn to the protection of women in the sphere of labour legislation. In particular having in mind the fact that the economic position of women greatly affects the possibilities of the exercise of their rights in practice.

54. According to the existing regulations, women have been equalized with men in their rights and obligations (requirements for entering employment, work conditions, wage, etc.). The Law on Labour (Official Journal of the RS, Nos. 71/2001, 73/2001) contains a special provision on the prohibition of discrimination. According to that provision a person looking for employment, as well as those employed, may not be placed into a less favourable position in relation to others irrespective of sex (Article 12).

55. The Law on the Protection at Work (Official Journal of the RS, No. 42/91) guarantees the constitutional rights of each employee to secure conditions of work and to special protection of women. In this connection, reference should be made to the provisions of the Constitution of the FRY, the Charter on Human Rights and the Constitution of the RS.

56. The Constitution of the FRY guaranteed, among others, a free choice of occupation and employment (Article 54), the right to commensurate remuneration (Article 55), certain rights deriving

from employment as well as special protection of young persons, women and disabled persons (Article 56).

57. The Charter of Human Rights also guarantees the right to work in conformity with law, the right to a free choice of work, fair and appropriate conditions of work and, in particular, a fair compensation for work. It also provides for that the member states should create conditions under which everyone can earn his/her living (Article 40).

58. The Constitution of the RS contains similar provisions related to the right to work and stipulates, among others, that every person has the right to work and that everyone has equal access to jobs and functions (Article 35). It also provides for that the employed persons are entitled to fair remuneration (Article 36).

59. The Law on Employment and Insurance in Case of Unemployment (Official Journal of the RS, No. 71/2003) contains provisions on the introduction of the principle of equal access to jobs and equal treatment in the employment procedure. Furthermore, it prohibits discrimination, introduces the principle of objectivity and provides for the adoption and implementation of programmes and measures of active employment policy. The Convention is applied by guaranteeing equal access to jobs and equality of men and women in the employment procedure (Article 8); by stipulating that the national employment service and agency perform their tasks in an unbiased manner in relation to the person seeking employment and the employer (Article 9). The Law also makes provision for ensuring adequate participation of women in the implementation of programmes of active employment policy in case of an increasingly marked unemployment rate of women (Article 31).

60. However, practice has shown that there exist restrictions when it comes to the consistent application of the principle of equality of sexes in the exercise of the right to work as a consequence of the legal possibility for the employer to employ a person according to his own criteria. This is particularly true of the restrictions regarding the age and the possible use of maternity leave and leave of absence for caring for child.

61. On the average, women wait longer for employment than men irrespective of the level of education. This is explicable by different culture models and by the position of woman in society, but also by the orientation of women towards occupations being less in demand (culture, education, health, textile industry).

62. According to the statistical data, out of the total number of employed in the past ten years women accounted for 41.55 per cent on the average. However, there is a noticeable increase starting from 1992 onwards, so that the number of employed women in 2002 compared to 1992 increased by 8 per cent. On the other hand, the share of unemployed women in the total number of unemployed persons in the period 1992-2002 was 55.45 per cent on the average.

63. It is estimated that out of the total number of inhabitants in Serbia (7,498,001), 2,100,000 or 28.01 per cent will be employed in 2003, while 954,794 or 12.73 per cent inhabitants will be unemployed. Of the total number of men (3,645,930) 1,213,000 or 33.27 per cent will have a job and

436,956 or 11.98 per cent will be jobless. Of the total number of women (3,852,071) 887,000 or 23.03 per cent will be employed and 517,838 or 13.44 per cent will be without work.

64. The statistics shows that the share of university educated women in the total number of unemployed graduates is 58.2 per cent as well as that in all other levels of education the percentage of unemployed women is higher than that of men. Out of the total number of women waiting for a job, about 57.0 per cent of women have been waiting for employment more than two years, whereas 50.0 per cent of men are in that situation.

### **Article 3**

65. Besides the provisions of the Constitution of the FRY (Article 20) and the Constitution of the RS (Article 13) mentioned earlier, relating to the principle of equality of all citizens irrespective of any differences, Article 3 of the Charter on Human Rights referred to before providing for a general guarantee of equality should also be recalled.

66. The Charter on Human Rights also guarantees that the family, mothers and children enjoy special protection of society and of the member States (Article 39). The provision about special protection of the family, mothers and children is also contained in the Constitution of the FRY (Article 61). The Constitution of the RS foresees special protection of these categories of the population (Articles 28 and 29).

67. In addition to the known, previously established mechanisms for ensuring the implementation of these constitutional and legal provisions about equality of sexes (the courts, prosecution authorities), the Government of the Republic of Serbia adopted, in February 2003, a decision on the establishment of the Council for Equality of Sexes. This subject will be discussed in more detail later in this report.

68. Although there were several attempts to work out a national action plan for women, no appropriate document has been adopted so far at the State level. The aims of the document should be as follows: amendments to existing legislation; the passing of laws against gender discrimination; introduction of mechanisms for gender equality into the legal and political system; strengthening the economic standing of women; introduction of aspects of gender equality into all spheres of social life, in particular in the fields of health, education and the media; introduction of the principle of positive discrimination aimed at increasing the number of women in decision-making bodies and bringing about changes in the traditional attitudes as well as promoting the participation of women in public and political life.

69. The realization of these objectives requires a clearly expressed political will and support of all social factors as well as the cooperation of all government bodies and institutions, non-governmental and international organizations. Also, it is necessary to set up professional teams that will work out the details of the set objectives and work on ensuring adequate financial support for their realization.

70. In the FRY there existed the Commission of the Federal Government for Cooperation with UNICEF and Promotion of the Status of Women. However, like other similar commissions it ceased

to function after the adoption of the Constitutional Charter. The Commission's task was to monitor and point to the situation with respect to the social and economic status of women and to submit reports to the Federal Government, including appropriate proposals. Furthermore, the Commission was entrusted with the task of coordinating activities aimed at the achievement of the UN goals relating to the promotion of the status and role of women. The Commission considered periodic and other reports on the implementation of the Convention and the Nairobi Strategies to the UN and other organs and organizations within the framework of bilateral and multilateral cooperation in the field of the promotion of the status of women. It submitted to the Federal Government proposals relating to the participation of the FRY in programmes, projects and meetings organized by the UN and other international governmental organizations aimed at promoting the status of women.

71. Having in mind the competencies and the importance of the field covered by the Commission it is thought that the setting up of the appropriate coordinating body at the level of the State Union would be very useful and, in the opinion of some, even essential.

72. The National Assembly of the RS has, for its part, initiated the procedure for the setting up of the committee on equality of sexes. At the same time, the Ministry for State Administration and Local Government made a recommendation that councils for equality of sexes should be formed within the municipal assemblies, whenever possible. In cooperation with the OSCE the Ministry implemented in 15 towns of Serbia the pilot project "Introduction of a representative for women's questions at local government level". Within the framework of this project, centres for equality and equal opportunities for sexes were established in fifteen municipalities of Serbia in 2002. These centres are expected to concern themselves with questions related to women's rights, in particular discrimination with respect to work, the media image of woman, etc.

73. Within the Government of the Autonomous Province of Vojvodina there exists the Secretariat for Labour, Employment and Equality of Sexes. The Secretariat was established after the return to the AP of Vojvodina of certain competencies in this sphere at the beginning of 2002. This was done on the basis of the Law on the Determination of Certain Competencies of the Autonomous Province (Official Journal of the RS, No. 6/2002) and the Decision on Provincial Administration (Official Gazette of the APV, No. 21/2002).

74. The Secretariat is concerned with labour, employment and equality of sexes. As regards the of equality of sexes, the Secretariat cooperates with women from independent trade unions, NGOs, other associations and the media; participates in the setting of working groups for equality of sexes within the Executive Council (Government) of the AP of Vojvodina and within the assemblies of municipalities. It proposes the setting up of funds for crediting small enterprises to be headed by women under special conditions, prepares analytical and other papers for the Assembly and the Executive Council of the AP of Vojvodina related to the application of regulations in this field. It also cooperates with the organs and institutions of the Republic and the Province as well as with international organizations concerned with gender equality.

75. In its work the Secretariat, guided by the policy aimed at introducing European standards and mechanisms of equality of sexes and by the recommendations of the OSCE Mission to S&M,



formulates its own strategy. It includes the most important segments and problems facing women in countries in transition, i.e. strengthening the economic position of women, violence against women, education, support to women's NGOs and the promotion of the concept of equality of sexes in the AP of Vojvodina.

76. In this connection, the Secretariat started to work, in the first half of 2003, on the Declaration on Equality of Sexes and on the Decision on Equality of Sexes and both documents are expected to be adopted soon by the Assembly of the AP of Vojvodina. The purpose of the two documents, the starting basis of which are the Beijing Declaration and the Convention itself, is to better regulate the area of women's human rights in the territory of Vojvodina. The Council for Equality of Sexes (a body of experts set up within the Secretariat), the Committee on Equality of Sexes of the Assembly of the AP of Vojvodina, as well as a certain number of domestic experts provided significant support in the work on this task.

77. The Secretariat planned, for the latter half of 2003, the signing with the OSCE representatives of the Agreement on Cooperation relating, inter alia, to the designation of persons in the municipalities of the AP of Vojvodina to deal with questions pertaining to equality of sexes and equal opportunities. The objective of cooperation is to improve the work of the municipal organs by proposing persons sensitized to the question of equality of sexes and equal opportunities. Besides, work would be started on sensitizing workers in municipalities with respect to discrimination based on sex. Improvement of the capacity of their work from the viewpoint of equal opportunities at the municipality level would also be important. Within this project the Secretariat would financially support the work of persons and commissions tasked to work towards equality of sexes in seven municipalities.

78. The provincial ombudsman is an important mechanism in Vojvodina for the achievement of equality of sexes, being an independent and autonomous organ concerned with the protection and promotion of human rights and freedoms. The ombudsman protects human rights and freedoms in particular from violations on the part of the provincial or municipal administration, organizations and public services exercising administrative and public powers, whose founder is the Province. To that end, the ombudsman oversees the enforcement of the regulations in force, exercises control of legality, purposefulness and efficiency of the actions taken by administrative organs and may also engage in investigating the work of the administrative organs.

79. On the basis of the Decision on the provincial ombudsman of 23 December 2002, one of the five deputies of the ombudsman has been tasked to deal with equality of sexes. The deputy ombudsman's duties are to offer advice to the competent organs concerning regulations relating to equality of sexes and to keep these organs and the public at large informed about cases of violation of equality of sexes. Furthermore, the deputy ombudsman should examine submissions relating to discrimination based on sex and initiate institution of criminal, disciplinary and other proceedings with the competent organs in the event of discrimination based on sex. Finally, he should organize and participate in the programmes for education and upgrading the conscience about equality of sexes.

80. The University in Novi Sad completed preparations for the establishment of the University Centre for Gender Studies within the framework of the Association for Interdisciplinary and

Multidisciplinary Studies and Research (ACIMSI), starting from the academic year 2003/04. The Centre will organize courses in the field of gender studies at the postgraduate (two years) and specialist (one-year) levels.

81. Furthermore, Women's Studies as a specialized course in Belgrade and Novi Sad should be pointed out as a special activity. These studies are a part of the programme within Belgrade University. Within the subject of civic education in secondary schools in Serbia, gender sensitive subjects are studied as well. Also, in ten secondary schools a pilot project "Gender Equality in Schools" has been realized in cooperation with the Ministry of Education and Sports of the RS and NGOs. In addition, domestic and international non-governmental organizations ran a series of courses entitled "Women Can Do It 1 and 2" aimed at furthering the status of women, in particular in the domain of economic and political rights.

82. Although the media have no permanent programmes dealing with questions of the status of women, media footage, specialized programmes and sections concerned with these problems are numerous. Also, specialized women's magazines are published on a regular basis. Many successful promotional campaigns have been organized against domestic violence, in favour of economic equality, against trafficking in women, in favour of the introduction of mechanisms for gender equality, etc. Internet presentations, printed booklets, brochures and various promotional materials were prepared. However, the picture of woman in the media is still stereotyped, misogynous and discriminatory, whereas the Government is under no obligation to respond in cases of discrimination against women in the media.

#### **Article 4**

83. As already said before, the existing legislation makes no distinction between men and women in the exercise of rights and fulfilment of obligations provided for. However, it does not mean that there do not exist in practice certain forms of concealed gender inequality as a result of the tradition in respect of the role of sexes in society. Bearing this in mind, the relevant government organs, as well as the civil sector, have been making efforts aimed at grasping better the role of women in modern society and the problems facing them. Attempts have equally been made to ensure the full application of the existing legal regulations, but also to additionally protect women and, through them, children as well.

84. To that end, the Government of the Republic of Serbia set up the Council for Equality of Sexes (Official Journal of the RS, No. 24/2003), an independent government body comprised of prominent public and political figures and professionals. The tasks of the Council in achieving gender equality are to consider and propose measures for the promotion of policies and strategy for encouraging equality of men and women. The Council proposes short-term measures to the Government and takes actions aimed at the achievement of equality of sexes and evaluates the effects of these measures afterwards. The Council gives initiatives for the adoption of programmes of gathering, processing and publishing of statistical data (gender-sensitive statistics) with a view to ensuring equal treatment of genders.

85. A highly important activity of the Council should be considering whether the laws in force are in conformity with the basic international conventions and other documents on human rights of women, as well as setting standards and establishing mechanisms for the achievement of equality of genders. The Council should propose to the Government amendments to the laws by which possible perceived discrepancies are to be eliminated. Promoting the introduction of the principle of equality of genders into all activities of the Government of the RS and the activities of public administration should be an important segment of the Council's activity. Also, this activity should include initiating programmes of education of civil servants aimed at preventing gender stereotypes.

86. However, despite the well-conceived activity the Council has not, unfortunately, held the constitutive meeting so that it has not officially started to function. Nor have the appointments of experts and women experts for this body been confirmed.

87. At the same time, on a broader social level numerous measures are being taken for the protection of women during pregnancy and maternity as well as for health care and safety of women at work in general. These measures are based on the Charter on Human Rights (Art. 5). It allows temporary introduction of special measures needed for the achievement of equality, special protection and prosperity of a person or a group of persons in an unequal position in order to enable these persons to fully enjoy human and minority rights under equal conditions. These measures may be applied only until the achievement of the set objectives.

88. The Law on Financial Support to the Family with Children (Official Journal of the RS, No. 16/2002) introduced a new measure of once-only support to the family and of parents' allowance (Arts. 14-16) with a view to increasing the effectiveness of the country's population policy. The mother receives this allowance for the layette of the newborn baby for her second, third and fourth child under the conditions determined by this Law. In case of the mother not being alive, of abandoning her child or of being prevented for justified reasons from taking care of her child herself, the father is entitled to realize this right instead of the mother. However, although the legislator was undoubtedly guided by good intentions, the provisions of the Law are, on the one hand, discriminatory in terms of support for the first child and, on the other, represent an example of a passive measure of a population policy that has not produced desired results.

89. Wage compensation during maternity leave, leave of absence for caring for the child or leave of absence for taking special care of the child (Arts. 10-13) is foreseen by the Law as a measure of financial support to the family aimed at making easier harmonization of work obligations and parenthood. The compensation amounts to 100 per cent of the wage. The wage compensation during maternity leave is taken advantage of only by women and expectant mothers, while the other two rights may also be exercised by men, i.e. fathers, under the conditions provided for by the said Law.

90. The Law on Social Protection and Social Security of Citizens (Official Journal of the RS, No. 36/91) provides for the right to a shelter in a welfare institution. The right may be taken advantage of by expectant mothers or self-supporting mothers with babies of up to nine months old who are in need of temporary shelter because of a lack of financial means, of a proper dwelling or because of disturbed family relations. During the stay in a temporary shelter, social services extend

professional assistance and support to expectant mothers or self-supporting mothers in eliminating the causes due to which the right to temporary shelter is exercised (Art. 37).

91. The Law on Pension and Disability Insurance (Official Journal of the RS, No.34/2003) ensures a more favourable status of women compared to that of men through the provisions that regulate:

- conditions for acquiring the right to old-age pension (Art. 19) – women at the age of 58 (men at the age of 63);
- conditions for acquiring the right to family pension or survivor's benefit (Art. 29) – a widow acquires this right if until the death of her husband she reached the age of 48 (53 for men);
- special privilege (Art. 60) – an insured woman who gave birth to her third child acquires additional two years on account of length of service;
- method of determining the amount of old-age and/or disability pension (Art. 69); it is provided for that, to determine the amount of old-age pension of a woman, the number of her years of insurance is increased by 15 per cent (not foreseen for an insured man).

According to the Law on Social Protection and Social Security, women over 60 and men over 65 years old are considered unable to work (Art. 14).

92. The same criteria are also applicable to determining the amount of disability pension. In this way it has been made possible for an insured woman to acquire the same amount of pension as an insured man although she has fewer years of insurance.

## **Article 5**

93. Despite the fact that the existing legislative-legal system is based on full equality of men and women, practice has shown that the traditional social perception of the role of women and their place in society still persists. Such a perception that is not in favour of women assumes diverse forms of which some have a direct influence on its persistence.

94. Compared to certain studies of the value systems contained in the textbooks made at the beginning of the 1990s, more recent research into the matter is concerned more explicitly with the gender dimension in the contents of the textbooks for elementary school. The research work entitled *The Value System of Elementary School Textbooks of 1990* was devoted to the gender inequality dimension within the consideration of the equality-inequality dimension in textbooks. The authors maintain that relations between the sexes (genders) are not much talked about, i.e. that the textbooks support equality explicitly, while suggesting implicitly that the woman is a “weak creature that needs to be protected”. The picture of the social world in the textbooks portrays women as less real beings than men because the presented range of activities they are engaged in is much narrower.

95. In this context, mention should be made of the teaching of religion as an elective subject, as well as of the fact that the Ministry of Education and Sports of the RS has no influence on or control of the contents of the textbooks or curricula of religious instruction. According to some women’s non-governmental organizations, the analysis of the textbooks of religion points to the existence of

discrimination, encouragement of stereotypes and a patriarchal model of male-female relations, which is realized precisely through religious instruction. For example, according to the patriarchal model abortion is murder, girls should grow into exemplary mothers and wives, subordinated to husband physically and mentally, obey him without objection, etc.

96. The initial research into elementary school textbooks carried out by the Centre for Anti-War Action and the MOST Group during 1993 has shown that the patriarchal social model of male-female relations continued to persist in the textbooks at that time. The girls are mainly portrayed in jobs that imply responsibility, helpfulness and compassion (bringing food to bed-ridden granny, visiting injured friends in hospital). These roles correspond to the traditional perception of female qualities (responsibility, charity).

97. Besides, the invisibility of some other roles contributes towards the prejudice of inferiority of women in sports activities, technical knowledge or aptitude for certain professions. More precisely, the number of occupations in which women are resented is very limited. The primary reader for the first grade of the elementary school shows male characters appearing in many professions – school teachers, photographers, basketball players, hunters. On the other hand, there is only one female profession, that of teacher. Some other roles pertaining to women can only be found in mythical personages from folklore tradition.

98. Another detail confirms gender imbalance present in textbooks for the first four grades of elementary school. According to research the number of women writers of textbooks for elementary school is extremely incommensurate. The average number of texts in any reader authored by women accounts for 2.87 per cent. This fact probably has a bearing on other data.

99. Another analysis entitled Typical Male and Female Character in textbooks Nature and Society (from the first to the fourth grade) deals with stereotypes following illustrations in textbooks for the said grades. The conclusion reached is that the characters of boys and girls appear equally frequently (except in textbooks for the second grade, where boys account for 58.52 per cent). However, the pattern of all illustrations is not balanced.

100. Illustrations of sports activities do not show girls participating in sports activities (i.e. they are not shown training for a specific sport) except in some free activities (rope skipping, playing badminton, swimming in river). Boys are, on the contrary, shown playing soccer, surfing, etc. Besides, boys are often shown as the only man in a female group whereas there is almost no case to the contrary, i.e. of a single girl in the company of boys.

101. The division of household activities shown in illustrations clearly follows the line of division according to gender, i.e. girls and their mothers are shown doing everyday household chores (dish washing, cooking, table setting), whereas boys are shown doing occasional household jobs (fixing things, taking out rubbish, beating rugs).

102. Female characters predominate in illustrations showing emotional relationship (most frequently love towards mother) and in decorative illustrations (pictures serving to fill or embellish empty

space). The style of clothes of personages in textbooks speaks not only of their anachronistic appearance but also of gender stereotyped choice of colours, clothes, etc.

103. The imbalance in the number of male figures in comparison with female ones in illustrations is as follows: women account for 30 per cent and men for 70 per cent in textbooks for the first and third grade, 10 per cent and 90 per cent for the fourth grade, respectively. The most frequent roles of the figures are the role in the family, professional, hobby, historical-mythical roles or “faces from the crowd”. A half of all male roles are professional roles while a half of all female roles are “faces from the crowd”. One-third of all female roles are those connected with professions. There are no female figures in activities associated with hobbies. The male is predominant also in the presentation of historical-mythical roles. As far as family roles are concerned, 25 per cent of all female figures belong to this category and only 7.11 per cent of male figures.

104. The structure of presented occupations in textbook illustrations has also been analyzed. Women have mostly been presented as peasant women (men as well). The next most frequent illustrations are those of post-office clerks, teachers and factory workers, librarians, nurses and physical therapists. The list of “male” occupations is more varied than that of female occupations. Besides, in the same fields of work, for example in medicine, men are presented as doctors and women are shown as nurses. The same hierarchy (men perform key or executive jobs while women are engaged in supporting jobs) is present also in illustrations of other occupations. All active, principal and intellectual roles are presented as male roles, whereas the roles of observers and supporting roles are those of women.

105. There is no systematic concern for family planning in the textbooks used so far. This is equally true of elementary and secondary schools.

106. In the general attitude toward reformed compulsory education, medical knowledge that pupils are expected to master is the closest to the problem of “family planning”. In the General Bases of School Programmes it is noted that upon completion of compulsory education pupils will gain knowledge about AIDS and sexual diseases and modes of prevention. This sphere of learning is to be covered by subjects such as mathematics, natural sciences and technology.

107. In the previous programmes the gap between the real and the abstract based on ideology has always been noticeable. Although the problem of family planning has not been dealt with systematically, the discourse about the family has been present from the very beginning of elementary school education. Still, the picture of the family was mainly stereotyped. The texts in the textbooks (from the first to the fourth grade of elementary school) stick to only one family model (two parents and brother and/or sister).

108. In the curricula for the reformed first grade of compulsory elementary education expected to be applied in the 2003/04 school year, almost all curricula of the schools listed in the register, mention the family is an obligatory theme covered by the subject The World Around Us. In this way, the possibility has been given to rid the discourse about the family of ideology in the first cycle of

elementary education. This change could be the way to approach family planning more purposefully in higher grades of elementary compulsory and secondary education.

109. The objectives and outcomes for general secondary education, within the framework of the educational field covering humanities and philosophy, the following is said: “Upon completion of general secondary education the pupil will respect gender equality (equality of sexes)”. This can be considered a segment expected to offer pupils knowledge in the area of family life as well.

110. Some state secondary schools organize advisory centres for reproductive health concerned with “things that interest pupils in the sphere of falling in love and health”. This implies the possibility of being supplied with contraceptives, diagnostics of sexually transmissible diseases, etc. The themes chosen to be dealt with in one week are mentioned below as an example:

- Communication: What is it all about
- How to find one’s place in society: friendship, popularity, leadership
- Being in love, love, dating: What does it mean to “control” one’s emotions and how to do it.

111. The Law on the Protection at Work provides for that women are fully equal with respect to the right to secure working conditions at work places and/or while doing assigned jobs. The Law makes no division of jobs nor have certain jobs been divided into “male” and “female” ones. However, attention should be drawn to the fact that no separate law on the protection from sexual harassment and blackmail has been adopted as yet. Even though harassment and blackmail are one of the most serious forms of discrimination against women, in particular in the conditions of privatization and transition of society and the economy.

112. Women and men are fully equal in the family legislation of the Republic of Serbia with respect to personal and property rights, which stems from the broader constitutional principle of prohibition of any form of social discrimination.

113. Equality exists in matrimonial relations and relations to joint children. Equal status of men and women is also ensured with respect to guardianship, adoption and support. The principle of equality of men and women applied to parental relationship means the principle of equality of parents. Both parents have equal rights and duties, i.e. they have equal mutual legal position and vis-à-vis third persons. Parental rights and obligations belong to father and mother in common. If one parent dies or is not in a position to exercise parental rights and duties, the other parent will exclusively exercise the parental rights and duties, except in situations when it is not in the best interest of the child.

114. In the event family breaks down, the court decides who will have custody of children if marriage is involved. In the case of common law union, the competent guardianship authority takes the decision. In both cases, even if there is agreement between the parents, and in particular when there is no such agreement, the guardianship authority will assess the needs and the best interests of the child, in accordance with the established procedure. The guardianship authority will then propose solution to the court (in case of marriage) or will take the decision itself (common law union) as to which parent will be given the custody of children.

115. The sex of the parent is not of crucial importance for the decision, but rather the needs and interests of the child. Only in special cases may the sex of the parent be taken into consideration (for instance, when the interest of the child, because of its extremely young age, to be given to the mother).

116. The Ministry for Social Questions of the RS prepared a Draft Family Law. It is proposed that all decisions as to who the children will live with after their parents' separation or divorce will be taken by the competent court in the future (fully in conformity with the obligation from the UN Convention on the Rights of the Child, Article 9).

117. In the past few years, primarily thanks to the activities of women's non-governmental organizations and agencies, significant efforts have been made to approach the problem of domestic violence in an organized manner. As the result of these efforts, the Penal Code of the RS has been modified so that domestic violence has been made punishable.

118. The Law on the Amendments to the Penal Code of the RS (Official Journal of the RS, No. 10/2002) added a new Article 118a that defines the new criminal act of domestic violence. It reads as follows:

(a) Anyone who, by the use of force or by serious threat against the life or the body, harms or threatens the bodily or mental integrity of a member of family shall be fined or punished with a prison term of up to three years.

(b) If, in committing the act referred to in paragraph 1 of this Article, a weapon, dangerous instrument or a means suitable to seriously injure the body or to gravely harm health, has been used, the perpetrator shall be punished with a prison term of six months to five years.

(c) If a serious bodily harm or a lasting and grave impairment of health of a family member was inflicted due to the commission of the criminal act referred to in paragraphs 1 and 2, the perpetrator shall be punished with a prison term of two to ten years. The same punishment is provided for if the criminal act was committed against a minor.

(d) If, due to the commission of the act referred to in paragraphs 1 and 2 of this Article, a family member died, the perpetrator shall be punished with a prison term of at least ten years.

119. Numerous women's non-governmental organizations focus their activities on the achievement of equality of men and women, while campaigns against domestic violence, especially violence to women, are also an important activity.

120. In 2002, the Ministry for Social Affairs of the RS supported work on the project entitled "Interventions for the Suppression of Domestic Violence" initiated by the City Centre for Social Work - Centre for Marriage Counselling and Family, Belgrade. The Ministry also supported the project "For a Life without Fear – cooperation with relevant institutions in the setting up of mechanisms for monitoring and intervening in cases of domestic violence" sponsored by the



non-governmental organization called the Autonomous Women's Centre and by the City Centre for Social Work, Belgrade. The projects included education and training of professionals working in social services, i.e. centres for social work (social workers, psychologists, lawyers and pedagogues) and other appropriate services (internal affairs). The objective was a more efficient work, acquiring of necessary skills and a more adequate social response to domestic violence. Within the said projects, Safe Home for Victims of Domestic Violence has been opened. The implementation of the projects was covered by adequate media campaign.

121. Protection of children from sexual exploitation is ensured through penal legislation. The Penal Code of the FRY defined the criminal act of pander which is committed by whoever procures, induces or encourages female persons to practice prostitution or whoever participates in any way in handing over a female person to another in order to have her practice prostitution. A more serious punishment is provided for if the act has been committed against an underage girl. It is also punishable to sell or to present or to make accessible by publicly showing or in some other way to a person under the age of 14 a written text, a picture, an audiovisual or other object with pornographic contents or to present a pornographic show. (Articles 251 and 252).

122. The Law on Amendments to the Penal Code of the RS defines a range of criminal acts against the dignity of a person and against morality. It also includes, as separate criminal acts or as more serious forms of basic criminal acts, various forms of sexual abuse and sexual violence against children. The protection of minors from sexual violence is particularly emphasized by qualified forms of general sexual crimes, thus reflecting the awareness of the need for reinforced penal-legal protection of minors from these criminal acts.

123. Article 103 of the Penal Code of the RS provides for a prison term of at least five years for the perpetrator of the basic criminal act of rape, if coercion to sexual intercourse of a female person, with the use of force or threat of a direct attack on the life or the body, was committed against an underage person or if death occurred as the consequence of the perpetration of such act. This protection is applicable only to an underage female person.

124. Coercion to sexual intercourse or unnatural carnal knowledge (Article 104 of PC of the RS) incriminates sexual intercourse (with a female person) and unnatural carnal knowledge (with a female or male person) with the use of coercion. It relates to the criminal act committed by several persons, or in a particularly cruel or degrading way, or against a minor who has reached the age of 14, or the consequence of which was pregnancy or a serious contagious disease. The punishment for this criminal act is a prison term of at least three years.

125. Sexual intercourse or unnatural carnal knowledge with an infirm person (Article 105 of the PC of RS) includes the criminal act committed by several persons, or committed in a particularly cruel or degrading way, or against a person who has reached the age of 14, while taking advantage of the existence of mental illness, temporary mental disturbance, infirmity or a similar condition. The punishment for this criminal act is a prison term of at least five years.

126. Sexual intercourse or unnatural carnal knowledge with a person who has not reached the age of 14 (Article 106 of the PC of the RS) entails penalties ranging from one to ten years. In case of the death of an underage person as the consequence of such act, a prison term of at least ten years is provided for.

127. Incrimination of sexual intercourse or unnatural carnal knowledge by abuse of the official position (Article 107 of the PC of the RS) protects underage persons from sexual abuse by a teacher, educator, guardian, adopter, stepfather or other person (para-incestuous type) who, by abusing their position, perpetrate sexual intercourse or unnatural carnal knowledge with a minor over the age of 14, who is in their custody for the purpose of education, upbringing, guardianship or caring for. The punishment provided for is up to ten years.

128. Incrimination of seduction (Article 109 of the PC of the RS) protects an underage female person who has reached the age of 14 from being enticed into sexual intercourse by false promise of marriage. The penalty provided for is a prison term of up to three years.

129. Coercion to unnatural carnal knowledge (Article 110 of the PC of the RS), if committed against a minor over the age of 14, or if the death of the coerced person occurred as the consequence thereof, represents a qualified form of this criminal act. The punishment provided for is a prison term of at least five years. Coercion to unnatural carnal knowledge committed against a male underage person who has reached the age of 14 is punishable with an imprisonment of up to one year.

130. Procurement or enabling the commission of unnatural carnal knowledge (Article 111 of the PC of the RS) against a minor is punishable with imprisonment of up to five years (paragraph 1). A prison term of up to three years is foreseen for a perpetrator who makes possible the commission of unnatural carnal knowledge against a minor (paragraph 2). The same penalty is foreseen for the perpetrator who, for a reward, procures a female person or who enables the commission of unnatural carnal knowledge for reward (paragraph 3).

131. The Law on Public Peace and Order of the Republic of Serbia (Official Journal of the RS, Nos. 51/92, 53/93, 67/93, 48/94) provides for in its Article 14, paragraph 2, that persons who make available premises to an underage person for practicing prostitution will be punished with imprisonment of up to 60 days. Under Article 20 of the same Law, a parent or guardian of an underage person, who commits violation referred to in Articles 6 to 19 will be fined or punished with imprisonment of up to 30 days. The penalty is applicable if the committed violation is the consequence of his/her omission to exercise due supervision of the underage person and if he/she is in a position to exercise such supervision.

132. The penal legislation in force also incriminates common law union with an underage person. A person who enters into such union with an underage person who has reached the age of 14 will be punished. Furthermore, a parent, adopter or guardian who allows an underage person (over the age of 14) to live in a common law marriage with another person, or who entices a minor into it, will be punished. The sanctions are more rigorous if the act has been committed for gain (Article 115 of the PC of the RS).

133. The criminal act of incest, i.e. sexual intercourse with a consanguineous relative in a direct line or with brother or sister, also falls into this category (Article 121 of the PC of the RS).

134. Systematized and consolidated specific data on the number of children victims of sexual exploitation are not available in the Republic of Serbia. The setting up of the specialized teams for the protection of children from abuse in two health care institutions in Belgrade – Institute for Mother and Child and the Institute for Mental Health. These teams make specialized medical, psychiatrist and forensic assessments and intervene in cases of neglected or abused children and their families, and also include treatment of sexually abused children. In the past two years, the number of cases of abused children registered by the team in the Institute for Mental Health increased 7.5 times compared to the preceding period.

135. A most important move with respect to the existing stereotypes in the perception of marital and family relations was made in February 2002. Namely, the already mentioned fundamental changes in the Penal Code of the RS were made consisting in new incriminations, i.e. introduction of the criminal act of domestic violence (Article 118a) and the amendment to Article 103 of the same Law (rape) which incriminated marital rape.

136. When speaking of domestic violence, until March 2002, when Article 118a was introduced into the PC of the RS incriminating domestic violence, there was no special Article in the legislation that would regulate the question of responsibility of persons jeopardizing members of their family in any way. Until the introduction of Article 118a, domestic violence was sanctioned by Article 6 of the Law on Public Peace and Order of the Republic of Serbia. The Article related to noisy row (domestic disturbance), endangering of the safety of another by threat, insult or abuse of another, violence against another, or by involving a social worker in the solution of family problems.

137. Changes in the PC of the RS in April 2003 incriminated sexual abuse as a criminal act (Article 102a), as well as the criminal act of trafficking in people (Article 111b) in view of the fact that the perpetration of these criminal acts by and large affects women.

138. However, despite penal-legal incrimination of domestic violence, in particular sexual abuse, it is estimated that the number of these criminal acts is still considerable. The victims of domestic violence, as well as persons who are aware of it, seldom decide to report it to the enforcement authorities because families are still rather closed, because of fear from revenge or the impossibility of adequate looking after the victim (economic dependence, housing problem, etc.).

139. No legal mechanisms for the protection of victims from family tyrants (even when violence has been brought to light and reported) have been devised yet, because of a lack of the protective measure of removal of the tyrant from the family, prohibition of his approach to the family, etc.

140. According to the data of the Ministry of Internal Affairs of the Republic of Serbia (hereinafter referred to as the MUP RS), in the period 1992 - June 2003, 241,094 criminal acts were committed against women. This accounts for 17.5 per cent of the total number of crimes of a general character committed in that period. The largest number of these criminal acts were committed in 1992 (25,844)

and the lowest number in 1999 (15,087). The most marked fall in the number of criminal acts against women was registered in 2002, when 17,227 criminal acts to the detriment of women were committed or 24.2 per cent less than in the preceding year (22,730).

141. The largest number of criminal acts committed against women falls within the group of criminal acts against property (78 per cent) among which the largest number are aggravated larcenies – 93,145 or larcenies – 56,593. They are followed by the criminal acts against traffic safety (13.4 per cent), criminal acts against life and the body (3.0 per cent), among which there are 2,486 criminal acts of grave bodily injuries and 1,139 murders or attempted murders. The criminal acts against the dignity of the person and morals account for 2.2 per cent among which cases of rape or attempted rape account for 2,763.

142. In the period from the coming into force of the amendments to the PC of the RS in February 2002 to the end of June 2003, 831 criminal acts of domestic violence referred to in Article 118a of the said Law were committed.

143. In all cases of criminal acts committed to the detriment of women, in particular when the gravest criminal acts against life and the body and against the dignity of the person and morals are involved, the MUP RS took strong measures aimed at identifying and apprehending the perpetrators. In the period from 1992 to June 2003, the measure of deprivation of liberty was taken against 3,901 perpetrators. The measure of temporary arrest (which was abolished in 2001) was taken against 6,588 persons, whereas the measure of detention introduced by the Criminal Procedure Code (which came into force in March 2002) was pronounced against 640 perpetrators.

144. In order to fight more efficiently against all forms of sexual coercion and abuse of women, the tasks relating to the suppression of sexual crimes have been clearly defined within the framework of the MUP RS. Organizationally these tasks fall within the competence of the homicide departments. The work and procedures of the MUP RS are characterized by equal treatment of all women victims of criminal acts, which also relates to the problems of domestic violence and sexual coercion and abuse of women. The organs of internal affairs take adequate measures and action to elucidate each reported and established criminal act the victims of which are women.

145. The films and/or magazines containing violent scenes or which are sex offensive represent, according to our penal legislation, a criminal act defined as presentation of pornographic material (provisions of Article 252 of the PC FRY). Pursuant to the provisions of Article 111a of the PC RS, i. e. to the latest amendments of April 2003, the exploitation of underage persons for pornography is incriminated and defined as a separate criminal act.

## **Article 6**

146. In December 2000, the FRY signed the UN Convention on Transnational Organized Crime and Protocols Additional Thereto (Protocol for the Prevention, Suppression and Punishment of Trade in People, in particular in Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air. The Convention and the Protocols thereto were ratified in June 2001.

147. Until April 2003, i.e. until the amendments to the PC RS, the criminal act of trade in people was not defined. Until then the PC FRY provided for the criminal act of the prohibition of slavery, in its Article 155, as supplemented by paragraph 3, in 1990, in order to fight forcefully the newly emerged trade in children:

“Whoever violates the rules of international law and places another into a position of slavery or a similar position or keeps him/her in such a position, buys, sells, hands him/her over to another person or acts as a go-between in the purchase, sale or handing over of such a person, or incites another to sell his/her freedom or the freedom of a person that he/she supports or in respect of which person he/she acts as a guardian shall be punished with a prison term of one to ten years. Whoever transports persons in a position of slavery or a similar position from one country to another shall be punished with imprisonment of six months to five years.

Whoever commits the act referred to in paragraphs 1 and 2 of this Article against an underage person shall be punished with a prison term of at least five years”.

148. The object of incrimination under this Article is not only slavery as such, but also debt bondage; servitude; sale of a female person by her family; sale or ceding without compensation of an underage person by his/her parents or guardian for the purpose of exploitation. Other forms of servitude similar to slavery also fall in this category.

149. Aware of the danger inherent in human trafficking as a modern form of organized crime, the FRY supported by the OSCE Mission set up in 2001 a Yugoslav Team for the Prevention and Suppression of Trade in People (primarily trade in women and children). The following year it was transformed into the National Team of the Republic of Serbia for the Prevention and Suppression of Trade in People. It is made up of representatives of all relevant government institutions, domestic non-governmental organizations that have long been concerned with these problems and of representatives of international organizations. The task of the Team is to prepare a national strategy for the prevention, suppression and punishment of the perpetrators of the criminal act of trade in people and to provide assistance to the victims of trafficking.

150. Within the activities of the National Team, separate groups of tasks have been singled out associated with the questions of the prevention and punishment of the perpetrators of the criminal act of trafficking in persons and providing of assistance to and protection of victims, especially if children are the victims.

151. The tasks pertaining to the prevention of trade in people consist of several segments:

- Raising the awareness of the population and especially vulnerable groups (secondary-school youth, children in institutions of social protection) of this phenomenon through lectures, workshops, round tables, panel discussions, public hearings;
- Training of professionals of all profiles likely to come in contact with potential victims;
- Printing of materials and brochures with appropriate contents and posters;

- TV videos;
- Radio and TV programmes on the subject.

152. The following government agencies and NGOs are entrusted with the tasks referred to above: the Ministry of Foreign Affairs of Serbia and Montenegro, the MUP RS, the Ministry of Education and Sports of the RS, the Ministry of Labour and Employment of the RS, the Ministry for Social Affairs of the RS, centres for social work, institutions of social protection (homes for children without parental care) and non-governmental organizations (Astra, Beosuport, the Victimological Society of Serbia).

153. Numerous courses attended by the members of the National Team, the participants in the network of non-governmental organizations across the territory of the Republic of Serbia, a considerable number of members of the MUP RS, prosecutors, judges, professionals concerned with family-legal and social protection represent the results achieved so far.

154. The institutions charged with the task of directly working with vulnerable groups, i.e. Astra and Beosuport, organized a large number of lectures and workshops attended by youngsters (from secondary schools and homes for children without parental care).

155. Printed material has been provided (by Astra with the support from donors) and is available to the wide range of vulnerable populations. A number of TV videos have been shot with a prospect of shooting more of them and being shown more often (Astra in charge). The documentary entitled "Human trafficking up close", shot after appropriate research into this phenomenon, was shown at the International Festival of Documentary Films in Belgrade in 2002 (Beosuport in charge). A civic initiative has been taken for the adoption of a national plan of fighting against sexual exploitation and trafficking in young people, which should soon be before the deputies of the National Assembly.

156. The second set of tasks pertains to the police, prosecutor's offices and courts.

157. The third set of tasks relates to the protection of and assistance to the victims of trafficking in people. The Ministry for Social Affairs of the RS, the non-governmental organization the Advisory Council against Domestic Violence, Astra, the Victimological Society of Serbia, the Ministry of Health of the RS are in charge.

158. Among the results of the activity of this group are: the opening of the SOS telephone line for the victims of human trade (Astra in charge) and the setting up of a Safe Home for Victims of Human Trade, in February 2002. It is directed by the Advisory Council against Domestic Violence and funded by the Government of Austria. At present it is the only shelter of this kind. In addition to providing for women victims of trafficking, underage girls who happen to be in the territory of the Republic of Serbia as victims of trafficking in people are also offered accommodation. So far 88 foreign and 8 citizens of S&M have stayed in the Safe Home. The International Organization for Migration took upon itself to organize the return or repatriation of the victims to their country of origin.

159. The setting up of the Centre for Guidance and Advice is under way. It will pursue its activity under the Ministry for Social Affairs of the RS. It is expected that the Centre, as a joint project of OSCE and the Ministry for Social Affairs, will start to function before the end of 2003. The Centre will have the role of coordinator in the procedure of identification of and assistance to the victims of human trade.

160. However, the most important result of the mentioned numerous social activities aimed at preventing and combating various forms of violence against women, which often includes violence against children, are the latest amendments to the PC RS adopted in April 2003. The amendments to the PC RS introduced the following two separate criminal acts related to the protection from sexual abuse (Article 102a):

"Whoever sexually abuses another or brutally violates the dignity of his/her person in the sphere of sexual life shall pay a fine or be punished with imprisonment of up to six months.

Whoever commits the criminal act referred to in paragraph 1 of this Article by abusing his position in relation to a person who is in a position of some kind of servitude or dependence shall be punished with imprisonment of up to one year.

The criminal acts referred to in paragraphs 1 and 2 of this Article shall be prosecuted on the basis of a charge brought privately."

The criminal act, i.e. trafficking in people (Article 111b), including sexual exploitation of women and underage girls:

(a) Whoever by the use of force or threat, by misleading or keeping misled, by the abuse of authority, trust, relation of dependence or a difficult situation of another: recruits, transports, transfers, hands over, sells, buys, mediates in resale or sale, hides or keeps another person with the aim of acquiring some gain, exploiting that person's work, having him/her engage in criminal activity, prostitution, begging, used for pornographic purposes or of depriving that person of a part of his/her body for the purpose of transplantation or for the use in armed conflicts, shall be punished with imprisonment of one to ten years.

(b) If the criminal act referred to in paragraph 1 of this Article has been committed against several persons, by abduction, during the discharge of official duty, within a criminal organization, in a particularly cruel or a particularly degrading way, or if a grave bodily injury has been inflicted, the perpetrator shall be punished with imprisonment of at least three years.

(c) If the criminal act referred to in paragraph 1 of this Article has been committed against an underage person or in case of the death of the harmed person, the perpetrator shall be punished with imprisonment of at least five years.

(d) The criminal act referred to in paragraph 1 of this Article committed against a person under the age of 14 shall be punished with the penalty stipulated for this criminal act even if the perpetrator did not use force, threat or some other listed modes of the perpetration thereof.

161. The introduction of Article 111b has been initiated by the UN Convention against Transnational Organized Crime and by the Protocol for the Prevention, Suppression and Punishment of Trade in Human Beings, in particular in Women and Children, supplementing the said UN Convention. The Protocol defines more precisely the notion of trafficking in human beings. The definition from the Protocol has been almost entirely incorporated in Article 111b of the PC RS.

162. Before the introduction of Article 111b the phenomenon of sexual exploitation of women, i.e. “trade in white slaves”, was sanctioned by the application of a number of provisions of criminal legislation, namely each Article incriminated individual phases of trade in people. The adoption of this Article came as the consequence of the perception that trade in people, in particular in women and children, for the purpose of sexual exploitation goes beyond the borders of one country, i.e. that it assumes the form of international organized crime.

163. The victims of trade in people, before reaching the place (country) in which they were coerced to practice prostitution (sanctioned by the criminal act of mediation in practicing prostitution referred to in Article 251 of the PC FRY/BPC), used to come through illegal channels crossing the state border illegally. (Sanctioned by the criminal act of illegal crossing of the state border referred to in Article 249 of the BPC). For this purpose forged passports were used (sanctioned by the criminal act of forged passport referred to in Article 233 of the PC RS). During illegal transfer women were closely guarded (sanctioned by the criminal act of unlawful deprivation of freedom referred to in Article 63 of the PC RS and the criminal acts of establishing relationship of slavery and/or of transporting a person in a relationship of slavery referred to in Article 155 of BPC).

164. The regulations in force have not legalized prostitution and practicing it is punishable as a minor offence, whereas mediation in practicing prostitution is sanctioned as a criminal act (Article 251 of the BPC).

165. As pointed out earlier, prostitution is incriminated as a minor offence under Article 14 of the Law on Public Peace and Order of the Republic of Serbia. Article 14 provides for responsibility for minor offence of the offender (person practicing prostitution and/or providing sexual or homosexual services for pay), as well as of the persons making available premises for practicing prostitution. Persons caught in the act of practicing prostitution or persons making available or hiring premises for the performance of the act of prostitution will be punished with 30 days' imprisonment. Whoever makes available premises to an underage person for practicing prostitution will be punished with 60 days in prison.

166. However, the Law on Minor Offences does not deal in this segment with the way in which persons become addicted to prostitution, i.e. whether force, threat, blackmail or any other form of coercion has been used against them due to which they are forced to practice prostitution.



167. In the period from 1992 to 2003, a total of 1,710 cases of the offence of practicing prostitution or making available premises for practicing prostitution referred to in Article 14 of the Law on Public Peace and Order of the RS were registered (1992 – 11; 1993 – 13; 1994 – 40; 1995 – 24; 1996 – 63; 1997 – 100; 1998 – 192; 1999 – 114; 2000 – 63; 2001 – 165; 2002 – 637; six months of 2003 – 288) for the purpose of committing minor offences by persons under the age of 14 (5); from 14 to 16 years (10); from 16 to 18 (66) and over 18 (1,629) or 95.2 per cent.

168. In the period from 1992 to June 2003, a total of 241 criminal acts of mediation in practicing prostitution referred to in Article 251 of the BPC have been registered in the territory of the Republic of Serbia (1992 – 2); 1993 – 0; 1994 – 2; 1995 – 8; 1996 – 16; 1997 – 10; 1998 – 10; 1999 – 15; 2000 – 15; 2001 – 42; 2002 – 76; 2003 – 45. Altogether 20 criminal acts are those referred to in Article 251, paragraph 2 of the BPC, i.e. criminal acts committed against an underage female person by the use of force, threat or deception (1994 – 1; 1996 – 2; 1998 – 2; 2000 – 3; 2001 – 3; 2002 – 8; 2003 – 1). During the period under review one criminal charge was brought for the criminal act of showing pornographic material referred to in Article 252 of the BPC (2001).

169. Significant results in suppressing prostitution were achieved in the course of 2002. In the territory of Belgrade alone, 38 criminal charges were brought against 58 persons for the criminal act of mediation in the practicing of prostitution and 33 criminal charges against 52 persons for organizing the practicing of prostitution through the so-called escort agencies (“Madonna”, “Angels”, “Millennium”, etc.). At the same time, thanks to the police action further advertising in the media of the services of these agencies and of the services of prostitutes was prevented.

170. According to the Secretariat of the MUP RS, Belgrade, about 600 prostitutes have been registered, which indicates that the number of persons practicing prostitution is rather large and that it is impossible to suppress prostitution completely through legal measures and measures of repression.

171. It should be noted that according to our criminal legislation, as well as in practice, all incriminated acts of coercion against women, including sexual coercion, relate equally to all women irrespective of their occupation or “trade”.

172. As already mentioned earlier, trade in people represents a special problem facing the majority of countries in transition. It is the consequence of the transformation of ownership, deteriorated social status of the broadest segments of the population, impossibility of employment, etc.

173. According to the available data, trade in people takes place from Bulgaria, Moldova, Romania, Russia and Ukraine, countries that are more often than not countries of origin of victims, via Belgrade towards the Federation of Bosnia and Herzegovina, Kosovo and Metohija, Macedonia and Western Europe. One of the established routes leads to Italy via Serbia and Montenegro and further to Italy via Albania. It is clear from the above that one of the most frequent routes for trafficking in human beings, in particular in women intended for sexual exploitation, passes through Serbia and Montenegro.

174. The geographic location and a liberal visa regime applied to individual countries resulted in that citizens from Afro-Asian countries, as well as citizens from Eastern-European countries, have used the territory of S&M as a transit point for illegal transfer to Western European countries.

175. In 2002, 823 foreign citizens were found attempting to illegally cross the state border and, in the first six months of 2003, another 445 foreign citizens were caught attempting to do the same. Among them the most numerous are the citizens of Romania (102), Macedonia (66), Turkey and Iraq (40 each), Afghanistan (34), Moldova (27), China and BiH (19 each), Bulgaria (13), Croatia (11), Tunisia (10), Lebanon and Albania (7 each), etc. It is indicative that the larger number of illegal border crossings was committed by persons who entered the country legally, but were caught during the attempt of illegally leaving the country, i.e. in the attempt to reach some Western-European country (citizens of Romania, Moldova, China).

176. In view of the information that in the refugee camps in Bulgaria and Romania (near Bucharest) there is a rather large number of citizens from Afro-Asian countries, who intend to illegally cross over to S&M and farther to the West, the MUP RS takes intensified measures and actions. The purpose of these measures is to prevent or disclose the said illegal as well as economic migrations of citizens of Romania and Moldova towards Western European countries and Greece.

177. During 2002, and in the past six months of 2003, several groups of foreign citizens were found entering illegally, in an organized way, and who attempted to leave the territory of S&M. A number of conduits or channels for illegal transfer of people were broken:

- The channel via which primarily citizens of Afghanistan and Iraq were transferred towards the West, from Bulgaria through the territory of the Republic of Serbia and across the border with Hungary.
- The channel for the transfer of Turkish citizens, mainly Kurds, via Pristina Airport "Slatina", Montenegro and Belgrade, where they were taken over by persons involved in illegal transfer and transported to a destination near the border with Croatia. The Turkish citizens mostly come on package tours operated by tourist agencies from Kosovo and Metohija thanks, among others, to the tolerant attitude of UNMIK border services.
- The channel for the transfer of Turkish citizens via Pristina Airport "Slatina", Montenegro and Belgrade, which resulted in the opening of a new channel leading from Bulgaria via Romania. From there Turkish citizens are illegally transferred to S&M and taken over by our citizens for the purpose of their further illegal transfer.
- The channel for illegal transfer of foreign citizens, via the village of Ljubicevo, Pozarevac municipality, where 43 persons (21 citizens of Afghanistan, 19 citizens of Tunisia and three citizens of Iran) were found on board two tugboats loaded with timber.

- Four channels via which organized illegal transfer of foreign citizens from the direction of Romania, Bulgaria, Ukraine and Moldova was taking place.
- The channel for illegal transfer of foreign citizens in Subotica municipality, when a group of 10 citizens of China without passports were found, whose illegal transfer to Hungary was to be organized by our citizens.
- The channel for illegal transfer of citizens of India, when a group of eight citizens from India were flown into Belgrade Airport by a flight from Dubai. A check of their passports showed that the seal of the Security Centre Podgorica was affixed to the passports confirming the approval of temporary stay of these persons. After double-checking it was found out that the approval of temporary stay and the stamp were forged. The said channel for illegal transfer of citizens of India involved three citizens of S&M.
- The channel via which organized illegal transfer of citizens of Pakistan was taking place.

178. It is estimated that the cutting off of these channels prevented the entry of more than a thousand potential illegal migrants whose destination was Western Europe.

179. In 2002, a total of 30 criminal charges were brought by members of the MUP RS against persons who were involved in organizing illegal transfer of persons. In the first six months of 2003, a total of 19 criminal charges were brought against such persons (15 criminal charges on the basis of Article 249 of the BPC and 4 criminal charges on the basis of Article 155 of the BPC).

180. The tightening of the visa regime and no non-stop flag carrier flights to Beijing resulted in a reduced number of arrivals of Chinese citizens via Belgrade Airport (from 10,377 in 2000 to 2,209 in 2001, 551 in 2002 and 418 in the first six months of 2003). In the first half of 2003 the entry of 20 (in 2002 – 161) citizens of China was not allowed via Belgrade Airport border crossing due to failure to fulfil the general and special requirements for the entry into S&M (most frequently lack of sufficient funds, suspect visas, etc.).

181. In 2002, the citizens of China committed 59, and in the first six months of 2003, 189 criminal acts in the territory of the Republic of Serbia. It is characteristic that visa applications were made by Chinese citizens who have members of their immediate family in the territory of the Republic of Serbia. In these cases the applications were granted.

182. The problem of illegal migration is noticeable in the case of Iraqi citizens, primarily for economic reasons, but also due to the fact that Serbia and Montenegro is the only country for which they need no visa. Precisely for this reason the citizens of Iraq are requested, on entering into S&M, to meet in addition to the general requirements (valid passport) also special requirements (possession of a sufficient amount of money, return air ticket with fixed date of return, hotel vouchers, etc.). This is necessary in order to prove that there exist justified reasons for their arrival.

183. In 2002, 192 Iraqi citizens and, in the first six months of 2003, 18 of them entered into S&M via Belgrade Airport. The entry was denied to 13 (in 2002 – 56) citizens of Iraq due to failure to fulfil the general and special requirements for the entry into our country.

184. The territory of S&M is also used as a transit point for women citizens of Eastern European countries for the purpose of their departure to Bosnia & Herzegovina and the Autonomous Province of Kosovo and Metohija and/or to Greece via Macedonia and to Italy via Albania. In most cases they find jobs in these countries or continue their journey towards other Western European countries.

185. A certain number of women citizens of Eastern European countries (Romania, Moldova, Ukraine and Russia) find employment in the territory of S&M as waitresses, strippers and bar-girls. However, thanks to intensified measures taken against persons involved in bringing the said women to this country and providing them employment or re-selling them, as well as to stricter measures of control at state border crossings and to the fundamentally changed treatment of these women, the number of them coming from Eastern European countries has been appreciably reduced. It should also be mentioned that these foreign citizens are increasingly being considered more as victims of organized chains of trade in “white slaves” and prostitution and less and less as perpetrators of minor offences under the Law on the Movement and Stay of Aliens.

186. In the past six months of 2003, on the occasion of inspection of establishments involved in hiring women citizens of Eastern European countries as waitresses, strippers and bar-girls, 163 women foreign citizens were found (in 2000 – 1,260; in 2001 – 1,018; in 2002 – 449). Of the total number 93 were from Romania, 42 from Ukraine, 21 from Moldova, 4 from Bulgaria, 2 from Belarus and one from the Federation of BiH. Legal measures were taken against persons violating relevant regulations and their permission to stay was cancelled.

187. Out of the total number of women foreign citizens, it was established that 38 of them were victims of trafficking and/or sexual exploitation (17 from Moldova, 14 from Romania, 6 from Ukraine and one from Russia). Altogether 18 criminal charges were brought against 33 persons (owners of establishments and other persons) for the perpetration of 74 criminal acts related to trade in women of which:

- 25 for mediation in practicing prostitution referred to in Article 251 of the BPC;
- 18 for forgery of documents referred to in Article 233 of the PC RS;
- 13 for illegal crossing of the state border referred to in Article 249 of the BPC;
- 9 for unlawful deprivation of freedom referred to in Article 63 of the PC RS;
- 7 for establishing slave relationship and transport of persons in slave relationship referred to in Article 155 of the BPC;
- 1 for the criminal act of coercion to unnatural carnal knowledge referred to in Article 110 of the PC RS;
- 1 for the criminal act of rape referred to in Article 103 of the PC RS.

188. In July 2002, activities were initiated at the MUP RS headquarters and within the secretariats of internal affairs aimed at forming special police teams tasked with combating trafficking in human beings.

189. Special attention has been devoted to the training of members of the MUP RS and to their inclusion into integrative European and world police processes. The participation of representatives of the MUP RS at the meetings with senior representatives of OSCE and UNICEF devoted to trafficking in human beings was marked. At these meetings the Yugoslav model of the fight against trade in people was commended. It was pointed out that the OSCE will use this comprehensive way of organization and functioning of the MUP RS as a good model that should be applied in all South Eastern European countries. The members of the border police force took part in the projects of the International Organization for Migration (IOM) related to illegal migrations, human trafficking and reception centres for victims of traffickers.

190. Within the framework of regional police cooperation, the MUP RS carried out, from 7 to 16 September 2002, the action entitled "Mirage" aimed at preventing the smuggling of and trade in people, in particular in women and children and coercing them to practice prostitution or engage in other illicit activities. The initiative to introduce a visa regime for Moldova was supported and it was proposed that visa applications be handled by the MUP RS. In this way the number of arrivals and entries into the territory of S&M of Moldovan women that might become the victims of chains of organized trade in women in the Balkans will be reduced.

191. From 5 to 12 May 2003, the operation "Leda" was carried out in the territory of the Republic of Serbia. It was the first operation entirely devoted to fighting human trade at the European level. The Interpol and the ministries of internal affairs of the member countries of the European Union and member countries of the SECI participated in this coordinated action.

192. The results achieved by the participating countries in carrying out the operation "Leda" were presented at the final meeting held in Athens. The organizers in particular commended the MUP RS and the Ministry of Internal Affairs of Portugal on the achieved results.

193. As already said, with a view to stopping illegal migration and countering trade in people the MUP RS has developed successful cooperation with domestic non-governmental organizations as well as with international organizations, in particular with OSCE and Interpol. The cooperation implies joint work within the Republic team for combating trafficking in human beings, organization of or participation in training courses, seminars and public hearings on action against trade in people.

194. In June 2001, a regional conference organized by the non-governmental organization called the Centre for the Promotion of Legal Studies, Belgrade was held in Bucharest. The conference was devoted to combating trade in people. MUP RS representatives also took part. At the end of 2001, in cooperation with the non-governmental organization the Incest Trauma Centre, Belgrade, three seminars were held. The seminars were devoted to the problem of traffic in human beings, ways of fighting it and of protecting victims. Ninety members of the MUP RS attended the seminar.

195. At the beginning of 2002, a seminar, organized by OSCE in Belgrade, was held. The representatives of police, centres for social work and of non-governmental organizations participated. Altogether 30 representatives of the MUP RS took part. The seminar was devoted to the struggle against trade in human beings.

196. Several seminars and public hearings organized by the organization Astra of Belgrade were held and were devoted to the struggle against trade in human beings. Also, several public hearings, organized by the organization Beosuport of Belgrade, were held and were concerned with the problem of sexual exploitation of children and human trafficking. The members of the MUP RS also took part as participants or lecturers.

197. Beosuport organized and carried out the shooting of a film about trade in people. Also, a brochure about the same problem has been published. Members of the MUP RS and of the Secretariat of MUP RS Belgrade contributed to this.

198. The Victimological Society of Serbia, Belgrade organized the training of the members of the Republic team for combating trade in human beings. Also, in certain organizational units of the MUP RS in the territory of Serbia a research project was carried out about the phenomenon of trade in people. The project included other issues of relevance to the successful struggle against this phenomenon.

199. In their day-to-day work representatives of the MUP RS successfully cooperate on issues related to the struggle against trafficking and the protection of the victims, with the Advisory Council concerned with domestic violence, Belgrade, which is responsible for the Safe Home for Women Victims of Trade in People.

200. The non-governmental organization Centre for Justice, Belgrade organized training courses for judges and prosecutors from the AP of Vojvodina on the subject of the struggle against trade in people. Representatives of the MUP RS also participated.

201. In its work devoted to issues associated with trade in people, the MUP RS had a number of contacts with non-governmental organizations, Eva of Novi Sad and Safe Women's Home of Podgorica in their capacity as organizations also engaged in the prevention of trade in women and their protection.

202. In addition to domestic non-governmental organizations, there are regular contacts also with international organizations concerned with the problem of human trafficking, in particular with OSCE and IOM, the Stability Pact, UNICEF, UNHCR, UNDP, etc.

203. Representatives of the MUP RS participated in the course "Trainers of Trainers" for the struggle against trade in human beings, organized by the Stability Pact and the intergovernmental organizations ICMPD of Vienna and the UNDP Office in Romania. The course was held in Austria and Romania, respectively. Representatives of the MUP RS also took part in a course dealing with the protection of the victims of trade in women, organized by the IOM and held in Austria.

204. Also, in 2003 several seminars were held on this subject organized by the Foundation Hans Zeidel and by the French police. The Advanced School of Internal Affairs, Zemun, UNHCR and the Netherlands Embassy organized a course on the subject “Domestic Violence and Sexual Abuse of Women and Children”.

205. The efforts made and the measures taken in combating trade in people produced visible results and received international recognition. In the report of the US Department of State for 2001, S&M was placed into in the third group of risky countries. However, in the report of the US Department of State for 2002, S&M was placed in the second group of risky countries, taking into account the results achieved by it in combating these forms of crime. Thereby the activities carried out in this sphere were evaluated in a clear and appropriate way.

## **Article 7**

206. According to the data relating to the last Republic elections held at the end of 2000, out of 250 deputies in the National Assembly of the Republic of Serbia, 32 are women or 12.8 per cent. Of 25 members of the Government (Prime Minister, six Vice-Premiers and 18 ministers) women are at the head of three ministries (social affairs, telecommunications and transport, the environment) which means that women account for 12.0 per cent in the Government and 16.0 per cent in terms of ministerial posts.

207. Out of 250 deputies in the preceding National Assembly (1992-1996), 12 were women. Six women were Ministers in the Government of the RS (health, culture, family affairs, private entrepreneurship, local government, one without a portfolio).

208. After the September 2000 elections, for example, out of 120 deputies in the Assembly of the Autonomous Province of Vojvodina, 8 (6.67 per cent) are women. At the same time, there are 125 (7.16 per cent) women in municipal assemblies of this Province and 1,620 (92.84 per cent) men. Out of 45 local assemblies, in 5 of them there are no women deputies at all. At provincial elections, there does not exist the obligation to make women account for 30 per cent of candidates on electoral lists, while the spreading of gender-based hatred provides no basis for banning a political party.

209. Out of 178 deputies in the Federal Assembly of the FRY (2000-2003), 11 were women, while no woman was Minister in the then Federal Assembly.

210. Out of 126 deputies in the Assembly of S&M (2003), 10 (7.94 per cent) were women, while no woman was a member of the Council of Ministers (The President of S&M and 5 Ministers).

211. Out of the total number of employed in Serbia, 43 per cent were women, while 58.7 per cent of the total number of unemployed were women. Women occupied 11.9 per cent of top managerial jobs and, in respect of property ownership, 2.4 per cent of women owned private companies, 3.4 per cent had savings, 16.6 per cent owned flats, 10.8 per cent homes and 9.3 per cent agricultural land. Girls accounted for 50.7 per cent of secondary school pupils and 61.4 per cent of university students.

212. Over the last ten years, the number of women in executive positions in the administration of justice, primarily in the judiciary, has increased and that trend continues. Women account for one half of the overall number of employed in the organs of administration of justice of the RS (courts and public prosecution offices).

213. Women were involved, in particular, in the work of non-governmental organizations, especially in the field of humanitarian assistance for refugees, poor citizens of the FRY and the wounded from the war-torn areas of the former SFRY. Many women's charitable organizations were registered during the war.

214. The strengthening of the opposition to the regime prior to the October 2000 democratic changes accounted also for the emergence of non-governmental organizations which, in addition to humanitarian work, were involved in the promotion of the rights of women and in peace processes and initiatives. The Women's Political Network was established within the DOS. The positive processes initiated at that time have continued and accounted for the achievement of significant progress in the overall improvement of the position of women.

215. However, regardless of the progress, the relatively modest participation of women in the political life evinces a lack of special mechanisms guaranteeing equal representation of men and women in places of decision-making. The only protective mechanism at the moment is the Law on Local Elections (Official Journal of the RS, No. 33/2002) which specifies that, in order to be valid, electoral lists must include 30 per cent of candidates of the less represented sex who must be evenly fielded. The adoption of other election laws with the same protective mechanism is planned and some political parties practice positive discrimination among their members.

216. Yet, party programmes and statutes aside, it transpires that the majority of political parties calls for gender equality only in words and commit themselves to setting up women's fora and similar organizations within the parties. But affirmative action is non-existent in practice, in particular with regard to post-election distribution of seats or the election to party leadership positions. Intra-party quotas do not exist.

217. As no gender-sensitive statistics is available in Serbia, the study of women's participation in politics and decision-making processes is based by and large on the use of partial data collected by non-governmental organizations for their own projects. The availability of such statistics would greatly facilitate the study of this phenomenon.

218. A series of gatherings, roundtables and conferences, organized in cooperation with international and non-governmental organizations, which discussed the status of women, also meant the opening of institutions to the women's movement. The Commission of the Federal Government of the FRY for Cooperation with UNICEF and for the promotion of the status of women took active part in all relevant activities and fully supported the non-governmental organizations engaged in the field of the advancement of the status of women. Women representatives of the non-governmental organizations were expert members of the said Commission which maintained close contacts in its work with relevant non-governmental and international organizations.



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## Article 8

219. Out of the total number of employed in the diplomatic service, women in high positions accounted for 5 per cent, women in executive posts for 15 per cent and women ambassadors for 11 per cent.

220. The status of women in the diplomatic service improved considerably after the democratic changes of October 2000 when the FRY returned to the international community and resumed its equitable participation, alongside other Member States, in the work of numerous international organizations, primarily the United Nations, followed by the OSCE and other institutions and working bodies. The admission of S&M to the Council of Europe as a full-fledged member in April 2003 opened new possibilities for the participation of women of S&M in the work of various international organizations.

221. Prior to the October 2000 changes, the participation of Yugoslav delegations and, by the same token, of women's delegations at international conferences was drastically limited or prohibited altogether. Consequently, the official delegation of the FRY was denied participation at the Fourth World Women's Conference in Beijing in 1995 contrary to the letter and spirit of the Convention. Otherwise, the Government of the FRY submitted to the Secretary-General of the United Nations the National Report on the Implementation of the Nairobi Forward-looking Strategies for the Advancement of Women as its contribution to the Conference in time considering that the FRY had been an active participant at the Third World Conference in Nairobi and at many other similar conferences.

222. The FRY assessed the said decision of the United Nations to deny participation to the official delegation of the FRY at the Beijing Conference as counterproductive and contrary to the spirit of tolerance and cooperation always supported by Yugoslav representatives. The Yugoslav delegation was also prevented from participating at the meetings of the States Parties to the Convention.

223. Mention should also be made of the active role played by the Union of Women of Yugoslavia. As a member of the Society for Inter-Balkan Cooperation of Women, the Union organized the Third Congress of Balkan Women in Belgrade in 1994. It also took part at the Fourth Congress of this organization in Sofia in 1995 and at the Fifth Congress in Thessaloniki in 1997. As a non-governmental organization, it was invited to participate at the Fourth World Women's Conference in Beijing in 1995.

## Article 9

224. Citizenship is an enduring bond between individuals and the State. Citizenship is an essential prerequisite for the establishment, change or termination of a large number of legal relations, including transfer of land and buildings, inheritance, electoral lists, copyright, etc.

225. The Constitution of the FRY provided for the existence of Yugoslav citizenship. A Yugoslav citizen was simultaneously a citizen of one of its member republics; a citizen could not have been

deprived of his/her citizenship, deported from the country; or extradited to another State. A Yugoslav citizen abroad enjoyed the protection of the FRY, while the matter of citizenship was regulated by federal law (Art. 17).

226. The Constitutional Charter establishes that a citizen of a member state is also a citizen of Serbia and Montenegro and has equal rights and duties in the other member state as its own citizen, except for the right to vote and be elected (Art. 7). Accordingly, it transpires from the Constitutional Charter that the question of the citizenship of the new state union is regulated in a different way in relation to the Constitution of the FRY. The citizenship of the state union is derived from the citizenship of the member states of the state union of Serbia and Montenegro, while the former citizenship of the Republics was derived from the citizenship of the FRY.

227. A provision on citizenship is contained also in the Constitution of the RS. It provides, among other things, that a citizen of the RS has the citizenship of the RS; that he/she may not be deprived of his/her citizenship, exiled or extradited; that the citizenship is acquired and terminated in the manner established by law; and that a person who has another citizenship may have the citizenship of the RS revoked only if he/she refuses to perform the constitutional duties of the citizen (Art. 47).

228. The acquisition and termination of the citizenship of the FRY are for the time being regulated under the following legislation: the Law on Yugoslav Citizenship (Official Gazette of the FRY, Nos. 33/96 and 9/2001), Law on the Citizenship of the of SR of Serbia (Official Journal of the SRS, Nos. 45/79 and 13/83) and the Law on Montenegrin Citizenship (Official Gazette of the Republic of Montenegro, No. 41/99).

229. The Law on the Implementation of the Constitutional Charter of the State Union of Serbia and Montenegro (Official Gazette of S&M, No. 1/03) specified, as a protection measure pending adoption of appropriate regulations, that persons who had acquired the Yugoslav citizenship prior to the entry into force of the Constitutional Charter retain that citizenship and the right to use the existing public documents.

230. The basic way of acquiring Yugoslav citizenship was the acquisition of citizenship by origin (*ius sanguinis*). It was also combined with the system of the acquisition of Yugoslav citizenship by the fact of birth in the territory of the FRY (*ius soli*). Through the force of law, a child acquired the citizenship of its parents at birth irrespective of the place of its birth. Only if both parents were unknown or of unknown citizenship or stateless persons, a child born or found in the territory of the FRY acquired Yugoslav citizenship solely by birth in the territory of the FRY.

231. In practical terms, the combination of the two systems accounted for the acquisition of the Yugoslav citizenship by any child whose one or both parents were Yugoslav citizens, i.e. who was born or found in the territory of the FRY, or whose both parents were unknown or of unknown citizenship or stateless persons. The additional methods of acquisition of Yugoslav citizenship were admission into (naturalization), and acquisition of, citizenship under international treaties.

232. The Law on Yugoslav Citizenship provides for equal rights of all citizens to the achievement of the citizenship status without discrimination on any basis, such as sex, race, colour, language, religion, ethnic origin or social background, property and/or other status.

233. The provisions of the said Law were aligned with the general standards of international law, primarily with the provisions of the European Convention on Nationality, Convention on the Nationality of Married Women and the Convention relating to the Status of Stateless Persons.

234. In view of the situation in which the FRY found itself after the secession of the Republics of the former SFRY, i.e. the situation in which a large number of SFRY citizens found themselves, the transitional provisions of this Law, mainly of a protective nature vis-à-vis the civil rights of the citizens of the SFRY who had the citizenship of another Republic of the SFRY or were citizens of another State emerged out of the SFRY, made it possible to integrate the rule of succession of citizenship into the legal system.

235. Under the rule, any individual having the citizenship of the predecessor State on the date of succession, irrespective of the manner of acquisition of that citizenship, has the right to the citizenship of at least one of the states that the succession concerns. The difficult social and legal status of refugees was improved in this way and the problems of their residence, movement, family and property relations addressed in accordance with the principle of the Convention Relating to the Status of Refugees of 1951 and the Protocol thereto of 1967.

236. The provisions of Article 47 of the Law on Yugoslav Citizenship made it possible for all citizens of the former SFRY who had had the citizenship of another Republic of the SFRY or another state created in the territory of the SFRY to acquire Yugoslav citizenship if they had resided in the territory of the FRY on the date of the promulgation of the Constitution of the FRY (27 April 1992). The same is true of the children of that citizen born after that date.

237. Likewise, Yugoslav citizenship may have been acquired under the said Article also by a citizen of the former SFRY who had accepted to be transferred into a professional commissioned and/or non-commissioned officer or a civilian person serving in the Army of Yugoslavia, along with a member of his/her family - the spouse or children.

238. The amendments to the Law enabled the continuity of the citizenship of the aforementioned categories of citizens, the persons who had resided in the territory of the FRY as a refugee or an expelled or a displaced person, as well as a person who fled to a third country and who submitted a request to the federal organ of internal affairs for admission into Yugoslav citizenship (Art. 48).

239. Under the provisions of this Law, Yugoslav citizenship may have been terminated through release and renunciation and under international treaties. With respect to the termination of citizenship through release, the agency conducting the procedure had the discretionary right to approve or reject the release.

240. The Law did not provide for the institution of the deprivation of Yugoslav citizenship, which is in accordance with the provision of Article 17, paragraph 3, of the Constitution of the FRY, according to which a Yugoslav citizenship may not be deprived of citizenship, expelled from the country or extradited to another State.

241. With respect to multiple citizenship, a Yugoslav citizen residing in the territory of the FRY was considered under Article 4 of the Law on Yugoslav Citizenship a Yugoslav citizen with all the rights and obligations belonging to him/her as a citizen of the FRY.

242. A Yugoslav citizen had his citizenship terminated through the termination of the citizenship of a member Republic. An alien may have acquired the citizenship of a member Republic through the acquisition of Yugoslav citizenship. A citizen of a member Republic had the same rights and obligations in the territory of the other Republic as those of its own citizens (Art. 5).

243. The law expanded the institution of re-acquisition of Yugoslav citizenship, the so-called reintegration. Yugoslav citizenship may have been re-acquired not only by a person who had his/her citizenship terminated at the parents' request as provided for by previous citizenship regulations, but also by any person who had his/her citizenship terminated through release and who had acquired a foreign citizenship provided he/she stayed continually in the FRY at least one year and fulfilled the conditions provided by the Law.

244. According to relevant regulations, Yugoslav citizenship was proved by birth and citizenship certificates.

245. Decisions on the termination of Yugoslav citizenship may not have been appealed against in administrative proceedings, but the protection of rights was ensured in legal proceedings by filing a request to the Federal Court to decide on the legality of final administrative acts.

246. The adoption of the new Law on Yugoslav citizenship in 1997 overcame the problem of the citizenship of the citizens from the former Yugoslav Republics considering that, prior to the adoption, citizens' requests for acquisition, i.e. termination of citizenship had been acted upon in the territory of the RS exclusively under the Law on Citizenship of the SRS of 1976. The provisions of that Law regulated the acquisition (by origin, birth in the territory of the SRS, admission of a citizen of another Republic into the citizenship of the SRS, naturalization and by international treaties) and termination (by the acquisition of the citizenship of another Republic, release, renunciation, deprivation and under international treaties) of the citizenship of the Socialist Republic of Serbia. Under that Law, the citizenship of the SFRY/FRY was automatically acquired by the acquisition of the citizenship of the SRS/RS.

247. Prior to the adoption of the Law on the Amendments to the Law on Yugoslav citizenship in March 2001, marriage had no direct effect on the admission of aliens into Yugoslav citizenship. However, this fact did influence the approval of permanent residence of aliens in Yugoslavia in accordance with the regulations on the movement and stay of aliens which was one of the legal conditions for the acquisition of citizenship through admission (Art. 12).

248. The Amendments to the said Law, i.e. the provision of Article 12a, made it possible for an alien married to a Yugoslav citizen for at least three years who had permanent residence in Yugoslavia approved may have been admitted to Yugoslav citizenship provided he/she had not been punished with a prison sentence for a criminal offence making him/her unsuitable for admission to Yugoslav citizenship and provided it was possible to conclude from his/her behaviour that he/she would respect the legal system of Yugoslavia.

249. The Law on Yugoslav citizenship as amended thus made it possible to an alien married to a Yugoslav citizen to acquire Yugoslav citizenship.

250. By the inclusion of this provision into the Law, an alien acquired dual citizenship. Otherwise, this amendment was in conformity with the Convention on the Nationality of Married Women which, along with the European Convention on Nationality of 1997, eased conditions for the acquisition of Yugoslav citizenship on the basis of marriage.

251. Likewise, marriage had an effect on the citizenship of the spouse and children at the acquisition of citizenship by Yugoslav émigrés considering that family members of Yugoslav émigrés may have been admitted to Yugoslav citizenship under relaxed conditions (Art.13).

252. According to the provisions of the Law, any child whose one or both parents are Yugoslav citizens, had the right to Yugoslav citizenship irrespective of its place of birth, as well as a child born or found in the territory of the FRY if both its parents are unknown, of unknown citizenship or stateless. No distinction was made between the acquisition of Yugoslav citizenship by children born in or out of wedlock, while adopted children were enabled to acquire Yugoslav citizenship under eased conditions.

253. The effect of marriage on the termination of Yugoslav citizenship was regulated by Article 19, paragraph 4, of the Law on Yugoslav Citizenship, which provided for the termination of Yugoslav citizenship if the concerned Yugoslav citizen regulated matrimonial property obligations with regard to the person living in Yugoslavia.

254. The procedure for the issuance of travel documents was regulated by the Law on Travel Documents (Official Gazette of the FRY, Nos. 33/96 and 23/02).

255. To be issued a passport, a person had to present a valid identity card, citizenship certificate, two photographs, receipt of payment of fees provided by law and a receipt of payment for a passport form; a minor must also submit a birth certificate.

256. A passport was confiscated or its issuance refused by a decision of the competent organ of internal affairs in the following cases:

- if criminal proceedings were instituted against the person requesting a passport at the request of the competent court during the proceedings;

- if the person requesting a passport was sentenced to at least 3 months in prison unconditionally pending completion of the sentence;
- if, under the regulations in force, the person requesting a passport was restricted freedom of movement in order to prevent the spread of contagious diseases or an epidemic; and
- if that was necessary for reasons of the defence of the country, declaration of the state of war, state of an imminent threat of war or the state of emergency.

257. By the last amendments to the Law on Travel Documents of Yugoslav Citizens changes were made in Article 46 determining the reasons for refusal to issue a travel document. Paragraph 5 of this Article was deleted; it had provided for refusal, at the request of a concerned person or its guardian/organ of guardianship, to issue a travel document to a person requesting a passport if established that, by leaving the country, that person sought to avoid payment of an alimony/maintenance or fulfilment of another matrimonial or parental obligation in respect of which an enforcement document had been issued. Paragraph 3 of the same Article was established to be contrary to the Constitution of the FRY if, at the request of the competent military authority, it was established that, by leaving the country, a person requesting a travel document or a visa sought to avoid the obligation of doing National Service or any other service in the Army of Yugoslavia.

258. The Federal Court established that the said provisions of the Law on Travel Documents of Yugoslav citizens were contrary to Article 30 of the Constitution of the FRY guaranteeing a citizen “freedom of movement and residence and the right to leave and return to the Federal Republic of Yugoslavia” (paragraph 1) and providing for restriction, by federal statute, of “the freedom of movement and residence and the right to leave the Federal Republic of Yugoslavia [...] if so required for criminal proceedings, to prevent the spread of contagious diseases, or for the defence of the Federal Republic of Yugoslavia.” (para. 2). As the said provisions of the Law restricted the constitutional freedoms and rights of the citizen to leave the FRY and did not belong to measures required for a successful conduct of criminal proceedings, the MUP RS gave instructions upon the publication of the decisions of the Constitutional Court in the Official Gazette of the FRY that all confiscated travel documents be returned to citizens, i.e. that their requests to be issued travel documents be granted.

259. An appeal was provided as a legal remedy in case of a negative decision, submitted within 15 days from the date of the service of the decision. The Ministry in charge of internal affairs decided on the appeal. If the injured party was not satisfied with the decision in the second- instance proceedings it could have had recourse to administrative litigation.

260. A minor may have been issued his/her own travel document, although, prior to 14 years of age, he/ she could have been enrolled on the travel document of one of the parents. It was not possible to travel outside the country without a travel document. No consent of the other parent was necessary to enrol a child on the travel document of one of the parents. Nor was the consent of the parents necessary for a child having a travel document to travel abroad. Any person having a travel document may travel abroad without anyone’s approval.

261. A total of 6, 180, 621 requests for issuance of travel documents were made in the RS in the period from 1 January 1992 till the end of June 2003. Altogether 6, 168, 370 travel documents were issued on the basis of these requests, while 12, 251 or 0.2 per cent of all requests were refused. The reasons for the refusal were in accordance with the Law on Travel Documents of Yugoslav Citizens.

## **Article 10**

262. The right to education is one of the basic human rights. In its Article 62, the Constitution of the FRY provided for the accessibility of education to all under equal conditions and for free and compulsory elementary education in conformity with the law.

263. The Charter of Human Rights contains a similar provision. In its Article 43, it is specified that everyone has the right to education; that elementary education is obligatory; that the member states provide for free elementary education; and that establishment of schools and universities is regulated by the laws of the member states.

264. In its Article 32, the Constitution of the RS provides for the accessibility of education to everyone under equal conditions; that primary education is obligatory; and that citizens do not pay a tuition fee for regular education financed from public funds.

265. Two problems constitute an obstacle to the consideration of the congruence of the normative dimension of the status of women and its practical effects.

266. The first problem is the lack of gender-sensitive data. Statistical services, national and departmental, are often silent on gender dimension in certain aspects of education, probably because the process of sensitizing statistical-demographic services is still in the rudimentary phase. Due to these obstacles, it is not simple, and often not possible, to perceive the gap between women's normative and exercised rights in education. Discrimination is not possible to assess in the absence of quantified data on women's participation in the system of public education. The data representing the closest indicators of the situation in certain areas are therefore used.

267. The other problem is the unavailability of data for certain segments of education, such as religious education, military education and education in the field of internal affairs.

268. Prior to the adoption of the Law on the Bases of the System of Education and Upbringing of the Republic of Serbia in June 2003, there existed no umbrella law that would regulate the right to education and prohibit discrimination in the system of education and upbringing. The functioning of school institutions was regulated by the Law on Elementary School of the RS (1992) and the Law on Secondary School (1992).

269. Article 7 of the Law on Elementary School of the RS, as amended in 2002, prohibited the political organization and activities in schools or the use of school grounds and/or premises for those purposes.

270. Article 7 was changed by the said amendments to this Law and now expressly prohibits discrimination based on race, nationality, language, religion or sex, i.e. political opinion, incitement to such activities or the failure to take measures for their prevention.

271. A very similar provision is contained in the Law on Secondary School of 1992, as amended in 1996 and 2002, Article 8 of which prohibited political organization and activities and the use of school grounds and/or premises for those purposes.

272. Following the amendments of 2002, the Law, i.e. its Article 8, reads: "...Activities threatening or disparaging groups and individuals on the basis of race, nationality, language, religion or sex, i.e. political conviction, as well as the incitement to such activities shall be prohibited in schools." Corporal punishment and the insulting of the person of the pupil are also prohibited.

273. The Law on the Bases of the System of Education and Upbringing of the RS of June 2003 provides for equal rights of every citizen to education. Under Article 4, all citizens of the RS are equal in the exercise of the right to education and upbringing irrespective of sex, nationality, religion and language, age, physical and psychological constitution, social and cultural background, property status, political belief or other personal characteristics.

274. Elementary education is compulsory and free for all. Persons with disabilities, adult persons and persons with special abilities have the right to education and upbringing which meets their special education and upbringing needs in accordance with the said and special Laws.

275. Article 46 of the Law expressly prohibits the activities threatening, disparaging or discriminating against groups and individuals on the basis of race, nationality, language, religion or sex, physical or psychological constitution, age, social and cultural origin, property status, i.e. political conviction, as well as the incitement to such activities. Nevertheless, the Law does not provide for measures of affirmative action with respect to a large number of female children left outside the education system already after the fourth grade of elementary school due to a patriarchal family environment, stereotypes, early marriage, etc.

276. Discrimination against a child, i.e. a pupil, is considered under the Law to be any direct or indirect differentiation, condescension, exclusion or limitation, aimed at preventing exercise of a right, reduction of a right or a cessation of equal treatment of a child, i.e. a pupil. This provision is eloquent proof of express prohibition of discrimination of any type and on whatever basis.

277. In that context, a specific example represents the Law on the Amendments to the Law on the Army of Yugoslavia of 2002; its Article 9 defines the pupils of secondary military schools as military persons. It goes on to say that military persons in the sense of the Law are professional soldiers, soldiers doing National Service, students of military academies, pupils of secondary military schools, students enrolled on reserve officer training courses and reservists while serving in the Army. The Law contains no provisions establishing in clear terms that only men can be military persons, but this is, however, the case.



278. Article 21 of the Law on Elementary School of the RS specifies that obligatory and optional curricula and extra-curricula activities are established by the curriculum adopted by the Minister of Education.

279. Articles 17 and 19 of the Law on the University of the RS provides for the determination of subjects that are obligatory and equal for all students on the basis of the syllabus adopted by the relevant college/faculty.

280. Under Article 70 of the Law on the Bases of the System of Education and Upbringing of the RS, the list of obligatory and elective subjects belongs in the general bases of the curriculum. The general bases of the curriculum are established by the school. The subjects on the list of obligatory and elective subjects are taught to all pupils, while the latter subjects are chosen by pupils themselves. Accordingly, the obligatory subjects are equally obligatory for all pupils irrespective of their sex, while elective subjects are obligatory for all pupils that opt for them.

281. The rights of pupils to material and other benefits listed below are enumerated in Article 2 of the Law on Pupils' and Students' Entitlements. They include:

- (a) board and accommodation in institutions providing board and accommodation;
- (b) educators' assistance;
- (c) loans;
- (d) grants;
- (e) culture, entertainment and sports; and
- (f) subsidized fares.

282. Under Article 12 of the Law, grants are available to full-time secondary school top pupils from a merit fund of the Ministry of Education and Sport of the RS; they are disbursed through open competition on a non-refundable basis.

283. Under Article 10 of the Law, loans are available to full secondary school pupils being trained in skills in high demand; loans are obtainable through open competition and on the basis of loan contracts with companies or institutions.

284. Under Article 3 of the Law, students have the right to the following material and other benefits:

- (a) board and accommodation in students cafeterias and dormitories;
- (b) loans;
- (c) grants;
- (d) convalescence and vacations in students holiday camps;
- (e) information and publishing in accordance with this Law;

- (f) culture and entertainment in students' cultural centres ;
- (g) sports and recreational activities; and
- (h) subsidized fares in local transport.

285. Students enrol on institutions of higher and advanced education by applying for available places. Admissions criteria and the number of places financed from the budget are determined by the Republic of Serbia, i.e. the Government, upon the advice of the University.

286. Students with the adequate number of entrance score points are entitled to the above listed benefits and have their fees paid from the budget of the Republic of Serbia in accordance with the regulations on the financing of public spending. These provisions apply to state colleges/faculties.

287. Under Article 21 of the said Law, outstanding full-time students are eligible for grants obtainable from the Ministry of Education and Sport of the RS through open competition on a non-refundable basis.

288. Under Article 19 of the Law, full-time students enrolled first time in any particular year are eligible for loans allocated through open competition.

289. Loans and grants are available to all students on equal terms without discrimination of any kind, even though the Law on Pupils' and Students' Standards contains no explicit provision prohibiting discrimination.

290. Ever since the first census after World War Two in 1948 the proportion of illiterate within the general population has been decreasing. From 10.8 per cent registered at the 1981 census, the percentage of illiterate population fell to 2.0 per cent in 1991. Additional criteria of age and gender are needed for more discriminating data.

291. The data for 2002 are somewhat surprising in view of the expected trend of gradual reduction of the number of illiterate. The percentage of illiterate within the total population stood at 3.45 per cent. Women accounted for 5.66 per cent, men for 1.08 per cent. Women aged 60 and over accounted for the biggest percentage of illiterate (85.19 per cent). According to the latest 2002 population census data the literate-women-per-age percentages were: 99.3 per cent for women aged 15 to 24; 99.2 per cent for women aged 25 to 44; and 85.3 per cent for women aged 45 and over.

292. To explain the structure of illiterate, account should be taken of the specificities of the period 1991 - 2002:

- the number of births continually declined in the period preceding the moment of the calculation of the percentage of illiterate. The number of those who had accounted for the biggest share of the illiterate population even before (e.g. in 1991, there were 9.5 per cent of illiterate among those aged 50 to 59 and 24.1 per cent among those aged 60 and over) affected to a certain extent the increase of the percentage of illiterate within the overall population;

- the mechanical influx of population (refugees, internally displaced persons et al.) also accounted for the relative increase of the number of illiterate in the overall population; and
- an imbalance emerged in the number of men and women within the population due to wars and migration. According to the 2002 census, the femininity coefficient for Serbia excluding Kosovo and Metohija stood at 946 and the masculinity coefficient at 1,067. This meant that the structure was tilted significantly in the direction of a greater number of women, which implied a larger percentage of illiterate population as that percentage was always greater among the female population.

293. Instead of adult literacy programmes, there are elementary schools for adults in Serbia. According to the data from the 2002 Statistical Yearbook of Serbia, there were 80 schools, i.e. 193 classes, for adults in the 1986/87 school year. Out of 4,277 attendants, 1,636 were women (38.25 per cent). In the 1998/99 school year, there were 18 such schools and 150 classes. Out of 2,621 attendants, 588 were women (27.55 per cent). In the 2000/01 school year, there were 12 schools and 133 classes. Out of 1,915 attendants, 588 were women (30.70 per cent). The data on those who completed elementary school for adults have not been differentiated by gender.

294. According to the data from the 2002 Statistical Yearbook of Serbia on schools for additional adult education in the last 15 years, there were 14,303 attendants in the 1986/87 school year, out of whom 8,916 (62.34 per cent) were women. In the 1998/99 school year women attendants accounted for 62.95 per cent; in the 1999/00 school year the percentage stood at 62.91 per cent; and in the 2000/01 school year at 60.47 per cent. The data on those who completed additional education have not been differentiated by gender.

295. According to the data from the last census of 2002, the percentage of women in the general population, aged 15 and over, who completed elementary school stood at 26.66 per cent. Compared to men (the percentage of men over 15 who completed elementary school stood at 22.98 per cent), the difference was not significant. Included in this number are those still attending secondary school.

296. According to the data from the 2001 Statistical Yearbook of Yugoslavia, regular female pupils accounted for 48.75 per cent of the total number of pupils in elementary schools in the 1999/2000 school year. The data of the Ministry of Education and Sports of the RS differ insignificantly. According to the 2001 Statistics on Elementary and Secondary Education, girls accounted for 48.61 per cent of the elementary school population in the 1999/2000 year.

297. According to the data from the 2001 Statistical Yearbook of Yugoslavia, the number of those who completed elementary school on time in the 1999/2000 school year was 104,614, in which girls accounted for 49.07 per cent. However, these data refer to Serbia and Montenegro as a whole and it is not possible to single out the data relevant to Serbia alone. The approximate percentage of pupils who complete elementary school, calculated on the basis of the number of pupils enrolled in the final, eighth grade of elementary school and the number of pupils who completed that grade was applied in the 2001 Statistics on Elementary and Secondary Education. Reviewing the data for the period after 1992, the percentage is fairly even in all school years ranging between the minimum of 99.06 per cent

(1998/99) to the maximum of 99.64 per cent (1995/96). The percentage for the 1999/2000 school year amounted to 99.33.

298. The number of girls enrolled in the final, eighth grade of elementary school in the 2002/03 year amounted to 43,456. Compared with the preceding school year in which 43,977 girls enrolled in the seventh grade, there was a difference of 521 female pupils. At the beginning of the 2002/03 school year the number of female pupils who were held back in the seventh grade was 113, which means that 408 female pupils belonged among those who dropped out (the possibility of attending elementary school part-time is not provided). The provisional dropout rate (barring those who repeated a grade) for female pupils who enrolled in the seventh grade in the 2001/02 school year amounted to 0.012 (1.18 per cent).

299. According to the information made available by statistical services, the women dropout rates are not officially calculated. With regard to compulsory elementary education this rate is negligent vis-à-vis the overall number of women attending elementary school. If women attending adult elementary schools and women attending special elementary schools are taken into account, the women dropout percentage is below 1.00.

300. With regard to secondary education, the approach is somewhat different, because secondary education is not compulsory. In addition, pupils are directed not according to territorial inclinations, but according to desired profiles; besides, there is holding back within generations. With the percentage of girls who do not complete secondary school standing at 1.2, it is possible to say that this data is also negligent. The situation differs considerably with regard to some social groups (e.g. the Roma), whose female representatives rarely enrol in secondary schools.

301. Since gender-sensitive data on grant and loan beneficiaries are unavailable, the data on boarding-house/dormitory users have been taken as replacement for those indicators in order to obtain a picture relative to sex discrimination. However, these data are incomplete, consequently insufficient to establish the extent of discrimination with accuracy

302. According to the data from the 2002 Statistical Yearbook of Serbia, 37 elementary school female pupils were accommodated in boarding-houses (as against 57 male pupils), i.e. out of the total number of 94 places, female pupils were allocated 39.36 per cent. In the 2002/03 school year, the percentage of female pupils in the elementary school population stood at 48.80.

303. In order to project the true picture of the situation, it is necessary to obtain data on the number of those who applied for boarding-house places (including those who were rejected). It is possible that the above difference was not the result of sex discrimination, but of a patriarchal education pattern which precludes girls' independence at this age or allows it in a much smaller measure compared with that of boys'.

304. With respect to secondary school pupils, the data available from the 2002 Statistical Yearbook of Serbia reveal that female pupils accounted for 30.66 per cent, as against 69.34 per cent of male pupils, of boarding-house users. This means that more than twice as many boys are allocated places in

boarding-houses than girls. Just as in the case of the number of boarding-house users among elementary school pupils, caution should be advised and the data on the number of registered pupils considered as relevant. Those data were not available to the Ministry of Education and Sport of the RS.

305. According to the last census taken in 2002, the percentage of women who completed secondary school in the female population older than 15 stood at 36.43 (The same percentage in the male population was 46.08.).

306. In the 1999/00 school year, the percentage of female pupils in the overall number of pupils attending secondary school full-time amounted to 50.69. All along, it should be borne in mind that secondary education is not compulsory. These percentages are similar to those on the number of female pupils in the overall number of those who completed secondary education full-time (49.93 per cent of female pupils and 50.07 per cent of male pupils).

307. The relatively stable and balanced structure of men and women who complete secondary school was the result of the momentum (especially the ideological momentum) of the former socialist system regarding full employment of both men and women and the idea of the emancipation of women through employment which, from the period of the second modernization of the 1970s onwards, implied by and large desirable, albeit legally non-obligatory completion of secondary education. The final benefit derived from that period is the acceptability and desirability of having women complete a form of secondary education. In addition, the phenomenon of viewing education as a type of one-time dowry is also in evidence, which explains greater investment in the secondary education of girls even in rural areas.

308. The percentage of women teachers in regular elementary schools in the 1997/98 school year amounted to 68.07; in the 1998/99 school year to 69.36; and in the 1999/00 school year to 69.85. The data on the number of women teachers per subject are unavailable.

309. In secondary schools that percentage stood at 56.99 in the 1997/98 school year; at 57.92 in the 1998/99 school year; and at 58.96 in the 1999/2000 school year. The data for women teachers per subject are not broken down according to gender.

310. The conclusion to be drawn from these data is that the participation percentage of women in the teaching staff at the level of elementary and secondary education was stable over a number of years. However, the difference is material when the percentages are compared at the two levels of education in general. This means that the smaller number of women teachers in secondary schools is to be explained by the structure of the teaching staff based on the type of the faculty from which men and women teachers graduated. The strongest feminization of professions was evident among the teaching staff in elementary schools.

311. According to the information made available by the Directorate for Sport of the Ministry of Education and Sport of the RS, the situation in this area was as follows:

- women and men, i.e. girls and boys, had equal opportunities to participate in sports and physical education;
- there were no regulations prohibiting girls and women to participate in sports and physical education;
- there were no clothing regulations prohibiting girls and women to participate in sports on an equal basis; and
- sporting facilities were equally accessible to men and women, i.e. boys and girls.

312. The Law on Sports of the RS does not differentiate between sexes; rather, it accentuates the equality of sexes in some of its Articles. In Article 58 of this Law related to public grounds, it is said that *public grounds are accessible to citizens under equal conditions*. No regulation in force during the reporting period discriminated against women.

313. Athletic grants and scholarships were available to men and women athletes under equal conditions.

314. In cooperation with the Yugoslav Olympic Committee and the Commission for Women, the Directorate for Sport of the Ministry of Education and Sport of the RS realized a project *Representation of Women in Serbian Sports* as part of the women equality support programme; A publication having the same title was issued in 2002.

315. The conclusions based on the empirical research of the representation of women in Serbian sports reveal a proportionally small representation of women as athletes, coaches and/or officials/managers.

316. The differentiation among sports with respect to opportunities provided to young women athletes to progress towards top athletic achievements was noticeable in the reporting period. Some sports did provide women the opportunities to pursue their interests and reach top athletic results. Such opportunities, however, were negligible in most analyzed sports.

317. Through its plans and programmes on women's equality in sports, through relevant media and education campaigns, the organization of sports and recreational events and the establishment of bodies for the protection of women and children in sports, the Ministry of Education and Sport of the RS, i.e. its Directorate for Sport, invested significant efforts to contribute to the solution of these problems.

318. According to the 2002 census, the percentage of women who had completed post-secondary (including two-year colleges) higher education stood at 9.87 for the population over 15. That percentage for men was 12.27.

319. With respect to the number of those studying at various institutions of higher education, the trend of a higher number of female vis-à-vis male students was much in evidence in Serbia in the

reporting period. At the university level, the ratio was 55.59 per cent female as against 44.41 per cent male students. According to the 2002 census, the overall percentage of women belonging to the three successive age groups between 23 and 25 years stood at 49.19, which made male students under-represented in the male population aged between 23 and 25.

320. According to the population estimates of the Federal Statistical Office of 30 June 2001, the ratio of male and female parts of the population was 49.57 per cent as against 50.43 per cent. This means that the gender-balanced student population should have had similar percentages of women and men in all profiles of higher education.

321. According to the data from the 2001 Statistical Yearbook, out of the total number of 1,133 students who graduated from Schools of Medicine in 2000, 718 were women, i.e. 63.37 per cent. In the preceding three years, those percentages stood at 57.47 in 1997; 59.56 in 1998; and at 61.86 in 1999. The percentage of women who graduated from Schools of Dental Medicine in 2000 stood at 53.56.

322. The data on a number of typical Engineering Schools reveal that in 2000, for example, out of the total number of 877 students, 174 women graduated from Schools of Mechanical Engineering or 19.84 per cent. In 1997, that percentage stood at 19.05, in 1998 at 24.05 and in 1999 at 20.90. Consequently, the oscillations in the percentage of female graduates from Schools of Mechanical Engineering were small. Likewise, the percentage of women graduates from Schools of Civil Engineering in 2000 was 42.74; from Schools of Electrical Engineering 21.05; from Schools of Agriculture 49.64; and from Schools of Mining 40.89.

323. To obtain the true picture of the participation of women, comparison will be made with the share of women in the overall student population. In the 1999/2000 academic year, for example, the percentage of female students in the overall student population stood at 52.95 and the percentage of women among all graduate students in 2000 was 58.05. With regard to these participation rates, women were continually under-represented in engineering profiles as against the corresponding percentage of women in the overall student population.

324. With respect to law, the percentage of women who graduated as against the overall number of students stood at 60.67. The similar situation was in other profiles of social sciences. For example, out of the total number of 1,423 of all students who graduated from Schools of Philosophy and Philology in 2000, women accounted for 1,226 or 86.16 per cent. These data were similar for the preceding years. In the period from 1997 to 2000, the percentages were evenly balanced: 82.96 in 1997; 85.44 in 1998; and 85.77 in 1999.

325. According to the data on graduate students, it is possible to conclude that division of educational profiles according to gender was maintained in institutions of higher education. This applied also to the medical profession. A greater participation of women in this area was the result of the trend of the feminization of medicine-related professions.

326. The above-mentioned tendencies were stable. According to the available data, in 1991, women accounted for 70.80 per cent of graduate students from Schools of Medicine; 33.60 per cent on average from Schools of Engineering; 44.40 per cent from Schools of Agriculture; 73.10 per cent from Schools of Natural Sciences; and, finally, for 60.10 per cent of Law School graduates.

327. Since World War Two, the number of female students in student dormitories was constantly declining in comparison to the number of male students. Nevertheless, since the mid-1990s, the 2-to-1 ratio in favour of male students changed considerably. According to the data from the 2002 Statistical Yearbook of Serbia, the number of female students in student dormitories in 1998 was 9,718 or 51.04 per cent as against 9,323 male students. In the same year, female students accounted for 52.68 per cent of the overall student population.

328. The data for these categories in the following years were: in 1999, the percentage of women in student dormitories stood at 55.14, while the percentage of female students in the overall number of full-time students financed from the state budget amounted to 51.89. In 2000, those percentages were 52.70 per cent of female students in student dormitories and 54.14 per cent of female students in the overall number of full-time students financed from the state budget. In 2001, 56.06 per cent of female students in student dormitories and 56.12 per cent of female students in the overall number of regular students financed from the state budget.

329. Since there are no gender-sensitive statistical data on the structure of the teaching staff and management at universities in Serbia, only a number of available data on the relevant aspects of the functioning of the institutions of higher education are presented in this Report.

330. In view of the fact that Schools of the University of Belgrade enjoy a high level of independence, the number and hierarchical positions of women should be viewed separately for each individual School. Since such data are unavailable, only the data on the number of deans in this higher education institution will be provided.

331. According to the data for the 1993/94 academic year, out of the total number of 30 deans of all Schools of the University of Belgrade, 2 were women. According to the data of the Rector's Office of the University of Belgrade, 2 women were among the deans of this University in the academic year 1999/2000, while in 2002/03, 5 of them were women. It is perhaps important to point out that the Rector of the University was a woman. Since the establishment of the University in Belgrade in 1905, there have been 33 men rectors and 1 woman rector.

332. Special mention in the context of potential discrimination against women is made of the attendance of women of military and home affairs schools, colleges and universities.

333. The education in military secondary schools and military schools of higher education is regulated by the Law on Military Schools and Military Research Institutes (Official Gazette of the FRY, Nos. 80/94 and 74/99). The Law stipulates that the right to take part in competitions for admission to military secondary schools and military schools of higher education and for advanced training of career professional officers is given to the citizens of the FRY who meet a set of fixed



criteria. The applicants must be physically fit for military service and no criminal proceedings must have been instituted against them for a criminal offence prosecuted *ex officio*. The applicants must not have a criminal record, i.e. must not have been convicted of criminal offences and sentenced to more than 6 months in prison or to juvenile prison or must not have had an institution measure pronounced.

334. Article 50 of the same Law specifies that applicants who have completed elementary education and who fulfil the general conditions provided by this Law and special conditions established by the regulations of the Chief of General Staff and the Statute of the school will be admitted to secondary military schools. The applicants who completed military high school, correspondent civilian secondary school and applicants who completed military secondary vocational school will be admitted to the Military Academy, provided fulfil the general conditions provided by this Law and special conditions established by the Statute of the school.

335. On the basis of the provisions cited above, it is possible to conclude that women have the right to enrol on military schools, colleges and academies. However, the Decision of the Chief of General Staff contains a provision according to which an applicant for military schools and military academies must be of male sex.

336. In recent years and in accordance with the new trends and reform processes, an increasing number of women enrol in institutions of higher education which prepare and specialize in the training of police personnel.

337. The Police Academy is an institution of higher education, established in 1993 by the special Law on Carrying out Educational-Scientific Activities of Importance for Security and Police Work. The Police Academy educates and prepares officers for the highest managerial positions in the police, the main task of whom is to protect the law and the rights, freedoms and security of the public, ensure maintenance of public peace and order and crime control. The basic studies at the Academy last four academic years and candidates are admitted to the first year on the basis of a competition announced by the Academy in accordance with the Law on University, Law on the Police Academy and the Statute of the Police Academy.

338. To the first year is admitted a candidate who is a Yugoslav citizen, who has completed secondary four-year education and who fulfils special conditions established by the law for admission to the MUP SR. In addition, the candidate must also fulfil special conditions regarding age, health and psycho-physical ability to perform police duties, prescribed in more detail by the Minister of Internal Affairs.

339. In the period from the school year 1993/94 to the school year 2002/03, 1,170 students enrolled in the Police Academy for basic studies. For the first time since the establishment of the Police Academy 34 girls enrolled for basic studies in the school year 2002/03. In addition to the general admissions criteria, they had to meet special requirements for female candidates relating to psychophysical capabilities. In the current school year, 28 female students enrolled for basic studies of the Academy.

340. The College of Internal Affairs was founded under the Law on the College of Internal Affairs of 1972. At that time, it was assessed that well-educated highly professional personnel for the discharge of police tasks and assignments can best be ensured through education in specialized educational institutions. Education in the College of Internal affairs lasts two and a half years or five semesters/terms.

341. The Law prescribes conditions for the enrolment of candidates for the first year of studies. In addition to the general conditions such as Yugoslav citizenship and completed secondary four-year school, special conditions are also set, relating to aptitude, psychophysical and health capacities for education and training and work in the organs of internal affairs.

342. In the period from the establishment of the College to the academic year 2002/03, a total of 12,215 students, of whom 1,434 girls, were enrolled in the College of Internal Affairs. From the academic year 1998/99 on (86 girls enrolled) the number of female students was increasing and in the academic year 2002/03 reached the number of 172. Out of the total number of enrolled female students, 637 graduated during the reporting period. In the academic year 2003/04 admission of about 140 female students or 30 per cent of the total number of approved places for the College of Internal Affairs (470) is planned.

## **Article 11**

343. According to the legislation and administrative practice of the FRY no differences, exceptions or exclusions or better treatment based on racial, religious, ethnic or other belonging, political belief, sex, social status, property or other status are envisaged. The same applies to the area of the right to equal conditions of employment.

344. In this context the Constitution of the FRY and the aforementioned Articles 54, 55, 56 and 57, referring to the right to work and the rights and duties in the area of work are of particular interest. Furthermore, Article 40 of the Charter of Human and Minority Rights should be recalled guaranteeing the right to work, in conformity with the law. The member states create the conditions under which everyone can earn his/her living. Everyone has the right to a free choice of work and to fair and appropriate working conditions and in particular to a fair compensation for his/her work.

345. The Constitution of the Republic of Serbia also provides that everyone has the right to work. Freedom of work is guaranteed as well as freedom of choice of a profession and employment and participation in management. Everyone has access to jobs and functions under equal conditions (Art.35). Employed persons are entitled to fair remuneration (Art. 36).

346. Occupational health and safety for all employed persons, irrespective of their sex, is regulated by the Law on Labour (Official Journal of the Republic of Serbia, No.70/011 and 73/01) and the Law on Protection at Work. Women enjoy additional care in connection with the protection of maternity and special health care. Consistent with this, it is the duty of the employer to organise the work process in the manner that ensures the protection of lives and health of the employees.

347. Furthermore, in compliance with Article 12 of the Law on Labour, the person seeking employment as well as those in employment may not be placed in an inferior position in comparison with others, regardless of sex, birth, language and other distinctions specified in the law. The employer must not make employment conditional on pregnancy test (Art. 14). However, this notwithstanding, within the examination of general health condition and the ability to work, gynaecological examination is required for women when concluding an employment contract. Likewise, according to Article 81 of the Law on Labour, the employee has the right to adequate remuneration determined in compliance with the law, a general act or the work contract. Employees are guaranteed equal pay for equal work or work of the same value, to be obtained by the employer.

348. The employer may contract jobs outside his premises provided that such jobs are not dangerous or damaging to the health of the employees. The work contract can be concluded for work outside the employer's premises. The work contract, concluded for that purpose, should contain additional provisions on the conditions of work, this being a novelty in the Law.

349. The Law on Labour and the Law on Protection at Work envisage, in respect of jobs that imply higher risk of accidents, occupational or other diseases, only workers who, in addition to general fulfil also specific conditions with regard to health, psycho-physical abilities and age, may be employed.

350. The Law on Protection at Work defines jobs with specific working conditions, in compliance with the provisions of that Law, as follows:

- working conditions with an increased risk of accidents, occupational disease, health hazards (work in premises polluted by chemically, physically and biologically harmful substances, work under the influence of harmful radiation, work in high or low temperatures, work at great heights, under water and other working conditions) having a harmful effect on the health of the worker;
- special technological procedures with no possibilities for the application of certain prescribed measures of protection at work and
- specific job requirements for which in order to ensure safety at work specific health, physical and psycho-physical abilities of the worker are necessary.

351. If the employer fails to organise work in the manner ensuring the safety of lives and health of the employees or to ensure special protection of employed women in respect of health, the employer is considered to have committed a minor offence for which adequate sanction is provided.

352. Workers engaged at workplaces with specific work conditions, including women who decide to take up such jobs, are entitled to an additional health care scheme, to be provided by the employer. The health care scheme includes permanent follow up of the health condition through regular medical examinations performed by health institutions fulfilling conditions in respect of the equipment and personnel, as prescribed by the law. The scope and kind of medical examinations depend on the extent of dangers and hazards to which the employees, including the employed women, are exposed.

353. Practice has shown that the employed women, in comparison with the employed men, less frequently have recourse to labour inspection regarding the safety at work and protection of health. Employed women mainly complain to the inspection when they are not satisfied with their assignment to certain workplaces in keeping with their actual work abilities after they had suffered a degree of disability.

354. As records on accidents at work are not kept according to gender, there are no exact data on the number of employed women who suffered injuries at work. Looking at the total number of accidents occurring in the workplace it is noticeable that there are much fewer among employed women than among employed men.

355. In compliance with Article 76 of the Law on Labour, during pregnancy, maternity leave, leave of absence for the purpose of childcare, or leave for the purpose of special childcare, the employer may not give notice of dismissal to the employee. However, there are exceptions, namely, if the work contract was signed for a limited period, or if conditions for cancellation of the work contract exist. This includes a breach of work duties, lack of respect for discipline at work, or the commission of a criminal act by the employee at work or in connection with his/her work or if the institution of sick-leave has been abused by the employee.

356. The employed woman has the right to special protection during pregnancy and childbirth (Art. 9). In line with Article 69 of the Law on Labour, the employed women have the right to maternity leave and leave of absence for the purpose of childcare for a period of 365 days. The employed women may begin the maternity leave on the basis of findings of the appropriate health authority 45 days before delivery at the earliest and obligatorily 28 days before the expected date of delivery. The maternity leave lasts for three months after the date of delivery.

357. After the expiration of the maternity leave the employed woman has the right to be absent from work for the purpose of childcare until the expiration of 365 days from the date of starting the maternity leave. The employer will be fined for the offence of not ensuring a special protection to the employed women, protection of maternity or the right to childcare, in compliance with the provisions of the Law (Art. 164).

358. The father of a child may exercise the right to maternity leave and leave of absence from work for the purpose of childcare. The father of the child may use the right to maternity leave if the mother abandons the child, if she dies or if she is prevented from exercising the right for other justified reasons (serving a prison sentence, serious illness). The mother and the father may use the right to childcare alternatively.

359. During maternity leave or leave of absence from work for the purpose of childcare the employed woman or father of the child, respectively, are entitled to wage compensation in accordance with the law. According to Article 70 of the Law on Labour, if the employed woman has given birth to a still-born or if the child dies before the expiry of maternity leave, she is entitled to the whole maternity leave.

360. According to Article 71 of the Law on Labour, a parent of the child with serious psycho-physical handicap requiring special care has the right to be absent from work or to work half time for the purpose of childcare until the child is five years old. The said parent can use this right after the expiry of maternity leave or leave of absence from work for the purpose of childcare. The exceptions are defined by the regulations on health insurance.

361. During the absence from work, the employee has the right to wage compensation, in accordance with the regulations on social care of children. During the period in which the employee works half of the full working hours, the employee has the right to remuneration in compliance with the general act or his work contract. The other half of the remuneration, for full working hours, he will receive in accordance with the regulations on social care of children.

362. Under Article 72 of the Law on Labour an adoptive parent, a foster-mother or foster-father or a guardian of a child under the age of five, is entitled to be absent from work for the purpose of childcare for an uninterrupted period of eight months. The eight-month period is calculated from the date of the placement of the child in the adoptive, foster or guardian family until the child reaches the age of five. In case of the a child's placement in the adoptive, foster or guardian family before it is three months old, the adoptive parent, foster parent or the guardian has the right to be absent from work for the purpose of childcare until the child is eleven months old.

363. During the absence from work for the purpose of childcare, the person who adopts, sustains or acts as a guardian has the right to a pay, in compliance with the regulations on social care of children.

364. In accordance with Article 73 of the Law on Labour, a parent, guardian or the person looking after a patient suffering from cerebral palsy, polio or other kind of paralysis or from muscle dystrophy or other serious illness may work shorter working hours, but not shorter than half working hours. However, the above mentioned persons must first make a request and obtain the opinion of the competent health authorities.

365. The employee who works shorter working hours, in the above mentioned sense, has the right to adequate pay, commensurate with the time spent at work, in compliance with the law, general act or the work contract.

366. In accordance with Article 75 of the Law on Labour, either parent has the right to be absent from work until the child is three years of age. During the absence from work, mentioned in paragraph 1 of the said Article, the labour rights and duties are temporarily in abeyance, unless otherwise provided for individual rights by the law, the general act or work contract.

367. In accordance with Article 67 of the Law on Labour an employed woman may not take up jobs which predominantly involve especially hard physical labour, underground or underwater work. Nor may she take up other jobs that could harm or pose a high risk for her health and life, in view of her psychophysical abilities. The employed women may perform these jobs only on the basis of a written consent. The ban on underground work does not refer to women having managerial positions, doctors and medical personnel and undergraduates on practical training.

368. In compliance with Article 68 of the Law on Labour, in the course of the last eight weeks of pregnancy the employed women may not work overtime or night hours. One of the parents of a child under three years old may work overtime or nights only on the basis of his/her written consent.

369. A single parent with a child under seven years of age or a child with serious disability may work overtime or night hours, only on the basis of his/her written consent.

370. As already mentioned, the position of women employed in the Army of S&M and in the police forces deserves particular review.

371. The Law on the Yugoslav Army (Official Gazette of the FRY, Nos. 43/94, 28/96, 44/99, 3/02, 37/02) provides for (Article 117) that a Yugoslav citizen may be employed as a civilian in the Yugoslav Army for an indefinite or limited period of time. He or she must fulfil the general conditions prescribed by the federal law regulating the relations of employees in the federal organs of administration as well as the special conditions determined by the Chief of General Staff.

372. In implementing this provision, the principle of prohibition of discrimination based on gender is respected. Employment of civilians in the armed forces takes place by advertising vacancies or by open competition published in the media. The advertisement contains general and specific conditions required for a particular workplace, i.e. for the conclusion of a work contract. The specific conditions refer to the kind and level of professional skills envisaged for appointment to a particular workplace. The different number of candidates of different gender is due to the traditional division into male and female jobs, which is justified to a certain extent.

373. The possibility of employment of women as professional soldiers is limited by the regulations that, as a condition for enrolment in secondary military schools and military academies, envisage male candidates. Women may be admitted to the service in the military forces as soldiers under a contract for specific services, which is in fact an employment of a limited duration. Women with university degrees, educated for certain much-sought-after jobs in the armed forces, may under certain conditions be accepted for professional military service.

374. The available statistical data indicate that there is a small proportion of women in the professional military service and that of the total number of professional military officers 0.22 per cent are females. Of the total number of professional non-commissioned officers 0.13 per cent are women and of the total number of soldiers under contract 2.93 per cent are female persons.

375. Unlike the number of military professionals, within the framework of the total number of professional army members, 42.46 per cent are women employed as civilians in the Army of S&M.

376. This situation as expressed in percentages emanates from the strict interpretation of the provision of Article 21 of the Law on the Army of S&M stipulating that persons, in order to be admitted to professional military service should, among others, have regulated the compulsory military service. Furthermore, the provision of Article 283 of the same Law provides for that women

are not subject to compulsory drafting or to compulsory military service. The work of men and women is equally valued and there are no differences in emoluments based on work.

377. Men and women exercise, under equal conditions stipulated by relevant laws, the rights and benefits deriving from employment. These rights are the right to annual leave, sick-leave, professional training, rights related to pension and disability insurance, the right to paid or unpaid leave of absence from work that men and women shall realise under equal conditions prescribed by appropriate laws.

378. The provisions of the Law on Labour of the Republic of Serbia that regulate the protection of women, according to the provision of Article 141, paragraph 2, of the Law on the Yugoslav Army are applicable also to civilians employed in the armed forces. Article 67 is thus applied to the banning of the employment of women for particularly hard physical jobs, labour underground or under water. The same Article also prohibits women from taking up other jobs that may be harmful for or pose a high risk to the health and life of women, taking into account their psycho-physical capabilities. The provision of Article 68 of the same Law provides for the protection of maternity and prohibits overtime and night work of women during the last eight weeks of pregnancy.

379. The provisions of Articles 69 to 75 of the Law on Labour regulate the rights of women to maternity leave and leave of absence from work for the purpose of special childcare. The provision of Article 76 prohibits the dismissal of women during pregnancy, maternity leave or their leave of absence from work for the purpose of childcare or special care of the child.

380. The comprehensive protection of women provided for in the above mentioned-provisions is consistently implemented in practice. Certain differences that cannot be considered as discrimination based on gender exist due to natural differences in the psychophysical constitution of genders causing the traditional division of jobs to male and female. The differences are also due to the need to protect the reproductive role of women in society as well as maternity.

381. In recent years, an increasing number of women have opted for work in the police service, notwithstanding the difficult and specific tasks and duties they are exposed to. At the same time, after the democratic changes that have taken place, greater openness to the world and the acceptance of modern standards, promoted by the European Union, a growing number of women have been admitted to the MUP RS. At the moment, 7,303 or 19.21 per cent of the total number of employees in that Ministry are women.

382. In the course of 2001 and 2002, 1,324 women were admitted to the MUP RS. This positive trend continued in 2003, so that until June 2003, 528 women got jobs in the Ministry of the Interior. Out of the said number, 1,404 women were assigned to strictly police jobs (police forces with general responsibilities, traffic police, border police, etc.) Managerial posts are occupied by 263 women or 3.61 per cent of the total number of women employed in the MUP RS.

383. In addition to the above mentioned number of women employed in the MUP RS, a large number of women are employed in institutions educating personnel needed by the MUP RS for various tasks and duties. At the Police Academy, of the total number of 195 employees, 76 or 38.97 per cent are

women. In the post-secondary School of Internal Affairs, of the total number of 116 employees, 67 or 57.76 per cent are women. Also, in the Secondary School of Internal Affairs, from the total number of 216 employees, 96 or 44.44 per cent are women. From the total number of women employed in the educational institutions of the MUP RS (239), 65 women or 30.09 per cent are engaged in teaching.

384. Within the overall reform of the MUP RS, since 2002 the Plan and Programme of professional training and education of the MUP RS personnel provide for organising training courses for policemen, including women policemen. This is in accordance with the need for permanent education of the MUP RS personnel as a precondition for creating a modern police force in line with European and world standards.

385. At a public competition to attend a Course for Female Police Officers 5,275 women applied. After examining the mental, physical and health capabilities of candidates, a total number of 786 women were selected and admitted to the course. A four month course (7 May to 23 August 2002) for WPCs of the 79<sup>th</sup> class at the Secondary School for Internal Affairs in Sremska Kamenica was completed by 406 women, while a course of the 80<sup>th</sup> class at the Training Centre in Kursumlijska Banja, (from 20 May to 20 September 2002) was successfully completed by 346 WPCs.

386. After the successfully completed course, a total of 752 women policemen were appointed to internal affairs secretariats in Belgrade (185), Kragujevac (45), Novi Sad (44), Niš (43), Šabac (36), Sremska Mitrovica (34), Bor (28), etc. At the end of August 2003, a course for women policemen of the 84<sup>th</sup> class (from 5 May to 23 August, 2003) was successfully completed by 361 women students, at the Training Centre in Kula (188) and in the Secondary School for Internal Affairs in Sremska Kamenica (173). All the students who completed these courses were assigned to posts in 24 internal affairs secretariats and the Directorate for Security. Representatives of the OSCE were present at or participated in these courses.

## **Article 12**

387. Within the existing system of health insurance of the population, the overall protection and promotion of health, the health care for women is organised for all women under the same conditions, irrespective of their material status, religious belief, ethnic origin or place of residence.

388. During pregnancy, childbirth and maternity as well as in respect of family planning, women enjoy the highest level of health care. Women, together with children, belong to priority category of population running higher risk of developing illnesses and in need of special health care for the purpose of prevention, control and early detection and treatment of the most common diseases significant both from the social and medical aspect. The principle that women, as a priority category, should be accorded special treatment has been retained in all legal regulations adopted during the reporting period.

389. The above-mentioned principle was particularly important during the years of economic blockade of the FRY. The consequences were a manifold reduction in the social product and the standard of living of the population, with great difficulties in the realisation of health protection. In



providing health care to the population, priority was given to the satisfaction of those needs whose neglect could endanger the biological survival of the nation and significantly undermine the social, humane and ethical foundations of the healthcare system. An absolute priority was given to the healthcare of women during pregnancy, childbirth and one year after child delivery.

390. Within a whole range of activities undertaken in the course of the past years, aimed at the realisation of healthcare development programmes in compliance with the international recommendation of the WHO and UNICEF, the Yugoslav Plan of Action in Favour of Children, adopted in 1996, should be mentioned. Activities in the area of women's healthcare have been envisaged in that plan. The main objectives included lower mortality rate of mothers to less than 13 and greater coverage of women of child-bearing age and/or of married couples by the work of counselling centres in order to reduce the number of abortions. Also, one of the objectives was to implement the support programme for breast-feeding and the protection of maternity.

391. The programme of support for breast-feeding, carried out by the appropriate government authorities with the financial and expert assistance of UNICEF, proved to be particularly successful. The aim of the programme was to improve the level of health culture of the population, primarily pregnant women and mothers with small children. At the seminars devoted to these topics, 4,000 health workers were acquainted with the doctrine of "baby friendly hospital". The international recognition entitled "Baby Friendly Hospital" was awarded by the WHO and UNICEF to 15 health institutions. More than 250,000 pregnant women and mothers received information and assistance in connection with pregnancy, maternity, nutrition and childcare.

392. Special attention was devoted in the Republic of Serbia to family planning and the right of women to freely decide on childbirth. According to the Law on Pregnancy Termination in Health Institutions, conditions and procedures for pregnancy termination as a surgical intervention to be carried out in a health institution are regulated. There are no restrictions on the right of a woman to decide on abortion herself, except in cases where pregnancy termination or induced abortion would impair her health or endanger her life.

393. It is pointed out that regarding the exercise of the right to adequate healthcare, especially during pregnancy, delivery and after childbirth, women having a refugee status or that of expelled persons coming from areas affected by the war enjoy the same benefits as persons with health insurance in Serbia.

394. Within the structure of diagnosed diseases and health conditions in the area of women healthcare, during the reporting period five most frequent groups of diseases were identified. These are diseases of the genitals and the urinary tract, complications during pregnancy, delivery and puerperium, communicable and parasitic diseases, neoplasm and the endocrine system diseases, diseases pertaining to nutrition, metabolism and the disorders of the immune system. Among the most frequent death causes in the female population are the diseases of the vascular system, neoplasm, the diseases of the respiratory system and insufficiently defined conditions.

395. The sanctions imposed by the UN Security Council had a negative effect on the health of women in the Republic of Serbia. According to the assessment of health institutions concerned with the healthcare of this population group, preventative and curative examinations within the primary healthcare system were significantly reduced, the rate of hospitalisation was lower, as well as the number of hospital days. The diagnostic procedures were incomplete and the post-operative recovery prolonged.

396. Sanctions had a particularly negative effect on the prevention of cancer among women since the number of regular health check-ups enabling early diagnosis of the disease was reduced. Due to the lack of cytostatics (cancer treatment drugs), the therapy was incomplete and there was a long waiting period for surgeries. The survival period of patients with malignant diseases was considerably shortened and the death rate among women due to malignant diseases increased.

397. A special health problem emerged in connection with HIV/AIDS. According to the relevant data the situation in respect of HIV/AIDS is assessed as unfavourable. Inadequate number of test kits for diagnosis and means for preventing the spread of HIV/AIDS resulted in negative forecasts for the future, in view of the socio-economic situation, migrations of the population, insufficient use of condoms, increase in drug addiction, alcoholism and prostitution. Although there are counselling services for HIV&AIDS where it is possible to have one's blood tested and hotlines for the dissemination of all information on the disease, broader systematic education of the risk groups, especially the young, does not exist as yet. There are no massive-scale campaigns aimed at disseminating information among the population about this disease.

398. In recent years numerous activities have been pursued in order to improve this situation by the government agencies and non-governmental organisations, among which the NGO JAZAS should be mentioned in particular. The basic aim is to raise the awareness among as wide a population as possible, especially young people, about the risks of the disease, its transmission and prevention. In this context, special mention should be made of free actions periodically carried out in health institutions, such as the testing for HIV/AIDS virus for the purpose of possible detection of infected persons. However, the largest number of HIV/AIDS cases are found among intravenous drug addicts, homosexual or bisexual persons, heterosexuals and children infected through vertical transmission of HIV/AIDS from positive mothers.

399. As to the healthcare system of the FRY it can be said that according to the level of social welfare, measured by per capita gross social product (i.e. national income per capita), it may be ranked among the systems of developing countries.

400. According to its administrative structure, the health system of the country is formally pluralist but essentially monist and markedly centralised at the republic level.

401. The territory of the FRY/S&M has a developed health infrastructure with a well-established network of health institutions and an adequate number of doctors and medical personnel that is at the level of the European average. There are, however, certain variations by region and between urban and rural areas.

402. Two separate laws relating to health protection, i.e. the Law on Healthcare of the RS (Official Journal of the RS, Nos.17/92, 26/92, 50/92, 52/93 25/96, 18/2002) and the Law on Health Insurance of the RS (Official Journal of the RS, Nos.18/92, 26/93, 23/96, 46/98, 54/99, 29/2001 and 18/2002) have been adopted. Because of this fact the health system in the Republic of Serbia may be said to belong to the so-called Bismarck's model, a system based on the compulsory health insurance. The dominant ownership in the healthcare system is state ownership.

403. The health system, the same as other social activities, i.e. other areas of collective consumption within the so-called non-economic activities, spends a part of the realised social product. The share of spending on healthcare in the national income, as one of the most important indicators of the health policy of a country, is rather high and has ranged from 7.4 per cent in 1990 to 11.9 per cent in 1997. According to estimates, this percentage was the smallest in the year of crisis marked by hyperinflation.

404. It should be noted however that the data on healthcare spending as contained in the official statistics of FRY/S&M and Serbia indicate only data on the expenditure in the state health sector (health insurance and the expenses of health institutions). They do not include extra costs covered by the beneficiaries through payment of the full price of health services in the private health sector (mainly for dental services and medicines purchased in private pharmacies). Nor do they indicate the full prices in the state or public health sector for services that could not be covered by the insurance scheme.

405. The data on the health service expenditure do not include the expenditures of the military medical service (covered by the military budget), on the humanitarian assistance and donations to health institutions, nor data on the purchase of medical supplies necessary for hospital treatment. According to estimates made by economic experts, at the beginning of the 1990s these expenses amounted to additional 2.0 per cent of the national income. With the deteriorating situation in the health sector during the past few years, these expenses have risen to 4.5 per cent.

406. In the past ten years or so, in FRY/S&M a policy aimed at preserving all the existing capacities and rights envisaged by the healthcare law has been pursued. This is being done in the hope that better times will come when it will be possible for the resources in healthcare to be restored at least to the level of 1989/90. As in the meantime the socio-economic conditions for all social services have dramatically aggravated, the health sector has been trying to adapt itself, in a haphazard way, to new circumstances marked by a fall in the quality of services, lack of medical supplies, medicines, etc.

407. Medical measures and procedures for the promotion of health status, prevention, control and early detection of the disease and other health upsets, include a number of components. The cover health education, vaccination according to the appropriate programme and calendar of vaccination, preventive examinations, with a special indication for whom they are intended (children, pupils, students, women in connection with their reproductive function). It is also indicated to which health problems (diseases of greater social and medical significance, such as malignant diseases, diabetes, heart and vascular diseases, tooth decay, the diseases of the dental support system, etc.)

408. The scope of preventive measures has been precisely determined. Standard general medical examinations on a regular basis are complemented with health education programmes, community health nursing, including the obligation to take adequate therapeutic and other measures. In this context, particular attention should be devoted to the contents and the scope of the measures of prevention for the health protection of women of child-bearing age. The same applies to women over 25 in connection with the early detection of malignant diseases, adults aged 20 and older, or 35 and older, in connection with the detection of chronic, non-communicable diseases, etc.

409. Treatment of the sick and the injured is ensured in respect of:

- Medical assistance in emergencies and taking care of urgent cases at all levels of medical services, including ambulance transportation;

- Medical examination, diagnostics, treatment at the primary level in out-patients, at home and at high expert levels on the basis of the referral of the chosen general practitioner or physician, or on the basis of the decision of a medical board or a doctors' consultation.

410. The scope of these measures is not limited. The prevention and treatment of the diseases of the oral cavity and teeth in children and young people, in women during pregnancy and treatment of emergency cases in dentistry, treatment of dental caries (cavities) and pulpitis are established as the basic contents of dental care. The right to reimbursement for the expenses for dental prostheses is regulated by a separate act. The contents and scope of preventive measures in dental care are established in a special programme of the Government of Serbia.

411. The right to medical rehabilitation at the outpatients' level is not restricted, but it is limited at the level of specialised hospital facilities to a period of 30 days (the maximum being 90 days). A part of the treatment regulated in this way consists of extended hospital treatment with the use of the natural factor, when diseases of the endocrine, respiratory or hematogenic systems are concerned.

412. The List of Drugs regulates the distribution of medicaments, some medical appliances and supplies, with limitations in respect of prescription and dispensation of the necessary kinds and doses of drugs.

413. Depending on the magnitude and gravity of the physical damage, or reduction of functions, beneficiaries of health insurance are supplied with prosthetic and other orthotic devices, other aids and appliances, sight and hearing aids, devices to increase voice intensity, etc. All these appliances and aids are approved on the basis of the established criteria, and a rather large number of beneficiaries substantially participate in the purchase price thereof.

414. In view of the fact that health insurance is not all-inclusive due to the chronic financial constraints, the decisions of the competent authorities relating to the content and scope of health protection contain numerous services that the public health service is unable to provide under the compulsory health insurance plan. This refers to various kinds of medical examinations upon personal request and the request of institutions and organisations, all measures of specific (preventive) workers'

healthcare, the treatment of acute alcoholism, pregnancy termination for non-medical reasons, artificial insemination/in vitro fertilization, various non-standard dental services, etc.

415. In addition to the relevant legislation, there exist numerous practical measures in regulating the contents of healthcare, supplemented by special programmes in certain fields, in particular regarding key health and social problems (healthcare of women, children and students, protection from communicable and chronic non-communicable diseases, preventive dental care, etc.) The contents and scope of healthcare are elaborated in great detail, including adequate instructions for practical application and the designation of those in charge of individual activities.

416. However, the proclaimed complete coverage of the population by all health services could not be put in place, in particular when expensive diagnostic, therapeutic and rehabilitation services are involved. This situation could be expected, in view of the fact that even much richer countries are unable to achieve that level of coverage.

417. According to the Law on Health Insurance of the RS, all the permanently, temporarily and occasionally employed persons are covered by compulsory health insurance schemes as well as unemployed persons as long as they are on unemployment benefits, self-employed persons, pensioners, tradesmen and farmers. Besides the insured persons, members of his/her family are entitled to health insurance rights, provided the insured person supports them.

418. If the number of insured persons is compared to the total number of inhabitants, the ratio shows that 93.0 per cent of the inhabitants of the Republic are covered by health insurance schemes.

419. The expenses of healthcare of the uninsured segment of the population are covered from the budget funds to a certain extent (about 7.0 per cent of the population, mainly unemployed persons). This group includes children, the young, women in connection with pregnancy and maternity, persons over 65 years old, beneficiaries of welfare (relief) and those suffering from serious and chronic illnesses (psychoses, diabetes, chronic renal deficiency, malignant diseases, etc.). It should be underlined, however, that due to the exceptionally difficult economic situation and budget deficits, almost no resources have been allocated for these purposes in recent years.

420. Health insurance rights refer to the provision of healthcare, pay compensation for temporary incapacity to work, for prolonged childcare, for travel expenses in connection with the utilisation of health services and for burial expenses.

421. According to the Law on Health Insurance, healthcare, as the basic right of the insured persons, is defined as covering the following:

- Medical measures and procedures for the promotion of health status, prevention and early detection of diseases and other health disorders;
- Treatment of sick and injured persons and other forms of medical attention;
- Prevention and treatment of oral and dental diseases;

- Medical rehabilitation in out-patient and in-patient institutions;
- Medicines, accessory material serving for the application of medicines and medical supplies necessary for treatment;
- Prostheses, orthopaedic and other aids; auxiliary and sanitary appliances, dental prosthetic assistance and dental material.

422. As prescribed by the law, the competent republican authorities regulate in more detail by their legal acts the conditions and manner of the exercise of health insurance rights. It should be pointed out that it is the duty of insured persons to choose a GP in the primary healthcare, according to their place of residence.

423. Preventive measures and activities related to employment are realised at the workplace and for pupils and students at their educational institutions. The services at higher referral levels are, as a rule, provided in the nearest appropriate health institution, on the basis of the letter of referral from the GP of own choosing or the approval of the Medical Board of the Republic Institute for Health Insurance.

424. The contents and scope of healthcare measures are regulated more precisely by the decision of the Governing Board of the Republic Institute for Health Insurance. This document stresses the importance of bringing the contents and scope of the rights to healthcare in line with the resources allocated within the insurance scheme intended for these purposes.

425. The period since 1990 has been marked by very dramatic changes in the lives of the inhabitants of the Republic of Serbia having an immediate effect on their health status. On the basis of longitudinal (so-called ecological) studies and comparative analyses, it has been established that the critical events in life can have an impact on the occurrence of diseases and death rates among the population. Certain periods have been defined when these events may cause changes in the health condition, so that the increased incidence of diseases occurs in cyclic periods of three years and the incidence of deaths in periods of three to five years.

426. It has been further established that these cyclic periods of occurrence of diseases and deaths as a consequence of critical events in life are becoming shorter. Some analyses of health status indicators in the Republic of Serbia have shown that these cycles have become shorter as the consequence of a cumulative effect of a number of critical events to which the population was exposed. This refers to the break-up of the former Yugoslavia and the war on its territory, the international sanctions instituted and the crisis provoked by hyperinflation.

427. However, numerous methodological problems arise in following up on the impact of these events on the health of the population as well as in singling out and assessment of the impact of these factors. One of the main methodological impediments is the insufficiently reliable data on the death causes, and the frequent changes in the population (a denominator indispensable for the calculation of the disease and death rates). These rates point in fact to the probable death and diseases rates in comparison with the population at risk. It should be noted that during the last ten years the population

structure in Serbia has been dramatically changed due to the departure of many young people and the arrival of refugees and displaced persons with different morbidity and death risks.

428. In the early 1990s a series of dramatic events began resulting in a stagnation or deterioration of most of the indicators available for routine follow-up and analysis of the health of the population. Life expectancy at birth calculated on the basis of the existing specific mortality rates according to age (shortened approximate tables of mortality rate) became shorter by more than two years for male new-borns in central Serbia, in the period from 1989/90 to 1996/ 97. However, in Vojvodina it remained practically unchanged. In the case of female new-borns in the same period the value of this indicator has been diminished in Vojvodina by 1.13 years and remained virtually unchanged in central Serbia.

429. In the period from 1990 to 1997, the death rates of the adult population between 20 and 44 years old increased in central Serbia by 14 deaths per 100,000 inhabitants of that age group, while in Vojvodina decreased by 10.5.

430. During the same period the death rates of the adult population 44 to 64 years old in central Serbia rather increased, i.e. by 20.4 deaths per 100,000 inhabitants of that age, while in Vojvodina the rate increased by as many as 90.3 deaths per 100,000. It may be concluded from these figures that the most affected was the category of adult population aged 44 to 64 in the whole of the Republic of Serbia and in particular in the territory of Vojvodina.

431. It is worth mentioning that in the period under review (1990-1997), contrary to expectations, no increased death rate was recorded in the population over 65. The rate was even reduced although, according to local conditions, this category belongs to the especially vulnerable group. The death rate of those older than 65 per 100,000 inhabitants was reduced in Serbia in 1997 in comparison with 1990 by 693 deaths, while in Vojvodina this figure was lower by 1,184 deaths per 100,000 inhabitants of the same age.

432. The analysis of the specific death rates by age groups has shown, as already pointed out, that the increase in the death rates in the age group 20 to 44, in particular in the age group 45- 64, is mostly responsible for the reduced life expectancy at birth registered in central Serbia and Vojvodina in the period 1990-1997. This is consistent with the results of the health status analysis of the population in countries of Central and Eastern Europe.

433. In analysing the causes of death in the Republic of Serbia, it should be pointed out that the structure of the death causes in the period of eight years remained almost unchanged. In 1997, more than half of the population died from cardiovascular diseases (56.4 per cent in central Serbia and 60.2 per cent in Vojvodina). In comparison with 1990, the share of these death causes increased by approximately one per cent in central Serbia and Vojvodina.

434. Malignant diseases are in second place (17 per cent in central Serbia and 18.2 per cent in Vojvodina). There was a slight increase in central Serbia, while in Vojvodina the figures related to death causes remained practically the same as in 1990.

435. The third place is taken by insufficiently defined diseases and conditions (symptoms, signs, pathological, clinical and laboratory findings) while injuries, traumas and consequences of external factors' impact occupy the fourth place. The share of insufficiently defined diseases and conditions increased both in central Serbia and in Vojvodina. On the other hand, the share of the external factors as death causes was reduced in central Serbia and Vojvodina.

436. The high share of cardiovascular and malignant diseases in the structure of death causes points to a widespread presence of behavioural risk factors (smoking, alcohol, unhealthy diet, lack of physical exercise) as well as environmental risk factors (polluted air, contaminated food and water). Insufficiently defined diseases and conditions occupying the third place are the consequence of the unreliable reporting of deaths in the Republic as a whole. External death causes ranking fourth in the death structure point to inadequate safety at workposts, traffic safety and safety at home.

437. The disaggregation of external causes shows that the most frequent causes are accidents, followed by suicides and murders. The death rates due to these causes marked an increase in 1991 and 1992, at the beginning of the conflict in the territory of the former Yugoslavia. All the three categories registered an increase in 1996. The highest increase was recorded in the category of accidents and suicides.

438. Another level of analysis of deaths due to accidents according to gender has shown that the death rate in the reporting period was almost three times higher for males than for females and that in 1991 and 1992, this rate was four times higher.

439. The analysis of the health condition of the inhabitants of the Republic of Serbia was carried out on the basis of mortality statistics as the most reliable. The analysis has shown that the health condition deteriorated due to the increased death rates among the active working population, in particular males, particularly because of the so-called preventable mortality, i.e. the causes of morbidity and mortality that can be successfully prevented by appropriate activities within the healthcare system. The changes in the health status of the inhabitants in Serbia are very similar to changes in the countries of Central and Eastern Europe undergoing the process of transition, although there is no unanimity as yet whether Yugoslavia has entered transition and if so, to what extent.

440. The difference in life expectancy at birth between the sexes went up by more than two years in central Serbia. It decreased by one and a half years in Vojvodina.

441. The analysis of the linear trend of life expectancy at birth in central Serbia and Vojvodina, in the period of eight years (1990-1997) singled out two critical periods characterised by a value decrease for this indicator for male newborn babies in 1992/93 and 1996/97. In the same periods stagnation or a mild decrease in values for female newborns was recorded.

442. The mortality of infants is in our conditions still a sensitive indicator of the health status of children from their birth until they are one year old. After a continuous fall during the 1970s and 1980s, an increase was recorded in 1992, so that in 1993 the rate in Serbia and Vojvodina increased by two deceased infants per 1,000 newborns. After a short decline, in 1996 the rate began to rise again.



443. The correlation between the infant mortality rate and the socio-economic development is appropriately illustrated by the negative correlation, already well known in literature both at international and national levels, between the infant mortality rate and the per capita social product (or national income).

444. The example of infants, as a vulnerable category of the population proves that the social and economic factors are the most powerful indicators of the health status of the population. For the period from 1990 to 1998 in the Republic of Serbia, it is possible to illustrate the negative correlation between the infant death rate and the per capita national income, calculated in stable prices.

445. The mortality rate of infants is a complex measurement of the mortality risk in the neonatal period (the first 28 days of life) that decreases with improved availability of neonatal healthcare and the mortality risk in the post-neonatal period (from the 28<sup>th</sup> day until the first birthday). The latter decreases with the better education of mothers, better sanitary conditions, better nutrition, higher coverage of infants with immunisation procedures, more effective treatment of respiratory diseases at that age, etc. The mortality of infants in the Republic of Serbia increased in respect of both of the above-mentioned risks in 1993 and subsequently in 1996 and 1997.

446. The greatest share in neonatal mortality is the mortality of newborn babies in the first week of life, as also indicated by the values of the perinatal mortality rate. This rate, which represents the ratio of the total number of stillbirths and deaths in the first week of life per 1,000 deliveries, is an indication of the influence of endogenous factors on the health of the foetus. In countries with well-organised perinatal healthcare (health protection of pregnant women) where practically all deliveries take place in health institutions, as is the case with the FRY, it represents at the same time a good indicator of the quality of health services rendered to mothers with children. The more so, as it occurs in the periods of intensive supervision of the health of mothers with children by the health service.

447. High levels of the perinatal mortality rate in central Serbia remained at the same level practically in the whole reporting period, with the exception of a mild rise in 1993 and 1996. This situation points to the fact that the quality of healthcare provided to pregnant women, women who have just given birth and to their newborn babies has been threatened. In Vojvodina, after a temporary decrease of this rate in 1994, it started to grow again in 1996.

448. The disturbing rise in the post-neonatal mortality rates in central Serbia in 1995 and in Vojvodina in 1996 points to the negative effect of the external (exogenous) factors on infants' health.

449. The health of children is very sensitive not only in the first year of their life but also during the whole pre-school period. Therefore, UNICEF chose the mortality of children up to the age of 5 per 1,000 live births as the most important indicator of children's health in the world, ranking countries according to the values of this indicator. Just like the values of infant mortality rates, the values of this indicator grew in 1993 and later on in 1996, both for central Serbia and Vojvodina.

450. Maternal mortality that reflects all the health risks to which mothers-to-be are exposed during pregnancy, at delivery and in puerperium (six weeks after childbirth) is directly influenced by socio-

economic conditions of life. Furthermore, it depends on the health condition of the mother before pregnancy, the incidence of complications during pregnancy and at delivery, as well as on the availability and the extent of use of health services, in particular of the prenatal and obstetric healthcare. The same as the rate of perinatal mortality, the rate or the ratio of maternal mortality (used more frequently) are an appropriate indicator of the results achieved by the health services, i.e. of the quality of health services rendered.

451. In the period of eight years, the ratio of maternal mortality (the number of women that died during pregnancy, delivery and the post-natal period per 100,000 live births) increased by 10, in central Serbia. In Vojvodina, a similar increase was recorded, while in Kosovo and Metohija no increase was registered, probably due to irregular registration and a large number of deliveries taking place outside health institutions.

452. Increased mortality of vulnerable categories of the population (children, particularly infants, women during pregnancy, at delivery and during puerperium) is partly responsible for a decrease and stagnation of life expectancy for women during delivery. However, the increased mortality rates of the adult working population are primarily responsible for the general deterioration of the values of this health status indicator.

453. Life expectancy at birth, as a comprehensive indicator of the health status indicating how long a new born baby is expected to live if the infant mortality rates continue to persist, increased in central Serbia in the period from 1950/51 to 1989/90. Life expectancy for male newborns increased by 15.7 years and for female newborns by 18.1 years. In Vojvodina these figures are 15.1 and 19.2, respectively. In the same period, forty years, the infant mortality rate was reduced 8.3 times (from 101.7 to 12.2 deceased infants per 1,000 livebirths) in central Serbia and 12 times in Vojvodina (from 143.1 to 12).

454. In the course of the past two years the following activities took place in the health sector, with the aim of improving healthcare and attaining its optimum level and scope with very limited material resources.

455. The Law on Health Insurance was amended, with a view to its harmonisation with the "financial laws";

456. The texts of the Law on Medical Procurements and the Law on Medical Associations were finalised;

457. The Government of the Republic of Serbia prepared and adopted the document entitled "Health Policy in the Republic of Serbia", on the basis of which work on the reform of the health system and the elaboration of new regulations in the area of healthcare and health insurance were intensified;

458. The draft versions of the Law on Health Protection, the Law on Health Insurance and the Law on the Medical Licensing Board were sent out to health institutions, the Republican Institute of Health Insurance and its sub-offices as well as to other interested parties and social structures for their

comments. A certain delay in the finalisation of the texts of these laws is due to their connection with the elaboration and adoption of laws in other fields, in particular with the Law on Local Government and the Law on Determining Certain Powers of the Autonomous Province (of Vojvodina).

459. Simultaneously with the work on the elaboration of the above-mentioned draft laws, legal acts to be adopted or approved by the Government of the Republic of Serbia are being prepared or have already been prepared. These acts include the Regulation on Health Institutions Network; the Decision on the Participation of Insured Persons in Health Care Costs. Also included are the Decision on the List of Prescription Drugs Paid by Health Insurance and the Decision on the Scope and Contents of the Right to Health Care.

460. Independently or in co-operation with the Ministry of Health of the Republic of Serbia and the Republican Institute of Health Insurance the following regulations were adopted: the Regulation on Joint Procurement of Medical Supplies for State-Owned Health Institutions; Decision on the Establishment of the Bases for the Payroll Tax for Compulsory Health Insurance, Decision on the Payroll Tax Rates for Compulsory Health Insurance. Furthermore, the Regulation on Amendments to the Regulation on Evidence supporting requests for the issuance of sanitary certificate; the Regulation on Expenses of Inspection and Method of Calculating Expenses incurred in carrying out inspection at the request of a party; the Regulation on the manner of gaining basic knowledge relating to the hygiene of foodstuffs, including that of personnel; Amendment to the Special Collective Agreement for the Health Sector (thus enabling an increase of 20 per cent in earnings of those employed in the health service), the Decision on the Criteria for contracting health care in 2001 between the Republican Institute of Health Insurance, health care institutions and others involved in the health sector.

461. Five national expert groups were established concerned with: dental care, public health, mental health, tuberculosis, and the elaboration of the National Health Expenditure of the Republic of Serbia.

462. The Terms of Reference for the World Bank technical assistance were prepared in the following areas: reform of the health insurance system and the financing of health care, development of the health information system, public health and development of human (professional) resources in the health care system.

463. The document entitled "A Vision for the Development of the Health Care System" was elaborated.

464. An analysis of the functioning of the medical services was prepared. A survey regarding the satisfaction of beneficiaries with hospital medical care in five in-patients health institutions in Belgrade was carried out. An Anti-Smoking Action Plan was prepared by the Ministry of Health and a Draft Amendment to the Decision on Personal Participation of Insured Persons in Health Care Expenses was elaborated. Also, a Conference on the Reform of Mental Health Services in the Republic of Serbia was held in co-operation with the WHO, Italian and Yugoslav Caritas organisations. Furthermore, a symposium devoted to the introduction of the National Health Bill in the Republic of Serbia, was organised in co-operation with DFID.

465. All necessary activities were completed for the licensing of software for the Ministry of Health in compliance with the planning, licensing and utilisation of Microsoft software. The procedure was started for the licensing of software for health institutions in the Republic of Serbia. Work is under way on the elaboration of a proposed web site of the Ministry of Health of the RS.

466. The Ministry of Health of the RS is developing a project (Secondary Health Care Restructuring: 2003-2007), worth US\$ 16.5 million, to be financed by World Bank loans. For the preparation of the loan project, the Ministry will commission the services of consultants who will be paid through grants allocated for the preparation of the loan project (SPEAG and PHRD). A newly established unit of four members, charged with the project management, will make preparations for the project. The unit has so far prepared documents necessary for the negotiations on loan terms and conditions between the Government of Serbia and the World Bank. In the course of December, the Bank engaged and funded two consultants to assist in the preparation of the necessary loan documentation.

467. The Ministry of Health of the RS and the Republican Institute of Health Insurance are the end users of a portion of the Structural Adjustment Loan. These resources are allocated for the purpose of restructuring the finances of the health system (the list of essential drugs, the Law on Drugs, participation in expenses, etc.), collection of health contributions (the basic package of services, development of supplementary packages of services through health insurance, etc.). The same resources are also intended for the preparation of the Master Plan and the Plan of Personnel for the Health System.

468. The first Biannual Country Agreement was signed with the WHO in 2002. A delegation of the Ministry of Health visited the WHO Headquarters and met with the Director. It was agreed that the Director would pay an official visit to Belgrade in 2003.

469. The document entitled "Provisional Programme on Adolescent Health for Health Care Providers" was prepared. The Ministry of Health organised a seminar on management, with the technical assistance of WHO.

470. The first shipment of Chinese humanitarian aid arrived in the customs warehouse of the Hemofarm pharmaceutical factory in the town of Vrsac. Its worth was US\$ 2,698,795.00. It consisted of medical equipment including 4 CT scanners, 60 ultrasound scanners, 130 personal computers, medical material and pharmaceutical raw materials. The Division for International Co-operation and Project Management of the Ministry of Health prepared a list of priority equipment for health institutions in the Republic of Serbia, on the basis of which a distribution list was made. An application was submitted to the Chinese authorities in respect of the third shipment of the humanitarian assistance amounting to about US\$ 3.0 million. These financial resources will be used for the purchase of CT scanners on the basis of the priority list.

471. The Government of Japan approved a grant amounting to US\$ 10.0 million. The assistance will be used for the purchase of equipment for the Clinical Hospital Centre of Serbia, Clinical Hospital Centres in Novi Sad and Nis and the Clinical Hospital Centre in Kragujevac. In December 2002,

according to priorities, a final list of equipment was elaborated, representing three-quarters of the path to the realisation of the grant.

472. In co-operation with the International Committee of the Red Cross the implementation of a pilot project on the primary health service was initiated, in the Primary Health Centre in Kraljevo. The estimated value of the project is 2.65 million US dollars. Furthermore, the integrated package of health services, focusing on displaced persons, was inaugurated.

473. In co-operation with the European Agency for Reconstruction, the Division for International Co-operation and Management of Projects of the Ministry of Health proceeded with the projects started in 2001 relating to the support of the pharmaceutical sector in Serbia. This includes the purchase and distribution of drugs, medical materials and reagents for state pharmacies, primary health centres and hospitals (on the basis of priority list); assistance to the development of regulatory frameworks in the pharmaceutical sector; technical assistance aimed at rationalising prescription, development of diagnostic and therapeutic protocols as well as referral to specialist consultants; rationalisation of the pharmaceutical industry; rehabilitation of the equipment existing in hospitals and primary health centres and the assessment of the needs of health institutions in Serbia. The total budget for the enumerated projects was 31.7 million Euro (26.7 million Euro in 2001 and 5.0 million Euro in 2002).

474. The new X-ray equipment (amounting to 4.0 million Euro) was purchased and distributed according to the priority list. It consists of X-ray machines (54), film developing devices (25), equipment for operating theatres and intensive care units (6.5 million Euro), apparatuses for anaesthesia (70), aspirators (400), monitors (200), infusion pumps (150), electrical cauters (60) operating theatre tables (20) with special lamps (20), respirators (40), sterilisers (20), defibrillators (20). A tender was announced for the purchase of laboratory equipment. The old equipment was repaired (1.75 million Euro), i.e. apparatuses for anaesthesia, sterilisers, X-ray machines, scanners, endoscopes.

475. In co-operation with EPOS, "Best Practice Guides on Asthma, Chest Pain, Oncology and Diabetes" were elaborated and presented to local physicians.

476. With the assistance of the European Agency for Reconstruction, the Ministry of Health of the Republic of Serbia prepared the Law on Drugs, which was submitted to the Government of the Republic of Serbia for adoption. Furthermore, the project for the rehabilitation of the Blood Transfusion Service was initiated.

477. In co-operation with the Government of Norway, work on two projects totalling 2.2 million Euro began. Namely, the project for assistance to the emergency health services in Kragujevac, Valjevo, Zrenjanin and Zajecar, through the purchase of equipment and reconstruction of facilities and the project for the development of the information system of the Pharmacies Institution Belgrade. At present, formal approval of the Government of Norway is expected for the technical part of the tender documentation for the purchase of software. The project is to be completed in the course of 2003.

478. Within the "Hellenic Plan" an application was submitted for the Project of the development and rehabilitation of the emergency medical aid along the route of "Corridor 10", worth 10 million Euro (8.0 million Euro by the Government of Greece and 2.0 million Euro from budgetary resources and other donors). Furthermore, an application was submitted for financing the Project for the management of medical waste, worth 2.0 million Euro, in which the Ministry for the Protection of the Environment and Natural Resources of the Republic of Serbia could also participate.

479. The European Commission's Humanitarian Office (ECHO) participated with its partners, in coordination with the Ministry of Health of the RS, in a number of activities. They include the purchase of medical equipment (colposcopes, bags with medical equipment for community-health nursing, centrifuges, biochemical analysers, sterilisers); the purchase of vehicles for the community-based primary health care; assistance to rehabilitation centres and institutes for health protection; reconstruction of health institution buildings; and assistance to handicapped and disabled persons. The total budget amounted to 6.5 million Euro and was divided on the basis of the list of priorities.

### **Article 13**

480. The Law on Financial Support to Families with Children defines child allowance as a measure of social support to families with children, allocated to families with inadequate financial situation. In this respect there is a common financial threshold. This threshold is higher for single parents, foster-parents, guardians and parents with retarded children. Child allowance is higher for these categories of parents.

481. According to the provisions of the Law, families with four children can exercise the right to family allowance. The parent taking direct care of the child receives child allowance, meaning that there is no difference if the parent is a father or a mother.

482. The Law has defined the parents' allowance, as once-only sum of money paid to families with children on the occasion of the birth of the second, third and fourth child in the family. The mother exercises the right to the parents' allowance. The father may exercise this right only in exceptional circumstances (if the mother has died, abandoned the child, if she is denied the parent right, if she is seriously ill, deprived of business capability or serving a prison sentence).

483. In compliance with its powers and possibilities, the local government authorities may adopt other additional measures of support to the family, or to mothers, over and above those defined by the Law. Married and unmarried mothers enjoy the same treatment in respect of this kind of support.

484. The Law on Social Protection and Assurance of Social Security of Citizens provides for a measure called material security to which is entitled an individual or a family whose earnings are below the level of social security determined by this Law. There is no distinction as to gender or civil status in the exercise of this right.

485. As already repeatedly mentioned elsewhere in this report, the legal provisions envisage equal rights of men and women with regard to bank loans, mortgage credits and other financial credits.

There are no legal grounds for a differential treatment in this respect vis-à-vis the gender of the applicant. However, in most cases, a condition for obtaining credits and loans is the possession of certain property, movable and immovable, or the guarantees of the person owning such property. Therefore, it cannot be excluded that in practice women are placed in a less favourable position in relation to men, because among the owners of movable property or real estate, there is a considerably lower proportion of women than men. Thus, it could be said that from the legal aspect equality of the sexes formally exists but due to the reasons referred to above, it is more difficult for women to realise these rights in a certain number of cases, showing that some forms of indirect discrimination do exist. The strengthening of the economic status of women will help to overcome these problems.

486. Men and women enjoy equal rights to the participation in sports and recreation activities. Practice has shown that women are keenly interested in recreational sports (aerobics, gymnastics, fitness clubs, swimming, jogging) which may be explained by the need for health recreational activities or aesthetic shaping of the body. There are numerous programmes of physical exercise attended mainly by women.

487. The participation of women in cultural life, either as artists, organisers of artistic events, employees in cultural institutions or only as visitors of cultural events is very significant. Therefore, the field of culture is very often considered as an area of dominated by women. Although no precise data exist, practice has shown that in the cultural institutions (theatres, museums, cultural centres, in journalism, etc.) most of the employees are women, but that men mainly occupy the managerial positions. It reflects the traditional division of functions, still present in the majority of social systems.

#### **Article 14**

488. It should be mentioned at this point that the domestic legislation is based on the equality of men and women in the realisation of all rights and duties envisaged by the law. The principle of equality is contained in the previously mentioned provisions of the Constitution of the FRY (Art. 20), the Charter of Human and Minority Rights (Art. 3) and the Constitution of the Republic of Serbia (Art. 13).

489. In view of the specific way of life in the country, special mention should be made about the possibilities of owning real estate and inheriting it. Thus, the Constitution of the FRY has guaranteed the right to own property and the right of inheritance in conformity with the Constitution and law (Art. 51). Likewise, it was pointed out in the Constitution that the freedom to work, to engage in economic activities and to own property is guaranteed. It is also stipulated that no one may be deprived of his/her property, nor may it be restricted, except when so required by public interest, as determined by law, subject to fair compensation which may not be below its market value (Art. 69).

490. The Charter on Human and Minority Rights contains a similar provision (Art. 23). The right of property and the right of inheritance are guaranteed. The manner of use of property may be regulated by the law in conformity with public interest. No one may be deprived of his/her property except when so is required in public interest as determined by the law and against a compensation that may not be lower than the market value, or in order to secure the payment of taxes or other contributions or fines. The competent court settles any dispute over the amount of compensation.

491. The Constitution of the Republic of Serbia guarantees the right to own property, in compliance with the Constitution, freedom of entrepreneurship and the right to inheritance, in keeping with the law (Art. 34).

492. In accordance with the above provisions, as well as with the relevant laws elaborating in more detail the basic constitutional principles, rural women enjoy equitably with men the right to own property and the right to inheritance. However, it should be mentioned that in some rural areas, in line with the existing tradition, women are not expected to register real estate or rural estates to their name, but the estate is registered to the name of male relatives. In the inheritance procedure women are expected to waive the claim to their part of property on behalf of male members of the family.

493. Women in rural areas enjoy the same access to programmes of social welfare as women in urban areas. The events from the recent past have had a negative impact on the health education and health status of rural women since their access to health services was reduced. Numerous health stations in rural areas were closed down, so that provision of health services to children and pregnant women in rural areas remote from major health centres was rendered more difficult.

494. In such circumstances the support of UNICEF has been very significant. In co-operation with the competent health authorities, UNICEF organised mobile counselling services for mothers, primarily with the aim of promoting breast feeding and reducing the incidence of diarrhoea and respiratory diseases among infants and small children.

495. The situation in respect of the position of women in rural areas can be illustrated by a breakdown of costs, i.e. income and expenditure of urban and rural households. Although those categories are rather evenly balanced, the unfavourable demographic structure of the rural population results in a somewhat lower average income (by about 5.0 per cent) of a rural household in comparison with an urban household. This is due to the greater share of older population and to a greater average number of rural households.

496. The main sources of income of rural households are wages and pensions (43 per cent) and agricultural and own production (40 per cent). In urban areas, salaries and pensions account for 68 per cent of the total income. In addition to the fact that urban households, in comparison to rural ones, have greater consumption per consumption unit (by about 30 per cent), the expenses of urban households exceed their income by about 19 per cent. This indicates that a significant part of the urban household's income stems from the so-called shadow or informal economy.

497. On the other hand, the outlays of rural households are about 3.0 per cent lower than their income, which points to possibly more savings by rural households. The structure of expenses in rural households compared to those of urban households is to a certain extent surprising because the expenses for food account for 52 per cent as against 46 per cent of the income in urban households.



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**Article 15**

498. In the previous considerations it has been noted that the basic principle of the domestic legislation is that all are equal before the law and that there is no discrimination of any kind in the exercise of rights and duties. Men and women are recognised equal legal capacity and equal opportunities in enjoyment, without any restrictions based on gender. Furthermore, they are fully equal as to the conditions of acquiring, enjoyment and deprivation of business capability.

499. The Constitution of the FRY guaranteed freedom of movement and residence and the right to leave and return to the FRY. The right to freedom of movement and residence and the right to leave the territory of the FRY may be restricted by federal statute, if so required for the conduct of criminal proceedings, prevention of the spread of contagious diseases or for the defence of the FRY (Art. 30).

500. The same principle was adopted in the provisions of the Constitutional Charter and the Charter on Human and Minority Rights.

501. The Constitutional Charter provides that the movement of people, goods, services and capital shall be free. Setting obstacles to free flow of people, goods and capital shall be prohibited (Art. 13).

502. The Charter on Human and Minority Rights stipulates that everyone has the right to free movement and residence anywhere in the territory of the State Union, as well as the right to depart therefrom and return thereto. These rights may be restricted if so is necessary for the conduct of criminal proceedings, protection of public order and peace, preventing communicable diseases from spreading or for reasons of national defence (Art. 37).

503. The Constitution of the Republic of Serbia provides that citizens are guaranteed freedom of movement and residence and the right to leave and return to the Republic of Serbia. Freedom of movement and residence may be restricted by law only if this is necessary for the conduct of criminal proceedings, prevention of contagious diseases or for reasons of the defence of the Republic of Serbia (Art. 17).

504. The question of abode and residence of citizens is regulated by the provisions of the Law on Abode and Residence of Citizens (Official Journal of the SRS, Nos. 42/72, 25/89; Official Journal of the RS, Nos. 53/93, 48/94). The law makes no distinction between the sexes in respect of the rights and duties relating to abode and residence. In the enjoyment of all these rights and duties, all citizens are equal regardless of their sex or civil status.

505. The Law defines residence as the place where a citizen has taken abode with the intention of residing permanently (Art. 4). Citizens of legal age are obliged to register their residence upon arrival and to give notice of departure as well as to report any change of address. There are special regulations as to the registration of the stay of aliens. When reporting on their residence, or change of address, adult citizens are also obliged to register their underage children (Arts. 4 and 6).

506. The registration of residence and change of address must take place within 8 days from the date of arrival and/or change of address. The citizen is due to report his/her departure before leaving the place of residence (Art. 8).

507. On the occasion of the registration of residence citizens are obliged to give true information. A citizen may be required to produce a document as proof of identity. The intention of residing permanently in a place of residence and/or at a certain address is proved by the contract on the use of the apartment, owner's title sheet or by a sub-tenancy agreement (Art. 5).

508. The abode is the place where the citizen lives temporarily, outside his/her place of residence (Art. 4). Citizens who live outside their place of residence for more than 15 days are obliged to report their arrival and their departure before leaving (Art. 12).

509. Citizens who intend to stay abroad for more than 60 days have the duty to report their departure to a foreign country. These citizens are obliged to report their temporary arrival in or permanent return to the country not later than 3 days after arrival in or return to the place of residence (Art. 13).

510. The arrival in or departure from the place of residence; a change of address; departure to a foreign country or temporary arrival in, or return from a foreign country, to the place of residence, is reported to the municipal organ of internal affairs. In places outside the seat of the municipality they have the duty to report to a local community office, which shall forward the filled-in forms without delay to the municipal organ of internal affairs (Art. 14).

511. The municipal organ of internal affairs keeps records of residence, change of address or abode of citizens as well as records of citizens' stay abroad for more than 60 days. In cities with several municipalities these records are kept uniformly for the whole territory of the respective city (excerpts from Article 20).

## **Article 16**

512. The Law on Marriage and Family Relations (hereinafter referred to as the Law on Marriage) regulates family relations. The National Assembly of the Republic of Serbia adopted the Law on 5 June 1980. It came into force on 1 January 1981 (subsequently amended in 1988, 1993, 1994, 1995 and 2001 respectively).

513. The Law on Marriage ensures the equality of women and men in all segments of family life (marriage, parenting, support, alimony/maintenance, property in common, same family name, etc.)

514. The Law on Marriage regulates the following areas:

- Family (realisation of family rights, basic principles of family relations);
- Marriage (conditions for contracting and validity of marriage, procedures for contracting marriage, the rights and duties of the spouses, termination of the marriage, annulment and causes for divorce);
- Relations between parents and children (verification and denial of fatherhood and motherhood, the duties and rights of parents and children, exercise of parental rights, supervision of exercise of parental rights, deprivation of parental rights, continuation of parental rights);
- Special forms of protection of children without parental right (adoption, organised family placement, other forms of family placement);
- Guardianship (guardianship of minors, guardianship of persons deprived of business capacity, guardianship in special cases);
- Support (support of spouse, support of common-law spouse, support of children, parents and other relatives, manner of determining the amount of support);
- Property relations (property relations of spouses, division of the property in common of spouses, property relations of common-law spouses, property relations of the members of the family);
- Special court procedures in disputes related to marriage and family;
- Family name (determination of the family name, family name of the spouses and a change of the family name).

515. However, it should be borne in mind that although family relations are regulated solely by civil laws, in certain regions of Serbia (eastern Serbia, the region of Raška, Kosovo and Metohija) family relations, outside the institutions of the system, are regulated in keeping with religious rules and common law. This may place women in an unequal position to a considerable extent.

516. The right to contract marriage, according to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, is one of the basic human rights. As such it is recognised in Serbia and Montenegro and in the Republic of Serbia both to citizens of Serbia and Montenegro and to foreigners, irrespective of sex.

517. In compliance with this principle, the legal regulations treat the contracting of marriage as a general right, as a regulated union of a woman and man which is established on the basis of their consent to do so stated before the competent organ in the manner prescribed by the law. The circumstance that one or both spouses to be are foreign nationals is of relevance only in the sense of additional documents that they have to produce for the purpose of establishing their identity and in order to fulfil the requirements for contracting marriage.

518. The Law on Marriage regulates the requirements for contracting marriage and for it to be valid. It stipulates positive and negative premises for entering into marriage and the marriage prohibitions.

The positive requirements for entering a valid marriage is the legal age (acquired at the age of 18), different sexes, an agreed statement of consent of the future married couple, legal form of contracting marriage with the aim of living together.

519. The negative requirements for the validity of a marriage, or impediments to enter into marriage are the existence of a previous marriage, mental incompetence, kinship, status of a legal minor and defects in willpower (coercion and deception). Of all impediments to marriage this Law regulates only one, i.e. guardianship.

520. In the case of entering into marriage with an alien the conditions for contracting marriage are assessed according to the national law of the prospective spouses (*lex nationalis*), so that each spouse must fulfil the requirements set by the law of the country of his/her citizenship. However, even if conditions for contracting marriage according to the law of the state whose national is the person wishing to contract marriage before the competent authorities of the Republic of Serbia have been fulfilled, the entering into marriage will not be allowed in some cases. Namely, if, according to the Law on Marriage, there are impediments in respect of that person relating to a previous marriage, kinship or mental incompetence.

521. Otherwise, as far as marriage law is concerned, Serbia and Montenegro has ratified, within the framework of the Hague Convention for International Private Law, *inter alia*, the Convention on the Consent to Marriage, Minimum Age for the Contracting of Marriage and the Registration of Marriage (1962).

522. The procedure for contracting marriage is regulated by the Law on Marriage and the Regulation on the Duties of the Registrar in the Procedure for Contracting Marriage of 1993. In conformity with those regulations it is necessary for persons intending to contract marriage to inform the Registrar, orally or in writing, about their intention. In case of oral information, the Registrar establishes the identity and the place of residence of persons intending to enter into marriage, by inspecting their identity cards. In case of written information, the Registrar acts in compliance with the law regulating the general administrative procedure.

523. Together with the registration form, persons intending to enter into marriage are required to submit a birth certificate and, if necessary, evidence that no matrimonial impediments or prohibitions exist.

524. If the person intending to enter into marriage is an alien, he/she is required to submit a birth certificate (duly legalised for use in our country), a certificate of free civil status (so-called *nulla osta*). It should be stated in the certificate that according to the laws and regulations of the country whose he/she is a national no impediments exist to contracting marriage with the person whose name should also be mentioned in the certificate. A photocopy of the passport and proof of the registration of temporary stay in Serbia and Montenegro are also necessary.

525. In a private conversation, without the presence of the public, the Registrar has the obligation to inform the persons intending to enter into marriage of impediments and prohibitions for contracting

marriage and the legal consequences in case of entering into marriage notwithstanding their existence. The Registrar will recommend to the persons intending to enter into marriage to use the time prior to their wedding to collect information on each other's health status. Also, he will advise them to visit the marriage counselling service in order to receive professional advice regarding the conditions for a harmonious development of conjugal and family relations. The Registrar will also advise the prospective spouses to visit a health institution with a view to getting information about the possibilities and advantages of family planning. He will also inform them about the existing legal options in respect of their future surnames. The Registrar will make a note on their application for contracting marriage. The Registrar and the persons submitting the application will sign the aforementioned note.

526. Marriage is contracted at a ceremony, on the premises especially assigned for these purposes. Without delay, the Registrar enters the data on the marriage into the Register of Marriages, reads aloud to the couple and the witnesses that the entry has been made and states in the Register of Marriages that the entry was read out. The married couple signs the entry in the Register of Marriages using their new surnames. After that the witnesses also sign the Register. Upon completion of the entry, the Registrar issues a copy of the Marriage Certificate.

527. The Law on Marriage (Art. 402) envisages that the spouses may agree that:

- their common family name will be the family name of one or the other spouse;
- they will keep their own family name;
- they will add to their family name the family name of the other spouse,
- one of the spouses will take the family name of the other spouse and add to that family name his/her family name.

528. For entering into marriage, as already mentioned, a special ceremonial form is envisaged. Such a legal form of entering into marriage is one of the preconditions for the validity of the marriage. According to the Law on Marriage, the predominant form of entering into marriage is the marriage according to the civil procedure, as the most frequent form of marriage in contemporary law. Consequently, a marriage is legally considered a marriage only if it was contracted before appropriate state authorities and according to the procedure envisaged by the law. In this context, it is stated in the Law on Marriage (Art. 64) that persons officiating at a marriage ceremony according to the religious procedure cannot do so before the spouses had proved, by producing a Marriage Certificate, that they already contracted civil marriage.

529. The Law on Marriage (Art. 41) prescribes that the marriage is considered contracted at the moment when the spouses announce their consent to marriage in the presence of a state official, i.e. the Registrar. Contracting a marriage without the free consent of the prospective spouses is explicitly forbidden. The consent must not be forced upon or given in error (Art. 43).

530. The lack of freely expressed will to enter into marriage is legally qualified as an impediment to marriage. For that reason legal proceedings can be initiated for the annulment of a marriage. The Law on Marriage stipulates that a marriage shall be declared null and void if a spouse has consented to it in fear provoked by violence or serious threat (Art. 76).

531. There is no special provision in the Law on Marriage that legally defines the family and types of families. It is considered that according to the law it is not the family as such that is entitled to special rights established by the law but the individuals, i.e. persons who are related to each other (spouses and common-law spouses, parents and children, relatives, etc.).

532. The Law on Marriage recognises marriage (a union of a man and woman contracted in accordance with the procedure established by the law and in the presence of a representative of the appropriate state authority). It also recognises the common-law marriage (a union of a man and woman that was not verified according to the procedure envisaged by the law, i.e. contracted before a representative of the appropriate state authority).

533. The Law on Marriage (Art. 16) equalises the common-law union with the marriage in respect of the right to mutual support of common-law spouses and other property-legal relations. The same applies to the relations between parents and children in respect of their entitlement to exercise parents' rights. In some regions of the Republic of Serbia (the Raska Region, Kosovo and Metohija), according to some religious beliefs and the customary law there are also polygamous marriages, not recognised by the law. Moreover, in the Republic of Serbia polygamy is not allowed under any law and it is sanctioned by the Penal Code as a criminal act.

534. The Law on Marriage establishes the rights and duties of the spouses (Articles 65 to 70). These provisions of the Law proclaim the equality of the spouses in the choice of their work and profession, their rights and duties in respect of common children. The same applies to their personal relations, property relations, choice of their place of residence, management of the joint household, support and property.

535. The Law on Marriage (Art. 16) as already mentioned, equalises the common-law marriage with the legal marriage in respect of the right to mutual support of the common-law spouses and other property-legal relations. The same applies to the relations between parents and children in respect of their entitlement to exercise parents' rights. This implies that according to the provisions of the Law (Articles 293 to 297), it is the duty of the common-law spouses to support each other and that either one of them has the right to receive support from the other spouse if the common-law marriage has terminated. The Law also stipulates that the property earned through the work of the husband and the wife in the common-law marriage is their common property. In respect of the property of the common-law spouses the same provisions of the law are applicable as in the case of the division of common property of the married couple (Articles 338 and 339). Furthermore, parents have the same rights and duties in respect of their children as parents whose children were born in wedlock. It is their duty to take care of their children and the right of the children is to live with their parents. The parents are responsible for the upbringing and support of their children, their education. They should also look after the property and other interests of their children (Articles 7, 114 to 131).

536. A common-law marriage is in fact a relationship between a man and a woman not regulated within the framework of the law. It is not banned by the law, except in cases when at the time of entering into such a union certain impediments existed which would otherwise constitute impediments to the contracting of marriage (existence of a previous marriage, blood kinship, kinship based on adoption, mental illness, etc.)

537. The Law on Marriage promulgates equality of the spouses and explicitly provides for freedom of choice of the spouses in respect of their work and profession (Art. 65).

538. In respect of the property rights of the spouses there are no limitations based on sex. The property that a spouse had owned at the time of entering into marriage remains his/her own property, as well as the property acquired during the marriage by way of inheritance, a gift or through some other legal procedure without encumbrance. Each spouse freely manages and disposes of his/her separate property. The said property is not subject to possible division.

539. The property earned by the spouses through work in the course of their marriage is their common property. Both spouses jointly manage and dispose of their common property. In order to sell the common property as a whole or a part thereof the consent of both spouses is necessary. The spouses may agree that only one of them manages and disposes of the entire common property or a part thereof.

540. Any liabilities incurred by one of the spouses before entering into marriage and any liabilities incurred by him/her entering into marriage are not the responsibility of the other spouse. Furthermore, the spouses guarantee by their separate property and by their share in the common property for their personal liabilities (Articles 320 to 337).

541. The Law on Marriage (Art. 83) provides that the spouses, regardless of their sex, may seek dissolution of their marriage if conjugal relations have been seriously or irreversibly impaired or if for other reasons the purpose of the marriage cannot be fulfilled. It has also been stipulated in the law that spouses may seek dissolution of their marriage by common agreement. The marriage can be dissolved exclusively on the basis of common agreement if the spouses have a child under one year of age (Art. 84).

542. Both partners, without any limitations, may exercise the right to petition for a divorce. Divorces are registered in the registers.

543. In case of the dissolution of marriage, but also during the marriage, the spouses may initiate the procedure for the division of their common property (by mutual agreement or by filing a civil lawsuit). The purpose is to determine each spouse's share in the common property. The Law on Marriage sets forth criteria for the establishment of the share of each spouse in the common property. The share of each spouse in the common property is determined according to the contribution of each spouse to the acquisition of the common property (Art. 328).

544. Without any limitations based on sex, the Law on Marriage (Art. 287) provides that the spouse who does not have sufficient subsistence means, is not able to work or cannot find employment, has the right to be supported by the other spouse. The support should be proportional to the financial possibilities of that spouse.

545. It is likewise prescribed by the law that in case of the dissolution of a marriage the spouse not having sufficient subsistence means is entitled to request that the court, in its decision on the dissolution of the marriage, adjudicate the support that the other partner is obliged to pay. The amount of the support is to be determined taking into account the same criteria valid for their former marriage, that is, if he/she does not have sufficient subsistence means, is not able to work, or cannot find employment. The obligation to support the other spouse during marriage and after the dissolution of the marriage is mutual and its realisation does not depend on the gender of the spouse.

546. In dividing the common property and assessing the contribution of each partner to the acquisition of the common property, account is taken not only of the earnings and other income of a spouse, but also of the assistance that one spouse has offered to the other. This refers to his/her care of the children, participation in the household chores, looking after and maintenance of the property and to all other forms of work and co-operation in the management, upholding and enlargement of joint property (Art. 328). This legal provision implies that the unpaid work in agricultural households done by each of the spouses will be considered as a contribution in case of the division of the common property.

547. It is the duty of the common-law spouses to support each other. They have the right to the support from each other, if the common-law marriage has been dissolved under the conditions established by the law (Articles 293 to 297). The property gained by the work of the husband and wife in the common-law marriage is their common property. The property relations of the common-law couple are regulated by the same provisions of the Law on Marriage that relate to the division of the common property of a married couple (Articles 338 and 339).

548. The only specific requirement for the common-law spouses, regardless of the gender, to realise the right to support and the right to common property after the dissolution of their common-law marriage, is that the common law-marriage has lasted for a longer period. If the common-law marriage has lasted for a shorter period of time, the condition is that the partners have common children.

549. As already mentioned, there have been no specific provisions in the legal system of the Republic of Serbia that would sanction, in a strictly defined manner, domestic violence, especially against women. Individual forms of violence against and mistreatment of women were sanctioned by the Criminal Code of the Republic of Serbia, in the sections related to the criminal acts against the dignity of the person and morals and the criminal acts against marriage and the family. The Law on Minor Offences sanctioned a certain number of these acts. However, by introducing the already mentioned Article 118a of the Criminal Code of the Republic of Serbia, whereby domestic violence has been incriminated as a new criminal act, the punishment of family tyrants has been legally regulated. However, practice will show the extent to which domestic violence is punished in reality.



550. In practice, the help and support to and protection of women victims of domestic violence is ensured through the institutions of social protection, health institutions, the police and the judiciary. During the past fifteen years a significant network of women's and other non-governmental organisations has been established, focusing their activities on women victims of domestic violence. In order to bring the problem to the attention of the public and, first and foremost, to protect the victims of domestic abuse, these organisations have launched a number of activities (campaigns, roundtables, TV videos). Of these activities the most important has been the setting up of safe houses for women and children, victims of violence.

551. However, this network of women's and other NGOs, SOS hotlines, legal aid services and safe houses for women has been faced with difficulties in its work because the state has no obligation to finance these organisations as part of the regular system of social protection. With this in mind, the Provincial Secretariat for Labour, Employment and the Equality of Sexes of the Autonomous Province of Vojvodina initiated the establishment of the first SOS hotline for women victims of violence and assumed the responsibility for its operation. In co-operation with the civic authorities and public enterprises, the Provincial Secretariat initiated the construction of a Women's Safe House in Novi Sad. It is expected that the building will be completed in September 2004.

552. In the process of reform of the family and criminal legislation that has been taking place in the past two years, significant attention has been devoted to the problem of domestic violence and assistance to women and children victims of that violence. The problem has been recognised and legal instruments elaborated with a view to preventing and punishing the incidence of domestic violence.

553. The constitutional right to decide freely on family planning (Article 27 of the Constitution of the Republic of Serbia) is specifically implemented by the Law on Marriage (Article 4). The Law provides that the right to decide freely on family planning can be exercised by all persons capable of correct reasoning. This implies that married women or unmarried women decide freely on giving birth to a child. Any disagreement of spouses in that respect may cause disturbed conjugal relations that may end in divorce.

554. The Law on Marriage preventively envisages the possibility (Art. 55) but not the obligation of the prospective spouses to apply to specialized health institutions where they may inform themselves about the advantages and possibilities of family planning. A woman may independently ask advice from the family planning counselling service, without the consent of her spouse.

555. It is stated in the Law on Marriage that parents are equal in the exercise of the parents' rights, including in respect of the decisions concerning the upbringing of their children. The law stipulates that the parents' rights and duties belong both to the mother and the father. The rights and duties of parents in respect of their children are equal, whether the children were born in wedlock or out of wedlock (Arts. 33 and 34). It is likewise stipulated that the parents shall exercise the parents' rights jointly and in agreement. In case of their discord the guardianship authorities shall bring the necessary decisions (Art. 123). It emanates from these provisions of the law that both the mother and the father are entitled to guardianship (exercise of the parents' rights), irrespective of the civil status of the woman.

556. As regards the first or given name of the child, the Law on Marriage says that the parents determine the child's first name by mutual agreement. According to the same Law the child's family name will be the family name of one of the parents or the family name of both parents. The parents may not give different family names to their common children.

557. In the context of these legal provisions, both a woman and a man, i.e. the parents of a child have the right to choose and decide on the family name of the child. Only the interests of the child limit the exercise of this right, i.e. the child must be given the family name of one of the parents.

558. According to the Law on Marriage (Art. 33) parents are the guardians of the child, that is, they naturally represent it, take care of it. Furthermore, the parents are responsible for the wellbeing and upbringing of the child and provide for its support, education and health. These rights and obligations constitute the parents' rights and obligations. According to the above-mentioned legal norm these rights equally belong to the father and the mother.

559. Children without parental care are entitled to special protection. In addition to social protection other forms of family-legal protection are provided, including guardianship, placement in foster homes and adoption. In all these forms of legal and family protection there are no limitations based on sex due to which a person might be denied the right to be a foster parent, a guardian or adopter of a child. In that respect women have the same rights as men.

560. If the parents for some reason (divorce, actual dissolution of marriage, dissolution of common-law marriage, etc.) do not live together, the parent who is able to provide best for the needs of the child is entrusted with the care, support and education of the child. The authority that decides on entrusting the care and education of the child to one of the parents is obliged to examine all the circumstances essential for the normal mental and physical development of the child. In bringing that decision the authority is solely guided by the best interests of the child (Arts. 124 and 130).

561. The gender of the parent is not formally a decisive factor in entrusting the child to one of the parents. However, this factor is also taken into account from the professional point of view in order to ensure the best interests of the child.

562. In certain regions (the Raska Region, Kosovo and Metohija) due to tradition, religious and specific cultural features the children are more often than not entrusted to the father rather than to the mother, regardless of the needs of the child and the personal qualities of the parent. In fact, in these cases the children are not entrusted to the care, upbringing and protection of the father but to that of his primary family. Therefore, there are cases that the mother is denied free communication with and access to the child.

563. The Law on Marriage (Art. 298) prescribes that the parents have the duty to support their underage children and are obliged to support their children of legal age if they are full-time students but not after they turn 26 years of age.

564. Either parent with whom children do not live, regardless of the reasons, is expected to pay maintenance for the children. This expectation is based on the law providing for that the parent with whom the children do not live is obliged to contribute to the expenses of their sustenance.

565. The parent with whom the children live may in a separate lawsuit request the court to bring a decision on the duty of the other parent to pay child support. Also, during divorce proceedings the court may ex officio decide that the other parent, to whom the children were not entrusted, has the obligation to pay maintenance for them.

566. In the legal procedure for the implementation of maintenance the court determines the total amount of financial resources necessary for the support of the children. The obligation of paying child support is decided in accordance with the financial standing of the parent who is obliged to pay the support (Arts. 309 and 310). Although the decisions on the payment of maintenance are normally implemented in practice, due to the overall low living standard of the population, the problem arises in connection with the amount of the maintenance. More often than not it cannot cover the basic needs of the child. In some cases, although the maintenance is rather low, it is nevertheless higher than the actual financial resources of the parent who is obliged to pay it.

567. The obligation of supporting the child is in most cases fulfilled voluntarily by the parent who is obliged to pay the maintenance. In case of failure to do so, the payment is effected through measures of enforcement, in appropriate court proceedings. The Criminal Code of the Republic of Serbia envisages the criminal responsibility of the parents and other persons in default regarding payment of child support.

568. According to the domestic legislation, legal age is reached at the age of 18. This provision is also contained in the Charter on Human and Minority Rights which, in its Article 36, states that a person shall be deemed as being of legal age on reaching the age of 18 years.

569. In compliance with the above mentioned, the Law on Marriage (Art. 15) provides for that the legal age is attained on reaching the age of 18. Furthermore, it stipulates that the full business capacity, attained on reaching the legal age, may be acquired earlier by entering into marriage before legal age. According to the law, men and women reach the legal age under the same conditions.

570. According to the Law on Marriage (Art. 49) being underage is an obstacle to entering into marriage. Thus, a person who has not reached the age of 18 cannot enter into a marriage. However, the same Article provides for that the court may allow entering into marriage to a person under 18 years old, but not under 16 years old. At the same time, the court must establish whether the person entering into marriage is physically and mentally mature to perform his/her marital duties. Prior to adopting such a decision the court will obtain the opinion of the guardianship authority and from a medical institution. Furthermore, the court will interview the underage person wishing to enter into marriage, his/her parents or guardian as well as the person with whom the underage person intends to enter into marriage.

571. It should be mentioned that, though a person under 16 years of age may not enter into marriage under any circumstances, in eastern Serbia among Vlach and Roma ethnic communities, there is a tradition of marriages and common-law marriages by underage persons, i.e. there are marriages in which both spouses or only one of them is under 16 years of age. The fact that in such cases a legal marriage may not be contracted under any circumstances whatsoever is obviously of no relevance to the prospective spouses.

572. Otherwise, the common-law marriage with an underage person is qualified as a criminal offence by the Criminal Code of the Republic of Serbia (Art. 115).

573. The right to the choice of a spouse of an underage female and an underage male is to a significant extent limited by the will of their parents. Forcing an underage person to entering into marriage is qualified as a criminal offence by the Criminal Code of the Republic of Serbia (Art. 113).

574. The engagement between underage persons is not a usual phenomenon, except sometimes in eastern Serbia among the Vlach and especially Roma populations. Any abuse of a child is regarded as a criminal offence and subject to protection under the family law.

575. In the domestic legislation there are no special regulations determining the age when it is allowed, by mutual consent, to enter sexual relations. However, according to the Criminal Code of the Republic of Serbia, sexual intercourse with a person under 14 years of age is considered a criminal offence, irrespective of whether it took place with or without that person's consent (Art. 106).

576. In the law regulating marriage and the family there are no references to the custom of payment for the bride or the obligation of the bride's parents to present a dowry. However, very often one of the rituals during the wedding ceremony is the act of "buying the bride". It is only symbolic and does not mean the actual purchase or sale. Also, there is a custom in rural areas for parents of the bride to give a dowry that is prepared by the parents or by the bride herself during her maidenhood. The custom of giving a dowry is being slowly abandoned.

577. However, a significant segment of the population of Roma and Vlach nationality as well as a part of the Muslim population, does not consider the "purchase of the bride" only symbolic and ritual but has the features of a real purchase and sale. Of particular concern is the fact that quite often very young girls are the "object" of the purchase, which is carried out through an informal oral arrangement.

578. The impact on the marriage of the custom of giving a dowry and the "purchase" of the bride is still under examination.

579. The Law on Inheritance prescribes the rules applied in case of the death of one of the spouses. There are no discriminatory provisions that would place women in an inequitable position in comparison to men.

580. According to the legal line of inheritance, the spouse, regardless of the sex, inherits automatically half of the property of the testator. As to the other half of the property, the spouse equitably participates in the division of the property with other heirs of the first line of inheritance. However, this provision defined by the law has been implemented in practice with certain exceptions, depending on the local customs. It may happen that in the probate proceedings women renounce their share of the inheritance on account of male heirs (mothers to sons, sisters to brothers, etc.).

**Part two  
Montenegro****Consideration of reports submitted by States parties under article 18  
of the Convention on the Elimination of All Forms of Discrimination  
against Women****Initial report of States parties****Montenegro****Convention: Articles 1-16****Article 1**

581. Constitutional Charter of state union Serbia and Montenegro (Official Gazette Serbia and Montenegro No. 1/03) has proclaimed respect of human rights of all persons within its competence as one of the goals of state union. In that sense it has prescribed that constituent states define, provide and protect human rights and minority rights and civil freedoms on their territory (Article 9, paragraph 1) and that provisions of international treaties on human and minority rights and civil freedoms which are valid in the territory of Serbia and Montenegro shall be applied directly (Article 10).
582. Pursuant to the Constitutional Charter, ratified international treaties and generally accepted norms of international law shall have primacy over laws of Serbia and Montenegro and laws of constituent states (Article 16).
583. Charter on Human and Minority Rights and Civil Freedoms (“Official Gazette of Serbia and Montenegro”, No. 6/03) prescribes that everyone is obliged to respect human and minority rights, that the human and minority rights granted by the Charter shall be directly applied in compliance with the Constitutional Charter of state union Serbia and Montenegro and that human and minority rights granted by this Charter shall be directly defined, provided and protected by constitutions, laws and policies of constituent states. Provisions of Article 3 of the Charter grant equality before the law and equal legal protection, without discrimination and explicitly prohibit both direct and indirect discrimination on any basis whatsoever and, consequently, discrimination on the basis of sex.
584. Constitution of Republic of Montenegro grants freedom and equality of citizens regardless of any specifics or personal characteristic as well as the equality before the law. The Constitution also prescribes power to define the way in which freedoms and rights are exercised before the law if that could be necessary for exercising them.
585. Having in mind that Constitutional Charter of state union Serbia and Montenegro, Charter on Human and Minority Rights and Civil Freedoms and the Constitution of RoM set forth general guarantees of equality of all citizens on the basis of sex, therefore they do not grant special guarantees for equality of women and men in protection and exercise of human rights, nor they prohibit discrimination against women on the basis of sex and marital status.

586. Provisions of international treaties on human and minority freedoms valid in the territory of Serbia and Montenegro are directly applied. Also, ratified international treaties and generally accepted jurisprudence of international law have primacy over laws in Serbia and Montenegro and laws of constituent states.
587. These principles have been accepted and further developed by other regulations that regulate certain fields of social life.
588. There is a need to draft a separate law that would integrate the definition “discrimination of women” into our legal system since none of the laws in Montenegro has an explicit definition of discrimination against women from Article 1 of the Convention.
589. However, it is worth pointing out that Criminal Code (Official Gazette of the RoM, No. 70/03) prescribes violation of equality as a criminal offence which is punishable with up to three years of imprisonment for a physical person and three to five years of imprisonment for an official person who has committed the offence thereof while s/he is on duty (Article 159). Besides, this criminal offence encompasses both deprivation and restriction of the right, but also provision of benefits or favours on the basis of sex.
590. In addition, Law on Courts (Official Gazette of the RoM, No. 5/02) prescribes, among other things, that everyone is equal before the court.
591. Having in mind that violation of equality has been prescribed as a criminal offence, we can consider that judges and barristers are acquainted with that. However, generally speaking, judges and barristers have not been acquainted with the provisions of international legal instruments for human rights such as Convention on Elimination of All Forms of Discrimination against Women. Our expectations are even lower when it comes to ordinary citizens knowing about this Convention and its definition of discrimination of women.

## **Article 2**

592. There is no politics or practice of discriminating against women neither by the Government nor by other public institutions. Implementation of the Convention has been provided by the Constitutional Charter, Charter on Human and Minority Rights, Constitution of the RoM and by series of legislative acts whose essence is the equality of citizens regardless of the different sex.
593. In some state authorities, organizations and agencies as well as in some public services there are more women than men in total number of personnel. However, there are only few women in decision-making positions. Situation is rather similar business organisations, regardless of the form of ownership.
594. On the other side, there are more men in professions that require bigger physical effort, work in night shifts and fieldwork. This is what happens in practice, although there are no laws in Montenegro that discriminate citizens on the basis of sex.
595. On the contrary, valid legislation grants equality and equality before the law to everyone regardless of any specifics or personal characteristic and, besides, it does not specify any particular prohibition in relation to women nor their discrimination.

596. Constitutional Charter of state union Serbia and Montenegro, Charter on Human and Minority Rights and Civil Freedoms, Constitution of Republic of Montenegro as well as series of legislative acts which pledge equality of citizens ensure implementation of the Convention.
597. Charter on Human and Minority Rights gives general guarantee of equality prescribing that everyone is equal before the law. Everyone has right to equal legal protection without discrimination. Each direct or indirect discrimination is prohibited on any grounds including race, colour, sex, nationality, social descent, birth and other status, religion, political or other convictions, financial standing, culture, language, age or mental or physical disability (Article 3, paragraphs 1-3). A step forward in comparison with former Constitution of the FRY has been made in prescribing prohibition of indirect discrimination, in addition to direct one.
598. Constitution of the Republic of Montenegro also grants equal rights and obligations to all citizens regardless of any specifics or personal characteristic inclusive of sex, too. Consequently, the Constitution does not prohibit sexual discrimination explicitly.
599. Provisions of Article 159 of the Criminal Code of Montenegro prescribe prohibition of discrimination on the grounds of sex, as we have already emphasized. Namely, the provisions of that law prescribe that whoever deprives or restricts someone else's rights granted by the Constitution, law and other regulations and general acts or ratified international treaties on the grounds of the person's national or ethnic, racial or religious denomination or the lack of these or the difference in relation to political or other conviction, sex, language, education, possession of property or any other personal trait or grants him/her benefits or favours on the basis of these different traits, shall be punished by imprisonment sentence of up to three years and if this offence is committed by an official person on duty, s/he shall be punished with imprisonment sentence ranging from three months to five years.
600. In this way immaterial satisfaction has been provided for inflicted violation of equality. However, once a final court ruling establishes that the violation of equality has been committed, on the basis of such judgment one can require and satisfy claim for material satisfaction for the committed violation of equality.
601. There are no any specific mechanisms at union or republican level by which one can claim or receive indemnity against violation of the principle of equality of sexes.
602. Charter on Human and Minority Rights and Civil Freedoms as well as the Constitution of the Republic of Montenegro grant particular social protection to families, mothers and children because of their importance, position and role in society. Women also enjoy special protection at work and the same applies to young people and disabled persons.
603. Regarding labour legislation, women have been put on equal footing with men in relation to their rights and obligations and in relation to conditions for entering employment, as well as to salary and other rights and obligations on the basis of work.
604. Namely, Labour Law (Official Gazette of RoM, No. 43/03) contains a separate provision on prohibition of discrimination pursuant to which all employees are equal in relation to exercising their rights on the basis of work regardless of nationality, race, sex, language, religion, political or other conviction, education, social background, material status or any other personal trait.



Employer is obliged to respect rights and equality of employees in relation to protection of rights as well as his/her privacy and dignity (Article 3).

605. In addition, employed women, employees younger than 18 and disabled employees have right to special protection in compliance with the law and during pregnancy, delivery and care for child, every female employee is entitled to take maternity leave lasting 365 days as of the day when she goes on leave (Articles 74 to 83).
606. FRY Constitution granted, *inter alia*, free choice of profession and employment (Article 54, line 1), right to appropriate salary and right to material benefits during temporary period out of work (Article 55), right to limited working hours, daily and weekly break and paid holiday leave and leave in compliance with the law and collective agreement and to special protection granted to young people, women and disabled persons (Article 56).
607. Charter on Human and Minority Rights and Civil Freedoms also grants right to work in compliance with the law, right to free choice of work, to fair and appropriate working conditions and specially fair reward for work. At the same time it obliges constituent states to create conditions in which everyone can live of his/her work (Article 40).
608. Constitution of the Republic of Montenegro contains rather similar provisions that refer to the right to work. Namely, provisions of Article 52 and 53 prescribe that everyone has the right to work, to choose profession and employment freely, to have fair and human conditions for work and protection during the period out of work and that employees have right to appropriate remuneration, to limited work hours, paid leave and protection at work.
609. Employment Law (Official Gazette of the RoM, No. 5/02) grants equality of unemployed people in exercising their right to employment regardless of their nationality, race, sex, language, religion, political or other conviction, education, social background, material status or any other personal trait.
610. Provision of Article 18, paragraph 2 of the same law prescribes that Employment Agency shall give priority to: recipients of (welfare) allowances, disabled persons, persons who have been out of work for more than five years, unemployed persons who have over 25 years of (pension/health) insurance record and persons who have been made redundant due to technological, economic and organisational changes, bankruptcy or liquidation.
611. The practice has shown that there are limitations when it comes to consistent respect of the principle of equality between sexes in terms of exercising their right to work. It is primarily a consequence of legal possibility that in selecting among those persons who meet prescribed conditions, an employer can select a person according to his/her criteria or preference and make an employment contract with that person.
612. Law on Pension and Disability Insurance (Official Gazette of RoM, No. 54/03) grants more favourable conditions for women in comparison with men in terms of retirement. Pursuant to that law, ensured male employee qualifies for retirement on the basis of age once he turns 65 and he has minimum 15 year insurance record, whereas woman can retire once she turns 60 and she has the same insurance record.

613. Laws which stipulate field of education put women on equal footing with men in terms of rights and obligations.
614. Protector of Human Rights and Freedoms (Ombudsman) has been instituted by law and its function is to protect human rights and freedoms pledged by the Constitution, law, ratified international treaties on human rights and universally accepted rules of international law if they are violated by an act, action or inaction of state authorities, local authorities and public services and other holders of public mandates.
615. Apart from Protector of Human Rights and Freedoms, the protection of those rights and freedoms falls within competence of Constitutional Court of the Republic of Montenegro because it has a mandate to decide on, among other things, constitutional complaints on the account of an individual act or action that has violated freedoms and rights of individuals and citizens granted by the Constitution if such protection does not fall within competence of Federal Constitutional Court and provided that other form of court protection has not been envisaged. Apart from that, it also protects human rights and freedoms in acting on assessment of constitutionality and legality of general legal documents.
616. Finally, protection of human rights in general falls within competence of prosecutor's office and regular courts. Regular courts are competent to decide in proceedings conducted on the account of discrimination.
617. However, although the lawsuits and relevant court procedures are important instruments in fight against discrimination, they are not effective instrument for indemnity in cases of discrimination and abuse since there is no protection from revenge of the employer in case when a woman complains about discrimination and abuse. It does not mean, though, that there are no efficient mechanisms that would provide real protection of women against discrimination in certain cases. Therefore, having in mind present economic situation in Montenegro, there are but few women who are ready to loge complaint against discrimination and abuse at workplace since such an act might pose threat for their job and material status.
618. Apart from the quoted institutions that are involved in providing general protection of human rights, an important novelty in the legal system of the Republic of Montenegro has been the foundation of the Office for Gender Equality in the Government.
619. Women on average look for a job longer than men regardless of their degree of qualification. According to statistical data, 69% women and 31% of the men make up the group of those who have been looking for a job for more that eight years.
620. Statistical data indicate that the share of women in overall number of employed in the last ten years has on average been around 41,8%, whereas average share of women in total number of unemployed in this period was 59,88%.
621. Out of total number of women who are looking for a job, 52,81% have been waiting for a job for longer than three years, while 43,72% of the men are in the same situation.

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**Article 3**

622. Valid legislation in Montenegro provides for a fully-fledged development and emancipation of women. Women, alike men, do have the same access to legislative and political processes, public services, health and medical care, education, literacy programmes, employment, ownership of property as well as to social services.
623. It is granted to them by Constitutional Charter of state union Serbia and Montenegro, Charter on Human and Minority Rights and Civil Freedoms, Constitution of the Republic of Montenegro and series of laws that stipulate various fields of social life that have already been mentioned.
624. We are pointing out once again that Charter on Human and Minority Rights and Civil Freedoms grants equality in general terms.
625. The Charter goes even further than that by allowing for introduction of temporary special measures necessary for ensuring equality, required protection and progress of persons or a group of persons who are not in equal position in order to enable them to fully exercise their human and minority rights under equal terms.
626. Charter on Human and Minority Rights and Civil Freedoms grants to family, mother and child a special protection of society and of constituent states (Article 39).
627. The Constitution of Republic of Montenegro prescribes special protection of family, mother and child due to their importance and role in society.
628. Guarantees pledged by the legal acts of highest level in state union Serbia and Montenegro and in the Republic of Montenegro, as its constituent, have been further developed by a series of laws which stipulate labour relations, employment, pension and disability insurance, education, health and social care, protection at work, criminal offences etc.
629. Apart from the known and previously established mechanisms for providing the implementation of these constitutional and legal provisions on gender equality (courts, prosecutors), the Law on Protector of Human Rights and Freedoms (Official Gazette of the RoM, No. 41/03) was adopted in the beginning of July 2003. Pursuant to that Law, the Protector can be addressed by anyone who thinks that his/her rights or freedoms have been violated by an act, action or inaction of authority, and the protector can institute proceedings at his/her initiative, too. On the basis of that law, the Parliament of the Republic of Montenegro appointed the Protector of Human Rights and Freedoms (Ombudsman) in October 2003.
630. It is worth pointing out that the Constitutional Charter of state union Serbia and Montenegro prescribes the existence of the Ministry for Human and Minority rights whose task is to monitor the exercise of human and minority rights and to coordinate work on enforcement and respect of international conventions on protection of human and minority rights in cooperation with authorities of constituent states.
631. It is also important to point out the existence of the Committee for Gender Equality as a permanent working body in the Parliament of Republic of Montenegro.
632. Apart from these institutions, bodies and organizations, Montenegro also has its Constitutional Court. Its task is to protect constitutionality and legality in the Republic. At the same time it

protects freedoms and rights of the citizens. In addition to protection of constitutionality and legality, the Constitution of the Republic of Montenegro granted to this court the competence to decide on the constitutional complaints on the grounds of violation of freedoms and rights granted by the Constitution to the people and citizens by act or action provided that the protection thereof is not in the jurisdiction of the Federal Constitutional Court or that some other judicial protection has not been envisaged. It is also competent to decide about electoral disputes and disputes in relation to referendum since these do not fall under jurisdiction of regular courts.

633. The Law on Election of MPs and Councillors (Official Gazette of the RoM, No. 4/98, 17/98, 14/00, 9/01, 41/02 and 46/02) grants equal participation in electoral processes to women. They have equal right as men have to elect and to be elected.
634. However, despite the fact that in 2001 certain number of political parties signed a recommendation stating that they would make effort to have at least 30% nominations of women in their candidate lists, this had not been observed.
635. Most of the holders of public mandates are men. This is a consequence of traditional perception of the position and role of woman in society. Namely, according to that concept, women's role is to rear and bring up children and manage the household, whereas the role of the men is to sustain family, engage into politics etc.
636. National and international non-governmental organizations have conducted significant number of seminars with a view to strengthen the position of women, particularly in the sphere of economic and political rights.
637. University of Montenegro in cooperation with Oslo University from Norway has been carrying out a three-year project of introduction of gender aspect in curricula.
638. Non-governmental organization "Anima" started women studies in Kotor (2002) for the purpose of changing social status of women and for the purpose of encouraging foundation of women studies at University.

#### **Article 4**

639. Montenegro has made progress in monitoring and treatment of position of women in society and contributing to true equality between men and women.
640. Namely, for the first time in Montenegro the Office for Gender Equality was set up in the Government of the RoM. The task of the Office in achieving gender equality is focused on making analyses and proposing measures for improving policies and strategies for fostering gender equality. The Office proposes short-term measures or activities to be undertaken for gender equality to be exercised and then it evaluates those measures.
641. Important activity of the Office is to analyse compliance of valid laws with basic international conventions and pacts on women's rights and to establish standards and mechanisms for attaining gender equality as well as to deliver educational activities with a view to overcoming gender stereotypes.

642. The important novelty has been the foundation of the Protector of Human Rights and Freedoms as an institution whose function is to protect rights and freedoms granted by the Constitution, laws, ratified international treaties on human rights and generally accepted rules of international law if these have been violated by an act, action or inaction of state authorities, local authorities and public services or other holders of public mandates. The right to equality on the basis of gender is one of those rights.
643. At the same time, at broader societal level a lot of measures have been undertaken to protect women during pregnancy and maternity leave as well as to guard their health and security at work place. Legal basis for this is found in the Charter on Human Rights (Article 3) that allows introduction of temporary measures when it is necessary to establish equality, necessary protection and progress for individuals and groups of individuals who have been put in unequal position with a view to enabling them to fully exercise human and minority rights under equal conditions. These measures can be applied only for as long as the goals for which they have been introduced are achieved.
644. Pursuant to the Labour Law, during maternity leave, leave from work for looking after a child and leave from work for the purpose of providing special care for a child, women are entitled to allowance in the amount of 100% of her salary. This has been envisaged as a measure of financial support whose goal is to facilitate reconciliation of work with parenthood.
645. Law on Social and Child Protection (Official Gazette of the RoM, No. 45/93, 16/95 and 44/01) grants many rights in the field of social and child protection with a view to providing minimum social security for citizens who are not capable to work, to harmonizing conditions for child care, upbringing and teaching for the sake of their appropriate psycho-physical development as well as to contributing to balanced birth rate of population. Out of these rights we want to single out the following: family allowance, granted under the conditions prescribed by this Law, child-support allowance, allowance for newborns and maternity benefit during maternity leave.
646. The following persons are entitled to child-support allowance: children coming from families who receive family allowance, children with slight development impairs, pupils/students attending special schools or special classes in regular schools and all children, irrespective of family material status, whose physical and psychological disability incapacitates them to live and work independently. The allowance amount is determined as 30% to 50% of minimum average salary in the Republic in the month in which the allowance thereof is disbursed.
647. All parents are entitled to newborn allowance for each newborn child. It is once-for-all payment to a family and it amounts to two minimum average salaries in public sector in the Republic in the month when the baby thereof is born.
648. In compliance with this law, a working mother or, alternatively, a father or adoptive parent or custodian are entitled to taking maternity leave and they can opt for working half work hours until a child turns three years of age for which they receive remuneration throughout the leave thereof.
649. Maternity pay is calculated as the amount of salary which women on maternity leave would have on the basis of work with appropriate adjustment, whereas those mothers on maternity leave who are employed by private companies or institutions receive the amount of net basis

after taxes and charges in the month in which the maternity leave or option of working for half work-hours thereof was taken.

650. The following persons are entitled to receive material family allowance are: families i.e. members of families who are incapable for work and do not have close relatives who are obliged to maintain them or do have relatives and they are not capable to sustain them, parents who sustain minor children or adult children who are incapable to work and earn for living or who were incapacitated before they turned 18, persons who have lost their right to a placement in orphanage (for two years after the end of placement) and persons who have finished special schools or special classes within regular schools.
651. In order to exercise this right, apart from conditions related to capacity to work, it is necessary to meet another series of conditions of material nature. Incapacity for work in the sense of this Law refers to women over 60 and men over 65 and persons whose incapacity for work has been established, pregnant women and single mothers with children until they turn one, children under 15 and schoolchildren until they finish school and persons whose disability falls within disability category I.
652. Law on Pension and Disability Insurance prescribes different conditions for qualifying for retirement on the basis of age for women and for men. Namely, a pension insured men qualify for retirement on the basis of age once they turn 65 and 15 years of work record, whereas insured women qualify for retirement on the basis of age once they turn 60 and also 15 years of pension insurance.
653. Labour Law envisages special protection of women so that an employer cannot reject signing an employment contract with a pregnant woman nor cancel her employment contract because of pregnancy or her maternity leave (Article 79).
654. The same law has prescribed that workingwoman during pregnancy and woman who has a child under three cannot work longer than standard work hours nor work in shifts (Article 81).
655. Maternity is particularly protected so that woman during pregnancy, delivery and care for children has maternity leave of 365 days and if she starts working before the end of maternity leave she has right to use additional extra 60 minutes daily break for the purpose of breastfeeding (Article 82).
656. A parent has right to work for half working hours until a child is three, provided that the child needs special care due to health problems. These hours shall be considered full hours of work and on the basis of that the parent concerned qualifies for all rights out of work and on the basis of work (Article 84-85).
657. In relation to that new Criminal Code of the Republic of Montenegro defines and sanctions an offence related to (purposeful) failure to observe law and other regulations, collective agreements and other general acts pertaining to labour rights and to special protection of women at work and thereby for deprivation or restriction of rights that they are entitled to and envisages fines or imprisonment sentence of up to two years (Article 224 of the CC).

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**Article 5**

658. Legislative and legal framework is based on full equality of men and women. However, in real life traditional perception of the place and role of women in society persists.
659. By analysis of curricula in force and by browsing of new ones intended for reformed school one cannot identify gender stereotypes. Both old and new curricula meet the criteria that comply with European standards.
660. Stereotypes do not appear in documents that define education goals. When it comes to putting them in practice, we unfortunately do encounter gender stereotypes.
661. Such behaviour in everyday life of the schools in Montenegro could not be identified or measured. However, so far we could only make analysis of the textbooks. Although this is very interesting sociological topic, no one from the system of formal education has ever addressed this issue far. Some papers have analysed certain textbooks and teaching sets but there were very few ones focused on gender stereotypes.
662. NGO Anima has made a thorough analysis of textbooks and workbooks of Serbian language, nature and society and history for grades I, IV and VIII of elementary school in a study titled “Gender Stereotypes in Elementary School Textbooks in Montenegro”.
663. Two criteria were applied in the research: quantitative (frequency of appearance of adult female and male characters, frequency of appearance of girls and boys, activities girls and boys engage in, roles of adult female and male characters, lists of professions and appearance of female and male characters in them and number of female and male authors of texts) and qualitative (what is the text about: definition of success standards and who solves the problems and how, whether success of women and girls is based on their intelligence and initiative or they get at it on the account of their beauty, whether the story can retold with the characters in changed gender roles and features of its character and behaviour of characters in relation to gender; life style; relationships among people; whether boys and men have power or skill, whether they are leaders or the girls/women are, who is dominant in the family etc.; who are heroes in stories; do the texts speak about self-respect of girls, women; who the textbook author addresses, which gender).
664. Special importance was assigned to analysis of “Primer” that was published in 1993. It is the first book girls and boys have in school. However, it presents so much non-pedagogical contents that it leads to gender-related stereotypes.
665. The “Primer” presents women in family and parental roles three times more often than men. They are irreplaceable in household chores where men are nowhere to find. Chapter about family shows picture of a mother and a daughter, and no male members in that pictorial illustration.
666. Woman appears in three professional roles only, stereotypical as they are, of a teacher, shop assistant and a clerk at counter. Housewives as a rule stand, men are just spectators at home always dressed in suits and wait to be served. They can rarely be seen in their spousal role of taking part in joint parental activities.

667. Particularly interesting is the presentation of girls: they help with housework, go shopping with mothers, they are tender and nice or they are good housewives, and sisters who want to have brothers so as to have someone to protect them. Girls and parents are considered fully accomplished only if they have a brother or a son to love and respect, whereas the men are there to protect and look after them with male authority.
668. A positive example identified in this research is the textbook on nature and society for the first grade, "My Home – My School", published in 1998. In it the author set realistic standards for elementary school textbook and achieved set objectives by means of good methodology.
669. Its illustrations are positive examples and so is the fact that the author addresses pupils directly. The author identifies both sexes by using sign "/" in male/female denotations of gender which proved not to be a problem. It only takes care for such details.
670. Male characters are four times more often used in illustrations in comparison to women in "Rader" for IV grade. Regarding children, these differences are smaller so that there are 31 illustrations of boys as opposed to 22 of girls.
671. There are only four women authors of art texts as opposed to 51 male authors. The number of female authors should be higher but it would be bad to do that on the basis of quotas and favour authors who do not deserve it by artistic criteria. It would be a stereotypical way of fighting against stereotypes.
672. History for grade VIII has a modern design, a lot of illustrations, photographs etc. However, the "supremacy" of male characters over female ones is quite too obvious. It is important to point out that in this textbook women are more visible. It also has a part on growing importance of women in economic and social life. Also, the questions and tasks that come after units are given in gender-neutral form.
673. Domination of male characters is obvious in textbooks. Gender stereotypes are emphasized in addressing children in male form only. Almost all professional roles have been entrusted to men.
674. Most of the analysed textbooks had been first published nine, ten years ago. The problem is that textbook modernisation has not been initiated for years. The events in the region in the 90s had contributed to this stagnation.
675. The Agency for Textbook Publishing of Montenegro has been preparing new generation of textbooks. A woman is editor in chief and out of seven authors, four are women. One of the axioms in preparation of new textbooks for reformed school is not to be slaves to stereotypes such as: differentiation related to village-city, male-female or north-south.
676. Information and education centre for women "ŽINEC" ANIMA from Kotor has been monitoring and analyzing printed media in Montenegro since 2002 as a part of its INDOK program. The objective of monitoring of printed media is to collect data on how women are presented, analyze position of women in Montenegro and their (in)visibility in articles and photos. Results of the two year monitoring indicate to: discriminatory and sexist attitude to women in a part of printed media and also an extremely misogynic attitude that reduces women to mere objects; it is notable that social pathology is usually represented through a body of a woman and that forms of male aggression are reflected through relationship with women, both



verbal and visual; visible is the absence from media coverage of women who hold traditionally “male” functions; professions that women engage in are always named in male form of nouns (gender insensitive use of language); journalist profession is dominated by women but men dominate in hierarchy of power and in positions of editors and editors in-chief .

677. Article 59 of the Constitution of the RoM prescribes that family is entitled to special protection and parents are obliged to look after children, to bring them up and enable them to go to school and that children are obliged to look after their parents who need help. Article 60 prescribes protection of mother and child and Article 61 prohibits child abuse.
678. These constitutional principles have been transferred and stipulated in laws and other regulations that regulate certain fields of social life. Thus, Criminal Code of the Republic of Montenegro (hereinafter: CC – Official Gazette of the RoM, No. 70/03) stipulates that violation of equality is a criminal offence.
679. In family legislation in the Republic of Montenegro women and men are absolutely equal in individual and property rights, which originates from broader constitutional principle on prohibition of any discrimination in society.
680. Spousal relations and relations with common children are based on equality. Equal position of men and women is also provided in field of custody, adoption and sustenance.
681. Principle of equality of men and women applied on parental relations functions as a principle of equality of parents. Both parents have equal rights and duties i.e. have equal legal position in relation to each other and in relation to third persons.
682. Parental rights and obligations belong both to mother and to father. If a parent dies or becomes incapable of discharging of his/her parental rights and obligations, the other parent gets the exclusive rights and obligations thereof, except in a situation when this would not be in the best interest of a child.
683. In case when parental union breaks up, decision as to who will get the children will be rendered by a competent court if the union thereof is a legal marriage, or a competent custodian authority if the union thereof is extramarital.
684. In both cases, even if the agreement between spouses does exist and always when there is no such agreement, a competent professional conducts a procedure to establish needs and the best interest of a child and proposes to a court (marital union) or renders him/herself (extramarital union) decision on who to entrust children.
685. Whether a parent is male or female is not crucial for the decision but what matters are the needs and the best interest of a child, whereas in special cases this is what also matters (for example, when it is in the best interest of a very little child to be entrusted to mother).
686. Law on Amendments and Supplements to the Criminal Code of the Republic of Montenegro (July 2002) criminalizes marital rape and introduces Article 100a which defines new criminal offence “violence in family or family union” to combine with Article 220 of the CC.

687. Article 220 of the CC defines a criminal offence “violence in family and family union” that a person who by use of force, insolent and reckless behavior harms peace, bodily integrity and state of mind of members of his/her family or family union.
688. Numerous female non-governmental organizations have focused their activities on acquiring equality of women and their important activities are also dedicated to fighting against family violence, particularly violence against women and children.
689. Protection of children from sexual exploitation is provided through criminal legislation. The CC defined criminal offence of mediation in prostitution which is attributed to a person who forces or encourages women into prostitution or who takes part in transferring of a person to the other somebody for the purpose of prostitution.
690. In addition, punishable by law is any act by which someone sells, shows or exposes in public or in any other way makes accessible a document, picture, audio-visual or other item which contains pornography or shows a pornographic act to a person who is under 14 (Article 221).
691. The Law on Public Order and Peace defines as an offender any person who engages in prostitution or prompts other person into prostitution, rents an apartment or rents premises for such purpose or in any other way mediates in prostitution. The sanction for that is 60 days in prison and it also applies to the offence of prostitution that involves a minor person, if an apartment is rented to a minor or to an offender who in any other way mediates in prostitution.
692. The CC defines a group of criminal acts against sexual freedom, which encompasses both special criminal offences and more serious forms of criminal offences as well as various forms of sexual abuse and sexual violence against women. Protection of minors from sexual violence has been particularly emphasized through qualified forms of general sexual offences. In relation to this, there should be greater awareness of the need to step up criminal law protection of minors.
693. Article 204 of the CC defines criminal offence “*rape*” as an act of forcing other person to intercourse or any similar act by use of force or threat that his/her life or body of that person or some other would be harmed.
694. Article 205 of the CC defines criminal offence *rape of helpless person* as an act in which an individual rapes or commits some similar act by abusing other person’s mental illness, developmental incapacity, other mental disability, helplessness or any other state which makes that person defenceless.
695. Article 206 of the CC defines criminal offence of *rape of a child* as an act of rape of a child or a similar act. A perpetrator who does not significantly differ from a child in terms of mental of physical maturity will not be punished for this offence.
696. Article 207 of the CC prescribes criminal offence *rape with abuse of authority* as an act committed by a person who abuses his/her position of authority to prompt other person whose position is that of a subordinate or dependant into intercourse or a similar act. A teacher, pedagogue, custodian, adoptive parent, parent, step-father, step-mother or other person who abuses his/her position or authority to rape or commit a similar act with a minor who has been entrusted to him/her for learning, upbringing, custody or care shall be punished.

697. Article 208 of the CC defined criminal offence *illegitimate sexual act* as an act of a person who commits some other sexual act.
698. Article 209 of the CC defines criminal act of *Procuration and enabling intercourse* for a person who procures a minor for the purpose of intercourse or a similar act or some other sexual act as well as for person who enables intercourse or a similar act or other sexual act with a minor.
699. Criminal legislation also sanctions *extramarital union with a minor* and it prescribes sanctions for an adult who lives in extramarital union with a minor. A parent, adoptive parent or a custodian who enables a minor to live in extramarital union with other person or prompts him/her to do it shall also be punished. The person thereof will also be punished if s/he has done that for a material gain. However, if the persons concerned get married, the person thereof shall not be prosecuted and if the prosecution has started it will be cancelled.
700. Criminal offence of *incest* is punishable, too, and it involves intercourse of an adult person with a minor relative by blood in first line.
701. The Law on Execution of Criminal Sanctions in its Article 27 specially protects women by stipulating that a punishment can be delayed if it is imposed on a woman whose child is under one or on a pregnant woman less than three months before a delivery or whose pregnancy is in risk.
702. Procedural legislation (Criminal Procedure Act, Civil Procedure Act, Law on Executive Procedure) provides full equality of women in the procedures pursuant to major principle that everyone is equal before the court and that everyone can undertake any action in the course of procedures thereof, equally men and women, depending on their position in the proceeding.
703. Despite criminal and legal incrimination of family violence, victims and persons who know of violence rarely opt for reporting this violence to law enforcement agencies. The reason probably lies in inadequate means for sheltering the victim, fear of revenge and the family being closed from community.
704. In a survey conducted by SCAN, out of all interviewed women, 12% replied that they have been exposed to physical abuse at home and almost every third woman responded that she know about several such cases. The total 41% women and 26% of men who have replied that they know cases of physical abuse in family indicates to a significant presence of abuse in families.
705. For the purpose of fighting better all kinds of violence, the Government of Montenegro has drawn up project Violence Prevention.
706. A team of sociologists from Faculty of Philosophy in April 2001 engaged in Sociological Survey of attitudes of Students of University of Montenegro on current and future position of women in field of science, politics and culture. Students think that women are not present enough in the process of creation of cultural values and standards in our society (63,11%) and that higher cultural level and education implicates bigger power in division of authority and power in family and society (66,24%).
707. This sociological survey has produced a scale of features of successful women in Montenegro. Female students think that successful woman is educated, with developed motherly feelings,

economically independent and at the end of the list they have put her engagement in public life. Male students think that successful woman is committed to family, she is educated and a mother, she is attractive and, at the very bottom of the scale, economically independent.

## Article 6

708. Prohibition of torture and inhuman treatment has a very important position in legislation of the Republic of Montenegro and in the Constitution of the RoM (Articles 15 to 25). Namely, the Constitution of the RoM stipulates that all citizens are free and equal before the law regardless of their specifics and personal traits, that freedoms and rights are inviolable and that abuse of freedoms and rights is punishable i.e. the Constitution introduces the pledge of equality of men and women in exercise of human rights.
709. In the territory of the Republic of Montenegro, human trafficking was registered in very few cases in 1993, whereas in second half of 1999 this form of criminal activities reached the level of a phenomenon, both in terms of volume and scope in certain parts of the Republic.
710. Regarding our legal system, so far these incriminated activities have been sanctioned by Federal Criminal Code through criminal offence of *soliciting and mediation in prostitution* (Article 251 of the FRY Criminal Code), *criminal offence of slavery and transportation of enslaved persons* (Article 155, FRY Criminal Code) and *criminal offence of procurement in enabling debauchery* (Article 93 of the FRY Criminal Code) which did not contain essential elements of human trafficking such as those defined in international law.
711. In December 2000, FRY signed UN Convention on Trans-national Organized Crime with additional protocols (Protocol for Prevention, combat and punishment of human trafficking, particularly regarding women and children and Protocol against migrant smuggling by land, sea and air). The Convention and its protocols were ratified in 2001.
712. Before July 2002 i.e. before its amendments were introduced, Criminal Code of the RoM did not define criminal offence of human trafficking. Only the FRY Criminal Code at that time defined prohibition of slavery in its Article 155 that was complemented with paragraph 3 in 1999 for the purpose of comprehensive fight against trafficking of children.
713. Human trafficking as a part of organized crime and as a kind of enslavement present in all countries of the region led legislators to defining this as a criminal offence in our legislation. Thus, the Law on Amendments and Supplements of the Criminal Code of the Republic of Montenegro in July 2002 defined criminal offence human trafficking (Article 201 a).
714. The Republic of Montenegro by the decree of the Government of Montenegro appointed national coordinator for this field and in coordination with the OSCE, international organizations and NGOs (Montenegrin Women's Lobby and Seife House for Women) Montenegro drew up the Program for Victim Protection in Montenegro.
715. Criminal Code RoM (Official Gazette RoM, No. 70/2003, hereinafter referred to as the CC) envisages criminal offences: Human trafficking (Article 444) by which a perpetrator of this criminal offence shall be punished from 1 to 12 years, criminal offence mediation in prostitution (Article 210), by which a perpetrator of this criminal offence is punished with one to 10 years in

prison and criminal offence rape (Article 204) for which sanctions are more stringent and perpetrator of this criminal offence shall be punished from one to 18 years so that national legislation is harmonized with European standards and UN standards.

716. Article 444 of the CC prescribes criminal offence of *human trafficking* for those persons who by force or threat, by misleading or keeping mislead, by abuse of authority, trust, relation of dependence, hard living conditions of the other person, by seizure of identification documents or by giving or taking money or other benefit, for the purpose of getting approval from the person who has control over other person: headhunts, transports, transfers, delivers, sells, buys, mediates in sale, hides or keeps other person with a view of forcing him/her to work, enslaving him/her, committing crime, prostitution or begging, use in pornography, for taking parts of body for transplanting or use in armed conflicts.
717. For an offence committed to a minor, a perpetrator shall be punished by a punishment prescribed for that offence even if s/he has not used force or some other quoted forms of execution.
718. Within the category of criminal offences against humanity and other goods that are protected by international law, a new criminal offence has been stipulated in Article 445 of the CC – *child trafficking for the purpose of adoption* for those persons who abduct a child for the purpose of having him/her adopted contrary to the regulations in force and who adopt such a child or mediate in such adoption or who to this end buy, sell or transfer other person who is under 14 or who transport, provide accommodation or conceal such person.
719. The CC also envisages criminal offences: *enslavement and transport of enslaved persons* (Article 446) and *showing pornographic material* (Article 211).
720. In the period from January 1, 1998 to December 31, 2003 in Montenegro 75 criminal offences of rape (35 attempted) and 158 other offences (debauchery and other) were reported.
721. In the period from January 1, 2001 to December 31, 2003 there were 25 criminal reports related to criminal offences of human trafficking and mediation in prostitution.
722. Aware of the dangers inherent in human trafficking as a contemporary form of organized crime, particularly having in mind geographic location of Montenegro and surrounding region, the Government of Montenegro has appointed National Coordinator for Combating Human Trafficking who cooperates with authorities, non-governmental organizations and international organizations involved in these matters. The task he has is to draw up national strategy for prevention, fighting trafficking and punishing perpetrators of the criminal offence of human trafficking and providing assistance to victims along with drawing up action plan for the implementation of this Strategy.
723. In the end of 2003, Government of the RoM adopted its Strategy for Combating Human Trafficking. Representatives of the US government, international organizations, Ministry of the Interior, Ministry of Justice, State Prosecutor and other relevant authorities took part in developing the Strategy. This Strategy entrusted Ministry of Justice with the task of keeping record of the number of judgments and criminal sanctions, compiling and publicizing statistics

- on the scale of human trafficking and undertake measures to improve protection of the courts (judges and prosecutors) from political pressure.
724. In addition, Ministry of Justice and International Organization for Migration signed Memorandum of Understanding for the implementation of the project “Building Capacity of Judges and Prosecutors in Montenegro in Field of Combating Human Trafficking”. It would last for 12 months and it would be focused on training the holders of judicial power to fight human trafficking successfully. The project envisages training of a large number of judges and prosecutors through lectures delivered by renowned foreign and local experts and learn more about the ways in which to investigate, prosecute and decide in cases of human trafficking.
725. The Project Board for Combating Human Trafficking, composed of representatives of the Government of the RoM, international organizations and NGOs, are acquainted with the work of the Sub-group for Combating Human Trafficking composed of the representatives of the UNICEF and Save the Children, Ministry of Labour and Social Welfare, Office of National Coordinator and Roma NGO “Zensko Srce” (Heart of Woman) who had been directly involved in the issues pertaining to protecting children. The Sub-group for Children is now engaged in drawing up draft action plan for combating child trafficking.
726. In addition, the Project Board is unanimous in its endorsement of the Project of Establishing a Shelter for Victims of Human Trafficking that has been completed by the Office of the National Coordinator for Combating Human Trafficking, International Organization for Migration and the OSCE. So far the assistance to victims of trafficking had been delivered with assistance of non-governmental organization “Sigurna Zenska Kuca” (Safe House for Women).
727. After a new set of criminal legislation has been adopted, basic novelties in criminal legislation have been presented to judges through Judicial Training Centre of Montenegro with a view to having it implemented.
728. Victims of Human Trafficking used to come to destination (state) where they were supposed to engage in prostitution (sanctioned through criminal offence of mediation in prostitution) through illegal channels that involved crossing of border illegally, using forged travel documents and being under a very close guard.
729. The legislation that is in force in Montenegro does not legalise prostitution but sanctions it as a misdemeanour, while mediation in prostitution is sanctioned as a criminal offence. In practice, persons who engage in prostitution are tried for misdemeanour. There is no special regulation that sanctions clients. Instead, the Criminal Code is applied. Prostitutes do not have permission for engaging in this profession. The Criminal Code regulates prostitution of children (Article 444, 445, 446, 210 and 211).
730. Public opinion is divided between those who advocate legalization of prostitution and those who advocate more stringent punishments than those set forth in the legislation in force.
731. The law regulating sanctions for violence against women, including criminal offence of rape, applies to prostitutes, too. However, the procedure of establishing the elements of criminal offence of rape is rather difficult since prostitution is considered a voluntary act and it is difficult to differentiate it from qualifications of rape.

732. There is still no monitoring system for checking on whether immigrants or emigrants are engaged in sexual business since Border Police has only recently taken over its border protection function. Information system, liaison systems and surveillance of entries and exits have not yet been developed.
733. There are no special laws to protect women and young girls from recruitment agencies which have been involved in human trafficking. However, the Criminal Code protects them conditional on the criminal offence they have been involved in. In addition, magistrate offices have to apply the Law on Marriage and Family Relations when marriages are to be registered.
734. Pursuant to this law, marriage has to be registered with a view of having cohabitation unity and both spouses have to agree to it. If not, marriage will not be registered nor made valid. Marriage registered in that way shall be nullified.
735. Pursuant to Article 32 of the Law on Solving Conflict of National Laws with Legislation of Other Countries (Official Gazette of the SFRY/FRY, No. 43/82, 46/96) in terms of conditions for registering marriage between our national and a foreign one, the applicable law shall be that of the country whose citizenship is held by the foreign national at the time of entering into marriage.
736. There are the following impediments to the elimination of exploitation of prostitution and human trafficking: transfer of sexual exploitation from nightclubs and bars to private apartments; lack of equipment and training for policemen; permeable borders; very good networks of traffickers.
737. There are no laws that are sanctioning exploiters of women and girls abroad (for example: laws pertaining to sexual tourism), but instead everything is covered by the Criminal Code and the following criminal offences: human trafficking, child trafficking for the purpose of adoption, enslaving and transfer of enslaved persons.

## **Article 7**

738. Women account for half of the population in Montenegro (50,2%).
739. Women and men do have equal active and passive voting right. Relevant laws that regulate this right do not differentiate rights by sexes and enable this right to be exercised by all persons older than 18 regardless of whether they are literate, educated, have property etc. For illiterate voters the legislator has envisaged a special procedure that ensures the confidentiality of voting.
740. There are no extra legislative requirements that would deprive women of exercising their active and passive voting right. In formal terms and by the law, women can run for office equally with men. However, political parties are not fully committed to respecting absolute equality of men and women which can clearly be noted by inspecting party candidate lists for parliamentary and local elections. This affects equality of men and women, to the detriment of women, in the legislative body of the republic – Parliament of the Republic of Montenegro. This situation has negative effects particularly in field of economic and social rights.

741. In the last years, NGOs that are involved in fighting for women's human rights have initiated a big campaign for empowering women in politics and have drawn up a proposal for amending electoral law that would define participation of women in political life. However, they have not placed it in standard procedure.
742. There is the lack of relevant data on percentage of women who are members of political parties but it is evident that they are better organized and they are formalizing their participation in form of women's groups in their parties.
743. There are no sufficient democratic mechanisms in political parties to ensure gender sensitive nomination procedures.
744. There are no data of the turnout of women at elections.
745. In January 2001, NGO "Zenska Akcija" (Female Action) commissioned a survey of political activism in Montenegro. The 2/3 female respondents think woman can be a good politician and 68,30% think that greater participation of women in politics at all levels can contribute to developing democracy.
746. Results of this research show that Montenegrin women are ready to assume public and party functions (18,30% of respondents would accept that) and noteworthy is rather big turnout of women voters at elections. Namely, 72,4% of the respondents stated that they regularly vote at elections, which indicates that it is one of the most important forms of their political activism.
747. Almost  $\frac{3}{4}$  women respondents in this survey claim that media contribute to formation of their political and other opinions and values.
748. After the latest parliamentary elections in 2002, Parliament of the Republic of Montenegro has 75 MPs, out of whom only 8 MPs i.e. 10,66% are women.
749. After local elections held in 2002, three mayors have been elected. This makes 14,2%. However, two of them resigned so that there is only one who is holding that mandate now. This accounts for 4,7%. The percentage of women elected then to local assemblies was 8,9%.
750. Out of 16 ministers in the Government of Montenegro, only two are women (12,5%) and the Prime Minister and four vice-premiers are men.
751. In the last decade there has been a notable trend of appointing more women in judiciary, primarily as judges and prosecutors, and this trend has been maintained. Out of total number of 242 judges in Montenegro, 92 are women, which accounts for 38%. Women prosecutors account for 51%. It is also noteworthy that a woman is the state prosecutor for the first time in history.
752. Activities of women in trade union are very important and prominent which indicates that there is an increased need to improve economic and social rights that has not been provided through their activities in parties. Women are mostly occupying the most basic functions in trade unions and on the higher levels of hierarchy there are fewer of them. According to the figures submitted by the Association of Independent Trade Unions of Montenegro, out of total 90 000 members, 40% accounts for women members. The Association has 19 branch trade unions, three of which



have a woman president, which accounts for 15,8%. Regarding municipal trade unions, office of the president and other bodies, women account for 20% there.

753. Regarding professional engagement, women participate without discrimination by sex in drawing up development plans made by all institutions of the system. Regarding their participation in drawing up development plans of political parties, they are not accessible to public and it is impossible to estimate the participation of women in their development. However, the major problem that also refers to drawing up development plans of institutions is that women are presented as members of the party and not as the actors that advocate requirements and needs of the gender they also represent.
754. The most valuable support to participation of women in public life are non-government organizations. The state, through the Government and local governments, funds projects of those organizations. Selection of NGOs is done after a public call for competition with projects.
755. During their prison sentence, women are separated from men and placed in special premises. There have been no reported cases of sexual abuse of women prisoners. Guards are women.
756. Montenegro does not have gender-sensitive statistics and this creates problems in developing analyses.
757. A large number of conferences, round tables and meetings which discussed the issue of position of women has been held last years. They have been organized in cooperation between local and international NGOs and the Government's Office for Gender Equality has also cooperated in that lately.

## Article 8

758. Women's representation in diplomacy, international organizations or in various activities at international level has not been separately regulated in Montenegro. The number of women in offices of the Ministry of Foreign Affairs of the RoM is quite large. However, women are not represented equally to men at higher positions.
759. There are 56 persons in the Ministry of Foreign Affairs of the RoM and in diplomatic and consular offices abroad. Women account for 27 employees (48,21%).
760. Women hold two senior posts in the Ministry of Foreign Affairs of the RoM: deputy minister/head of multilateral diplomacy and general secretary of the ministry.
761. State union Serbia and Montenegro has over 100 diplomatic and consular offices in 60 countries. Montenegro is represented through 13 ambassadors. One of them is a woman.
762. There are no accurate data about the representation of Montenegrin women in senior positions and among other officers in embassies/consulates/missions having in mind that the process of filling in those positions is still going on. However, there is no norm that regulates the percentage of women in those services.
763. Law on Foreign Affairs of the Republic of Montenegro that is being drafted does not envisage any special regulations to govern women's representation in diplomacy and in international organizations i.e. it has been drafted in gender-neutral manner.

764. Pursuant to UN resolutions, delegations from Yugoslavia were restricted or excluded from participating in international conferences and that applied to organizations of women. Therefore our official delegation could not participate in the Fourth World Conference of Women in Beijing, 1995. At that time the invitation was extended only to the Movement of Women of Yugoslavia.
765. Representatives of the Government of the RoM took part in a large number of international conferences. Women at senior positions (deputy ministers) and officials of lower rank took part in them.

## **Article 9**

766. National regulation on citizenship (Law on Montenegrin Citizenship, Official Gazette No. 41/99) and travel documents (Law on Travel Documents of Yugoslav Citizens, FRY Official Gazette No 33/96) does not differentiate in terminology: woman-men, mother-father, daughter-son. Namely, they only refer to: person, parent and child, which indicates to both sexes and, consequently, imply the same conditions for exercising rights.
767. Constitution of the Republic of Montenegro (Article 10) stipulates that in Montenegro, citizens have Montenegrin citizenship and that nobody could be deprived of Montenegrin citizenship, nor of the right to change citizenship.
768. The FRY Constitution envisaged the existence of Yugoslav citizenship and a Yugoslav citizen was at the same time a citizen of a constituent republic (republican citizenship was derived from the FRY citizenship).
769. Constitutional Charter of Serbia and Montenegro stipulates that a citizen of a constituent republic is at the same time a citizen of Serbia and Montenegro (citizenship of Serbia and Montenegro is derived from the citizenship of a constituent republic).
770. Citizenship is an important prerequisite for establishing, changing or terminating a number of legal relations (electoral list, inheritance, real estate dealings etc.)
771. In the Republic of Montenegro women have equal rights as men in terms of citizenship: receiving, changing, terminating etc.
772. Marriage to a foreign national or change of citizenship does not automatically reflect on citizenship of women i.e. she neither loses nor gets other citizenship. Namely, it is up to her to choose citizenship and it is only at her request that the procedure is launched.
773. A measure of protection before new regulations are adopted, Law on Enforcement of the Constitutional Charter of Serbia and Montenegro (Official Gazette of Serbia and Montenegro, No. 1/2003), prescribes that persons who have received Yugoslav citizenship until the Constitutional Charter enters into force maintain that citizenship and right to use existing public identification documents.
774. Before 2001, when amendments to the Law on Yugoslav Citizenship were adopted, the marriage did not directly lead to receiving Yugoslav citizenship. It then prescribed that a foreigner married to a Yugoslav citizen for minimum three years and who had been granted permanent

residence permit in Yugoslavia could be granted Yugoslav citizenship provided that s/he had not been imprisoned for a criminal offence which would otherwise make him/her unqualified to receive Yugoslav citizenship and that, judging by his/her behaviour, one could conclude that s/he will respect legal order in Yugoslavia.

775. Marriage has effect on citizenship of wives and children of our immigrants whereby members of families of Yugoslav immigrants can get Yugoslav citizenship under preferred terms.
776. The basis for receiving citizenship pursuant to regulations on citizenship is: by family line, birth, receiving it and by international treaties. If citizenship is received by family lines, the same weight is given to the citizenship of a mother as to that of a father.
777. Regarding regulation of the issues of residence, temporary residence and employment in cases when a spouse, a wife or a husband, is a foreign citizen there is no difference in gender either since women have the same rights as men.
778. Minor children have by all terms the same destiny as their parents i.e. citizenship is determined on the basis of citizenship of parents.
779. Children can have their own passports and they can also be identified in parents' passports (either mother's or father's), which means that they can be identified either by mother's or by father's passport.
780. Father's consent is not necessary for registration of a child into mother's passport nor vice versa, except in the case when spousal relations had been disturbed and officer in charge learns about that (through report of other parent, information by competent custodian authority or other authority), when registration of a child in a passport of any of the parents (regardless of whether mother or father) or issuance of their own passports is done on the basis of consent of both parents.
781. If other parent does not give consent, the officer in charge shall cancel the procedure and request opinion of a competent custodian authority.
782. If minor children are to leave the country (alone or accompanied by other person) they need an authorization from one of the parents (either a mother or a father).
783. A woman can get a passport and travel without a company as an adult or a person capable to work.

## **Article 10**

784. Equal access to education for men and women in the Republic of Montenegro is pledged by the Constitution of the Republic of Montenegro, Law on General Education and separate laws in field of pre-school education, elementary education, secondary education, vocational education, education of children with special needs and education of adults.
785. Pursuant to the Constitution of the RoM "citizens are free and equal regardless of any specifics or personal characteristics" (Article 15, paragraph 1); "everyone has right to education under equal terms" (Article 62, paragraph 1); "elementary school attendance is compulsory and tuition fees are not charged for that" (Article 62, paragraph 2); "people who come from national and

- ethnic groups are entitled to freely use their language and alphabet in their language” (Article 68); and “school curricula shall also contain history and culture of national and ethnic groups” (Article 71).
786. Law on General Education stipulates that education has a goal, inter alia, to “provide opportunities for overall development of an individual, regardless of sex, age, social and cultural background, national and religious denomination and constitution of body and mind” (Article 2) and to “enable selection of education programs at all levels of education” (Article 2).
787. The same law treats education as a service in public interest (Article 4) and “in the Republic citizens are equal in exercising their rights related to education, regardless of nationality, race, sex, language, social background or other personal characteristics” (Article 9).
788. The Law on Elementary Education prescribes that elementary education is compulsory for all children from 6 to 15 years of age and that a parent or custodian “has to ensure his/her child meets obligation of attending elementary school” (Article 4). The Law thereof defines that the primary goal of education is to “provide elementary education for all citizens” (Article 2), and one of the goals is defined as “education about mutual tolerance, respect of difference, cooperation with others, respect of the rights of men/women and fundamental freedoms and, thereby, developing competencies for life in democratic society” (Article 2).
789. Other special laws in field of education also contain equal access to education for men and women that has been emphasized through equal rights of children, pupils and students regardless of sex and other specifics. The quoted equality approach in Montenegrin education system has been fully applied in practice.
790. In institutions of elementary, secondary and higher education, the students attend the same courses based on equal curricula. The enrolment procedure is public and it has been prescribed by special laws for certain fields of education and by-laws so that population of school students studies regardless of sex and they are aware of available opportunities and use those opportunities by their liking.
791. Literacy is an elementary factor and precondition for overall social engagement of every individual. Today, in the age of Internet and electronic communication, literacy is still relevant issue since it persists and as a factor affects the quality of life.
792. A upsetting information from the Census of 1991 indicated that the number of illiterate girls and women was significantly higher. In 1991 there were 5,94% population older than 10 who were illiterate, and 82,83% of them were women. Regarding school age 10-19, there were 805 illiterate out of which 51,68% women, while in the group of most capable for work, 20-34 of age, 62,24% were illiterate women and in group 35-64, there were 86,09% illiterate women. Among population of 65 and older, illiterate women accounted for 83,79%.
793. The greatest illiteracy is found in population of 65 and older and the percentage of the illiterate has been going down continuously. However, women represent considerable majority of the illiterate population. A possible factor that contributed to that was that there were fewer girls at the very beginning of education – the beginning of elementary school.

794. Out of total of 73 436 students of elementary school in school year 2003/04, 35 658 are girls i.e. 48,56%, while in school year 1995/6 out of total 80290 school pupils, there were 39 092 girls i.e. 48,69%.
795. In secondary school in school year 2003/04 out of 31 219 students, there were 15780 girls i.e. 50,55%, while the percentage of girls in the secondary school population of 1995/96 school year was 50,95%.
796. In academic year 2003/04, University of Montenegro enrolled 2600 students out of which girls account for 55,96%. These data broken down by faculties looks like this: Faculty of Economics, female students account for 69,9% of all enrolled students, Faculty of Philosophy 76,90%, Faculty of Law 61,67%, Faculty of Tourism and Hotel Management 85,10%, Faculty of Mechanical Engineering 13,39%, Faculty of Natural Sciences and Mathematics 47,54%, Faculty of Electrical Engineering – Course in Electronics 18,95% and Course in Energy and Automatics 4,76%, Faculty of Civil Engineering 46,52%, Faculty for Maritime Affairs 28,31%, Faculty of Fine Arts 20%, Academy of Music 61,36%, Medical Faculty 60,31%, while the number of female students enrolled in Faculty of Metallurgy and Technology was 33,33%.
797. In the period of 2000/2003, 608 students graduated from the Faculty of Economics. There were 386 or 63,47% female graduates, whereas in the same period 91,88% of enrolments in two-year studies of the Faculty of Philosophy were girls. At Medical Faculty two female and none of male students have graduated.
798. Ministry of Education and Science of RoM gives: loans to full-time students at faculties, colleges and academies; scholarships to talented pupils and students (25 to pupils, 30 to students). The Ministry awards education allowances to a certain number of pupils and students. The Ministry also awards scholarships to pupils of secondary school of mathematics, and Department for Science allocates certain funds to postgraduate students (for drawing up theses and dissertations).
799. Law on General Education grants rights and obligations in field of student standard. A pupil is entitled to: board and lodging in student halls of residence, scholarships for talented pupils and subsidized transport.
800. The Law on Higher Education grants rights and obligations in field of student standard. A student is entitled to: board and lodging in student halls of residence, student loans, scholarships for the best students, subsidized commuting for full-time students whose tuition fees are covered by the Budget, professional advancement and health insurance. All rights the law grants to pupils and students are equally available to male and female pupils/students.
801. Male and female students are equally entitled to all scholarships and other forms of benefits subject only to school/academic merits. There are no available data on percentages of scholarships, awards and paid fees that have been allocated to female pupils/students to which both sexes are equally entitled.
802. Two pieces of legislation that regulate rights and obligations of pupils and students are the Law on General Education and Higher Education Law. On the basis of these laws, the work on drafting by-laws and criteria that will stipulate rights and obligations in better detail is under

- way. The basic criterion for exercising one's right is solely based on education merits and they are gender-neutral.
803. The open call for applications has detailed rules for 4000 student loans out of which 1500 for new beneficiaries and 2500 for the old ones. The basic criterion for awarding a loan is average grade in the course of studies, regardless of sex. Unfortunately, there is no statistic on that broken down by sexes.
804. Elementary education of persons older than 15 has been provided through special classes in regular elementary schools and in special schools for adults. In “Workers’ University” in Niksic and “People’s University” in Podgorica there are schools for elementary education of adults. Women attend those schools, too. Out of 184 people who attend school in Podgorica, 20% (37 attendants) and out of 225 people who attend school in Niksic, 60% are women (141 attendants).
805. One of major problems is the lack of spare time in life of women to dedicate it to education and studies.
806. Special group of women who are deprived of education and learning are Roma women who have to come to grips with customs and prejudices that have been entrenched in the Roma community that does not allow girls/women to go to school. This is a problem that has to be tackled and educational and counselling measures have to be taken so that children of both sexes are enrolled in schools.
807. Regarding the forms of informal education it is evident that majority of students are women. Regarding some forms of education organized by “Workers’ University” from Niksic, the situation is the following: computer course – 52% women, foreign language courses – 27% women, vocational courses 50% women (mainly hairdresser’s course). In Podgorica the situation is the following: computer course – 68% women, foreign language courses – 55%, typist course – 100% women and a course for administrative secretaries – 100% women.
808. The Law on Elementary Education prescribes that a pupil has fulfilled the obligation of finishing elementary school after nine years of school attendance (Article 4, paragraph 3). Thus, girls and boys have the same obligation in terms of regular school attendance. Failure to fulfil obligation of finishing elementary school entails tortuous liability of a parent or custodian of a child concerned.
809. Elementary education of persons older than 15 is provided in special classes of regular schools or schools for adults in compliance with the law (Article 7). Regarding the law in field of secondary and higher education there are no special provisions that might contribute to keeping girls and female students in secondary schools or in institutions of higher education until they complete studies.
810. Law on Secondary School of Classical Sciences and the Law on Vocational Education, the same possibilities and incentives are given to both female and male students in order to finish the school education they have started. Thus, a dropout student can resume his/her education as a part-time student (Article 42, paragraph 4 and Article 13, paragraph 4). The marks part-time

students have earned at the end of school year or in the course of former examination term will be recognized (Article 36, paragraph 3 and Article 92).

811. In addition, the quoted law prescribes a possibility for a student to sit for additional or differential exams for the purpose of transferring from one to some other school, change vocational course in the same school or acquire other vocational skills after finishing one vocational course.
812. Law on Education for Adults provides various possibilities for adults to acquire formal, non-formal and informal education (Article 6). Also, this law provides for adults to sit for an exam in the Centre for Vocational Training in order to prove their knowledge and skills regardless of how they have been acquired.
813. There are no special programs for women. Consequently, there is no special concern for girls who have dropped out.
814. According to the data from the census in 1991, the number of women among the population without any qualifications (77,3%) is rather considerable. There are more women who drop out of school and that is indicated through the data about those people who finished 1-3 grades of elementary school where 72% are women and those who finished 4-7 grades of elementary school where 62,2% are women.
815. Total number of teaching staff in preschool institutions is 897 out of whom 886 are women, which is 98,77%. In elementary schools there are 4671 teachers out of whom 3205 are women, which is 68,61% while there are 59,07% of women in teaching staff in secondary schools or 1218 women out of total of 2062 teachers. This means that, in total, at all three levels there are 65,69% of women in teaching staff and 67,86% of women in the population of all employees in those institutions (7361 women in total number of employees which is 10847).
816. There are 161 elementary schools in 21 municipalities in Montenegro. The heads of those institutions are 138 schoolmasters which is 85,71% and 23 headmistresses which is 14,29%. It is interesting that in 10 municipalities there are no women at the position of headmaster.
817. In seventeen municipalities (17) out of 21 in Montenegro there are 32 secondary schools and no headmistresses in any of the schools. In other four (4) municipalities there are 15 secondary schools and five (5) have schoolmistresses. In Montenegro, generally speaking, there are 47 secondary schools and five schoolmistresses (10,64%) and 45 (89,36%) schoolmasters.
818. Pursuant to Article 6 of the Law on Higher Education, higher education is accessible to all persons under the conditions prescribed by this law and the Statute of the institution concerned, while Article 7 prohibits discrimination on the basis of: sex, race, marital status, colour, language, religion, political or other conviction, national, ethnic or other origin, affiliation to a national community, property ownership, incapacity to work (disability) or other similar grounds, position or circumstances in exercising rights to higher education.
819. University of Montenegro has never had female rector and there are very few women at the posts of deans – there are four female deans at the moment.

820. One specific trend that has been recorded at University, which is positive only in its initial stage, but later, it tends to get negative characteristics. Namely, not only the girls slowly and in greater numbers continue studies at university, but also show great interest in further professional advancement by working as assistant lecturers at university so that in 2001/02 academic year they accounted for 63,7% of them. Such a big share of young women in the structure of teaching staff at the University of Montenegro gets more importance once when we know that in that year there were only 1/3 of female teachers (36,3% for women and 63,7% men).
821. However, what plays down the importance of this trend in higher education and eventually gives negative characteristic to the overall representation of women in the structure of teaching staff lies in the fact that in higher teaching posts number of women significantly gets smaller. Thus, in the posts of junior professor there are 29,9% of women, among associate professors there are 30,9% of women and among full professors there are only 7,8% women. It is this very indicator that best illustrates the causes for small number of female deans.
822. Thus, the University of Montenegro also confirms the rule by which higher you go hierarchically, in this case it refers to academic titles in the institutions of higher education, harder it gets to women to “climb” as compared with men.
823. At all levels of education system, from kindergarten to university, men and women have equal rights and conditions for education. The programs are common and they are designed for both sexes. They get education about family life all way through pre-school to the end of the secondary school.
824. In secondary schools of classical sciences in sociology lessons there is a whole chapter that deals with family which gives an overview from historical types of families through various ways of functioning of family in various periods in history and in various cultural models up to characteristics of modern family which is particularly focused on the need to plan family with special emphasis that in planning the partners are fully equal i.e. wishes and needs of men and women have to be respected equally.
825. Girls and boys, women and men have equal opportunities for participating in physical education and in sports and there are no rules which prohibit girls or women to take up physical education and sports.
826. There are no regulations on dressing that prevent girls and women to take up sports like men do and sport facilities are equally accessible to boys and girls.
827. Curricula do not have stereotypes but the problem is that we have them in our heads. New curricula for elementary and secondary school have been reviewed by a special commission whose task was to indicate to possible gender stereotypes in curricula and to propose the way to overcome and eliminate them. All commissions by subjects that have detected stereotypes have eliminated them in compliance with the suggestion of the commission involved in that.

## **Article 11**

828. Protection from discrimination in the field of exercising right to employment under equal terms has been prescribed by the Constitution of the RoM, which in Article 52 grants that everyone



- has right to work, to free professional/vocational choice, to fair and humane conditions for work and to protection while out of work.
829. The Constitution of the RoM in Article 53 grants rights of employees to appropriate salary, limited hours of work, paid leave and protection at work. Young people, women and disabled persons are granted special protection at work.
830. Labour Law and Law on Protection at Work regulate appropriate health protection and security at work place for all employees regardless of their sex. Women enjoy additional protection related to maternity protection and special health protection.
831. If an employer fails to organize work in a way that life and health of employees are protected or fails to provide special protection to a workingwoman in terms of protecting her health, it shall be deemed in breach of law and subject to sanction.
832. The Labour Law of the Republic of Montenegro (Official Gazette of the RoM, No. 5/02) regulates the rights of persons who are out of work.
833. The solutions set forth by the Employment Law of the RoM are based on international standards in field of employment which have been accepted by our country through ratification of certain conventions and recommendations of the International Labour Organization and by numerous stands EU countries have adopted pertinent to this field. Convention No. 111, related to discrimination in employment and choosing profession, and Convention No. 122, on employment policy, have been particularly observed with a view to eliminating all kinds of discrimination in this field.
834. The Employment Law of the RoM in its Article 3 prescribes that every person who applies for a job has to be provided the same access to exercising his/her rights to employment regardless of national denomination, race, sex, language, religion, political or other conviction, education, social background, ownership or other personal trait.
835. Unemployed individuals pursuant to Employment Law of the RoM (Article 10) are entitled to: receiving information on possibilities and terms for employment; mediation in finding a job and recruitment; being involved in program of active labour policy; preparation for employment; insurance against unemployment; allowance; health insurance and other rights.
836. The rights stipulated in Article 10 of this Law shall be exercised on equal footing by all unemployed persons regardless of their sex.
837. The exception to the quoted rule is related to Article 45, paragraph 3 of the Employment Law of the RoM which stipulates that right to preparation/training for employment (professional orientation, occupational retraining and additional training and other forms of training) can be used by a unemployed man under 50 and a woman under 45.
838. One can observe that the provision of Article 45, paragraph 3 of the Employment Law of the Employment Law of the RoM indicates to inequality of women and men regarding age in case of rights to take training for the purpose of employment.
839. Regarding the fact that social and market policy combine in the labour market, the legislator has considered that older categories of unemployed persons and the disabled persons who have been

trained in special institutions or in other family are the category which is hardly employable provided special social security measures for this category so that they have enabled them to use rights to insurance (regular allowance regardless of pension insurance record) in case they remain unemployed and thereby they acquire pension insurance record until they qualify for pension on the basis of age or disability or family pension.

840. With a view to protecting women at maternity leave, Article 45, paragraph 3 of the Employment Law of the RoM prescribes that the right to allowance for temporary leave from work continues during pregnancy and labour, which is recognized as a maternity leave for a working woman pursuant to regulations referring to labour relations.
841. Employment Law of the RoM has implemented “right to involvement in active employment policy” as a fundamental right of unemployed persons. Measures of active employment policy include: funding or co-funding of job-generating businesses; co-funding of public works; funding part of the production in order to keep jobs; co-funding seasonal jobs; assistance for training new employees; co-funding of the salaries for trainees; drawing up employment programs for certain categories of unemployed persons (disabled persons or persons who have been looking for a job quite long); co-funding of adaptation of premises and technical equipment for employing disabled persons etc. (Article 26).
842. By examining the composition of the unemployed in Montenegro by sex, one can conclude that unemployment is more prominent among women than men. There are 39472 women registered in the Register of Unemployed kept by the Employment Agency of Montenegro and this accounts for 56,7% of total number of unemployed people.
843. Qualification structure of unemployed women is as follows: 36% has no qualification, 23,4% has the third degree and 34,5% the fourth degree of professional qualifications, whereas there are 5,4% of women with college and university degree by the records.
844. The lack of practical skills of the people who graduate from secondary schools has made them uncompetitive in labour market. Employers look for 262 types of professions that have not been recorded in the registry. However, for 435 registered professions there are no job opportunities. In order to overcome these problems, some 73 training programs have been carried out (additional training and retraining) which involved 2720 unemployed persons and 55% of them were women.
845. As a part of its employment policy, Employment Agency of Montenegro carries out its self-employment program by granting favourable loans to the unemployed. At open competitions for loans, women participate with 44,45% and so far through this program some 1847 loans, total value of which was 7 434 004 €, were granted to women. Owing to this 2495 new jobs were created.
846. According to data kept by Republican Statistical Bureau – MONSTAT for 2002, women made 43% of the total workforce.
847. Article 28 of the Labour Law (Official Gazette RoM, No. 43/03) enables an employer to organize work at home when the nature of work allows so and prescribes that collective

agreement shall determine the conditions and terms for work at home and the rights and obligations of employees.

848. According to SCAN survey, only one third of respondents said that there is no division between male and female jobs and that this division is rather obsolete.
849. The same survey showed that 33% of women and 57% men think that the chances for employment of men and women and for promotion at work are the same, whereas 45% women and 17% men think that women stand fewer chances.
850. Women get equal salary for equal work as men since the Labour Law (Article 65 and Article 66) prescribes that employees are entitled to appropriate salary which is determined on the basis of price of labour at the post which a person is assigned to, result of work and time spent at work in compliance with the law and collective agreement.
851. Labour Law (Articles 49-64) prescribes that all employees, regardless of sex, are entitled to: break from work during work hours, daily and weekly breaks, holiday leaves, leaves from work and dormancy of the rights pertaining to employment.
852. By law, all employees are entitled to holiday leave lasting minimum 18 days and temporary incapacity to work, which can also be a maternity leave, shall be considered as the time spent at work and on account of that employees can exercise their right to holiday leave.
853. In compliance with the Law on Pension and Disability Insurance (Official Gazette of RoM, No. 54/03), one cannot acquire status of an insured person on the basis of unpaid work at home and in agriculture. Consequently, that work has no effect on determining pension, while insured farmers are persons who engage in agricultural production (agriculture, members of farming families and members of mixed households) as the sole and major profession. The authority in state administration competent for agriculture, forestry and water management shall by a general act define agricultural business as a sole and major profession and shall keep a register of such persons.
854. By law, an insured person qualifies for pension on the basis of age i.e. once men turn 65 and women 60 and minimum 15 years of pension insurance. Otherwise men retire after 40 years of work record and women after 35 and at least are 55.
855. Pension and disability insurance contributions are the same for men and women.
856. Women are fully covered by the existing Law on Social Insurance.
857. A widower or a widow qualify for family pension under the same conditions prescribed by Article 44 of the Law on Pension and Disability Insurance. Also, Article 45 prescribes that a widow who is pregnant with or has a child of the deceased insured person is entitled to family pension.
858. Pursuant to Article 79 of the Labour Law, the employer cannot refuse to conclude employment contract with a pregnant woman nor is allowed to cancel employment contract because of pregnancy or if she is on maternity leave. The employer cannot terminate employment contract with a working woman who works half of work hours because of care for a child with grave

- development problems, a single parent whose child is under seven or a child with grave disability.
859. During pregnancy and while breast-feeding, by recommendation of her doctor, woman can be temporarily assigned to other positions if that is in the best interest of protecting her or child's health. If an employer cannot provide reassignment, the woman concerned can take a leave from work with salary that cannot be less than what she would get by working at that post.
860. A woman who has a child under three, one parent who has a child with grave developmental handicap or single parent whose child is under seven cannot work after regular work hours, except if s/he agrees in writing to such work.
861. Pursuant to Articles 82 and 87 of the Labour Law, a working woman or a working father of a child is entitled to maternity leave lasting for 365 days counted from the day when the leave commences during the pregnancy, delivery and care for child.
862. A workingwoman can start working before the end of her maternity leave but not earlier than 45 days after the delivery. If she uses this opportunity, a woman can also use 60 minutes more than regular break during working hours for breast-feeding.
863. During maternity leave a workingwoman qualifies for receiving maternity benefit in compliance with the law.
864. After expiry of maternity leave, one of working parents can work for half work hours before child turns three if the child needs increased care, in compliance with manner and procedure requested by the ministry competent for social and child welfare.
865. One of the parents has right to leave from work until a child turns three and in the course of it the employee thereof is entitled to health and pension and disability insurance but not to remuneration.
866. A workingwoman who works in industry and construction business cannot be assigned to night shifts unless she is allowed to have at least 12 hours of break before that.
867. A workingwoman cannot be assigned to posts which entail particularly hard work, work under ground or under water nor work that can have detrimental effect and pose high risk to her health.
868. There is a network of public preschools and kindergartens and a large number of private institutions of this kind. However, present capacity is not sufficient to cater for the needs of taking children. All these institutions employ competent, qualified staff.
869. Some 90% of workers are members of trade unions in Montenegro. Women account for 40% of members of trade unions. Percentage of women on senior positions in trade union bodies does not reflect real number of female members in trade unions. For example, independent trade union of health and social welfare has 73,19% female members, while in republican board of this trade union women account for 46,15%, in independent trade union of trade there are 62,26% of women but only 28,57% in its republican board.

870. There has been no law sanctioning sexual harassment in Montenegro so far. However, there are some initiatives to draft one.

## Article 12

871. As a part of meeting basic goals of health care of the population of Montenegro (harmonized with Millennium Goals and Global goals of the strategy “Health for All by Year 2020”) which is: eliminating discrimination of women in field of health care, the following measures are being undertaken:

- health education and information dissemination for women, specially in fertile age for the purpose of awareness raising on healthy lifestyles, human relationships between sexes, reproductive health;
- improving living and working environment, nutrition, housing, water supply as basic preconditions for preserving and improving health of women;
- respect for human rights and freedoms in relation to health protection;
- full health protection of pregnant women and women in relation to motherhood, reproductive health and family planning.

872. In Montenegro, Law on Health Protection and Health Insurance and relevant by-laws provide equal opportunities in exercising rights to health protection without differences by sex, national, regional, territorial or any other background. The state, in compliance with the principle of equality of men and women, provides equal access and availability of health care, including also the obligation to fully exercise, respect and protect rights of women to health care.

873. The state through its line ministry, agencies and institutions has been developing strategies and undertaking measures of health protection by which it intends to reach the highest feasible standard of health. System of health care recognizes specific needs of women in relation to health services paying attention to biological, socio-economic and psychological factors that are different for women and for men.

874. Planning health care for women is made according to health-related needs of women. To that view, state of women’s health is analysed and health problems and the needs of female population of all age identified and, eventually, programs of health protection of women are defined. Monitoring and evaluation of realized programs enable definition of priority targets that are reliable and feasible and they are considered relevant for preservation and improvement of health of women.

875. The realization of planned activities involves all levels of health protection with particular emphasis on primary health care. At primary level of health care processes of education on healthy life styles and preparing them for motherhood have been conducted and health care services are delivered at this level. According to its financial capacity, modern achievements in medicine are being monitored and applied, modern equipment provided, education of medical staff provided and information system delivered.

876. Women in fertile age are priority as a category of population that has a special treatment in health care. The state recognizes special needs of women in terms of health care and services during pregnancy, delivery and motherhood and it gives them the highest possible level of relevant health care free of any charge.
877. Economic crisis that has lasted for rather long time affected living standard of the population. It necessarily affected nutrition of pregnant and breast-feeding women, which also indirectly affects children as the most vulnerable category of population. For the time being, the state does not have any concrete, partial programs for improving diet of pregnant women. Global programs aim at improving living standard of whole population, and particularly of vulnerable categories, such as pregnant women and children.
878. State strategy for development and poverty reduction was adopted in 2003. Its aim is to improve material status of vulnerable categories of population. It is expected to have positive effect on improving living conditions and nutrition of pregnant women. Apart from that, Ministry of Health of Montenegro prepares projects of improving health of mothers and children as well as the programs of improving health of vulnerable categories whose integral parts are related to nutrition of this vulnerable category.
879. Health care for female population in the territory of the Republic is fully accessible and available. Primary health care is delivered by outpatient wards for women and counselling services for pregnant women and for family planning that have been organized in 18 outpatient health centres, home-visit medical units and polyclinics of the Clinical Hospital Centre in Podgorica.
880. Other levels of health care have been provided through gynaecology wards and obstetric units in seven general hospitals and Gynaecology and Obstetrics Clinic in Podgorica as well as through special units in outpatient centres (in places which have no general hospital like Mojkovac, Rozaje and Plav). Highly qualified, specialized staff has been provided in compliance with prescribed staffing regulations to cater for health care for women.
881. On the basis of their health insurance, women exercise their right to health care and treatment, salary allowance during temporary leave from work, allowance for extended care for a child, reimbursement of travel costs related to health care and refund for burial service, allowance for preparing for birth of a baby, breastfeeding and care for a newborn.
882. Developed medical infrastructure, well-established network of medical institutions and qualified medical staff do not, however, cover the whole territory of Montenegro in equal manner. In practice, there are differences among regions but also between urban and rural communities.
883. The quality of services in medical sector has not been sufficiently studied, professional standards have not been developed, there are no information systems which would have effects on updating data on condition of health care, rights and programs made for improving health of women, there are no evaluations of these health care programs, control system have not been developed in the sector, there have been no surveys on how women – users of the service are satisfied with it. In addition, private sector has been participating ever more in the system of health protection of women, it has not been controlled and it has integrated into the public health care system.

884. Women – refugees and displaced persons have been equally treated as domicile women in terms of exercising their rights to health care, particularly during pregnancy, delivery and post-delivery period.

885. The most frequent causes of death (mortality) of women in 2002 have been:

- Vascular illnesses 50,4%
- Tumours 15,9%
- Symptoms and abnormal clinical and laboratory findings 15,6%
- Gland-related illnesses as a consequence of diet and metabolism 2,4%
- Injuries, poisoning and various external causes 2,4%
- Disease related to digestion 1,9%

There have been no significant changes in the sequence related to the most frequent six causes of mortality of women in the last decade.

886. The figure of specific mortality rate of women in Montenegro is lower than the mortality rate of women on the whole and in relation to age these values have been lower for all age groups. It is only after the age of 75 that there is a higher share of women than men in the overall structure of the deceased as a consequence of the fact that life expectancy for women is rather longer than for men and they make majority in this age group.

887. According to the outpatient records, the most frequent causes of diseases (morbidity) are the diseases of urinary tract (74,9%), then the registered visits related to pregnancy and post-labour effects (16,3%), followed by tumours (4,2), contagious and parasite-caused illnesses (2,3%), blood diseases, vascular diseases and immunity related diseases (0,7%). The data show that although contagious and parasite-caused disease are not leading in the statistics, they are all the same present individually and in form of epidemics and those diseases have a particular significance for the overview of overall state of health and reflect on the development of medical service and considerably affect the costs of health care.

888. According to hospital treatment statistics, diseases related to vascular system have been on the top of the rank list and accounted for 14,8% in the general morbidity structure, they were followed by diseases of muscular and bone tract as well as connective tissues (12,9%), diseases of digestive tract (9,2%), respiratory diseases (8,9%), tumours (8,1%), diseases of urinary – sexual structure (8,0%).

889. According to the latest available data received directly from patient's lists on births, there was no case of death at labour in Montenegro in 2002, whereas in 2001 two women died as the consequence of labour and post delivery complications. Although very important, this sensitive indicator not only of state of health of pregnant women but also of socio-economic trends in society and care given to women in relation to their generative function, has never been published in Montenegro. Maternal mortality reflects all risks to mother's health in the course of pregnancy, at birth and six weeks after delivery.

890. Mortality rate of newborns in Montenegro analysed as of 1950 has a significant decreasing trend but in the last decade some oscillations have been observed. In 2001 it was 14.6 which is rather unsatisfactory having in mind the goals set by the WTO for a country like ours to have infant mortality rate of below 20 and to reduce it below ten infant deaths in 1000 newborns by 2020. In its policy programs, Ministry of Health has set the values for mortality rate to below eight (8).
891. Infant mortality rate in 2002 was 10,8 on 1000 live-born infants and broken down by sexes it was 11,4 for boys and 10,2 for girls on 1000 live-born infants of the same sex respectively.
892. Infant mortality rate broken down by sex in Montenegro from 1997 to 2001 has not significantly changed: it ranged from 14,8 in 1997 to 14,6 in 2001 at total level. Mortality of boys has been significantly higher than mortality of girls in every year.

The data thereof are shown in the table below:

Year	Boys	Girls	Total
1997	17,3	12,2	14,8
1998	15,4	12,3	13,0
1999	14,5	12,2	13,3
2000	12,6	9,5	11,1
2001	15,7	13,3	14,6
2002	11,4	10,2	10,8

893. The perinatal mortality rate (0-6 days) in 2001 was 14,0. The neonatal mortality rate (0-27 days) in 2001 was 10,5. The postnatal mortality rate (28 days to 1 year) was 4,0.
894. The infant mortality structure according to the cause of death by MKB-X revision is shown in the table below (2002 – the most frequent causes of death):

Cause of death by MKB	% of boys in the structure	% of girls in the structure
State in perinatal period (P00-P99)	78,4	75,6
Inborn deformity, deformations and chromosome anomalies (Q00-Q99)	2,0	4,8
Symptoms, signs, pathological, clinical and laboratory findings (R00-R99)	13,7	9,8
Vascular diseases (I00-I99)	3,9	4,9



Respiratory diseases (J00-J99)		2,4
Other		
Total	100,0	100,0
Cause of death by MKB	% of boys in the structure	of girls in the structure
State in perinatal period (P00-P99)		
Inborn deformity, deformations and chromosome anomalies (Q00-Q99)		
Symptoms, signs, pathological, clinical and laboratory findings (R00-R99)		
Vascular diseases (I00-I99)		
Respiratory diseases (J00-J99)		

895. The most frequent causes of infant morbidity by sexes in 2002 are given in the table below:

Causes	% of total number of ill girls	% of total number if ill boys
States that appeared in period of delivery	32,7	27,0
Respiratory diseases	28,4	31,9
Digestive diseases	6,7	8,6
Inborn deformity, deformations and chromosome anomalies	4,8	5,5
Injuries, poisoning and the effects of external factors	4,5	3,4
Infectious and parasite diseases	4,5	4,9
Symptoms, signs, pathological, clinical and laboratory findings	3,7	2,6

Causes	% of total number of ill girls	% of total number if ill boys
States that appeared in period of delivery		
Respiratory diseases		
Digestive diseases		
Inborn deformity, deformations and chromosome anomalies		
Injuries, poisoning and the effects of external factors		
Infectious and parasite diseases		
Symptoms, signs, pathological, clinical and laboratory findings		

896. A very important indicator by which the UNICEF is ranking countries, mortality rate of children under age of five, was 5,7 of deaths of children under five to 1000 live-born children. In all age groups of deaths, mortality rate of boys is higher.
897. Life expectancy at birth is a comprehensive indicator of population's health condition and for the period 1999/2000 it was 76,27 for women and it was for 5,22 years longer than for men. In the period 1950-2000 the value related to this indicator has been constantly higher for women.
898. The ratio of total birth rate ranged from 13,5 in 1997 to 13,3 in 2001. On 100 girls, 109,4 boys were born in 1997 and 110, in 2001.
899. Mortality rate for men in 2002 was 8,6 dead to 1000 male citizens and 7,9 of dead women to 1000 female citizens in total population and there is a tendency of growth in mortality rates for women.
900. The number of visits that women make to maternity ward ranges from 43000 in 1992 to 32800 in 2001, which shows a trend of decrease. In 2001, maternity wards recorded some 9745 first appointments of women. It is considerably more than total number of deliveries that was 8884 in the same year so that one can assume that the difference was due to abortions made. Almost 99% of women deliver their babies under professional supervision. In 2001, there were only 42 women who have delivered babies without professional supervision and that makes 0,5% of the total number (8884) of births in hospitals in Montenegro.

901. In Montenegro a number of live-born babies per one woman is going down. Total fertility rate (number of born children to one woman in fertile age 15-49) reduced to 4,3 in 1950 to 1,8 in 2000.
902. Medical care in the field of reproduction and family planning is delivered to women in wards for family counselling that are operating in outpatient centres. Number of visits ranges from 4000 in 1992 and 7000 in 1997 and 8000 in 1999 to 2600 in 2001.
903. Sharp decrease in number of registered visits related to family planning has been recorded. The reasons should be sought in private practice that delivers health care and their inadequate record of services they deliver. Due to that there are no valid data on the numbers of women who use contraception and on methods used most often. The data from 2002 range around 3541 visits for the sake of administering contraception methods, out of which some 2582 cases involved oral contraception, 803 of cases of intrauterous methods and 156 other local contraceptives.
904. As stated above, there are no legal obstacles for women to have a full access to medical care. Possible barriers are better explained by cultural, national barriers than by lack of access to medical care. However, poor utilization of these services could be blamed on living in rural areas, lack of information, education, prejudices and patriarchal upbringing, shame, belonging to national minority and not speaking the language well etc. In some of the situations mentioned, women do not have opportunity to plan family by their will but they have to get pregnant and bear babies, particularly with a view of bearing a baby boy.
905. It could be said that health sector is dominantly a “female workplace”, especially when it comes to professionals with college, secondary and elementary education degree where the number of women is ever growing. In 2001, out of all staff with university degree (doctors, specialists, dentists), women accounted for 54,7%. Out of total staff with high degree and lower degree of education women accounted for 85,6%. In health care institutions, however, men dominate at positions of authority.
906. There are no official data on medical workers, their work and their characteristics. According to experiential information, this does not have significant effect on women’s health.
907. Law does not regulate husband’s involvement in decisions about health care for his wife. This problem has not become particularly prominent but traditional position of woman is to blame for disrespect of her opinion in decisions about (number of) pregnancies, particularly where there is a wish to have a baby boy. Women coming from rural areas, uneducated and economically dependent women are particularly affected by that.
908. Family planning, as an obligation, has not been prescribed by a piece of legislation and there are no any prohibitions or obligations when it comes to reproductive health. The law only regulates the period by which abortion is allowed and in which cases it can be done even after that deadline without punished.
909. Termination of pregnancy in the sense of the Law on the Conditions and Procedure of the Termination of Pregnancy as a special medical intervention can be made at the request of a pregnant woman before the expiry of the period of ten weeks as of the date of conception. Termination of pregnancy can be made after the expiry of ten weeks and at latest after twenty

weeks as of the day of conception subject to the approval of the commission for termination of pregnancy. After that period, abortion is allowed only when there are medical indications for that and the law sanctions any breach of it.

910. Cost of termination of pregnancy is covered by a woman who uses the service regardless of her financial status, except in case when abortion is caused by a medical indication. Because of traditional upbringing in Montenegro, abortion is being done in private surgeries whose services are not covered by the consolidated report on number of services delivered to women.
911. The number of total registered abortions in 2000 was 3406. Girls-women under 16 – 14 cases or 0,4%. Girls-women under 19 (no data for under 18) total of 64 cases or 1,9%. The data on abortions are highly unreliable because of poor records in private practice where in cases of single women most of abortions are done secretly.
912. Prenatal foetus testing is available and in cases when it has been induced by medical examination, the cost is covered by health insurance. In all other cases the costs of service and travel expenses thereof are borne by a pregnant woman herself. There are no accurate data as to how many services of this kind are delivered in the Republic per one year, on what grounds and what were the results in terms of foetus' sex and how such pregnancies ended.
913. In practice, there is the phenomenon of prenatal detection of baby's sex and termination of pregnancy in case when baby is female. The data on newborn's sex do not show any disturbed structure yet, but it is expected to happen in future.
914. Pursuant to current regulation and health care policy, doctors recommend abortion in cases when there are medical indications related to mothers or foetus' health. In such situations mother makes the final decision. In cases when mother has limited capacity to render decision (under age, mental insanity, incest), a parent or custodian makes the decision thereof.
915. There are no official data on illegal abortions. This does not mean that there are no any. There are no records of incidents of death or diseases inflicted by abortions. Women who might have such problem use services of regular health care provided by relevant institutions. The law does not specifically regulate this.
916. The law does not prescribe nor deny possibility of voluntary sterilisation. There are no data on this type of medical services by sex or in total figure.
917. The law does not allow for genital mutilation of women and that problem is considered as nonexistent in the community.
918. The problem of jeopardizing pregnancy with malnutrition has not been present in practice and there are no data about that. Something related to that could have happened as a part of religious ceremonies in times of fasting etc. in case of pious women. Education on health care and counseling of pregnant women are aimed at raising awareness of pregnant women about its possible detrimental effects.
919. Intensive prevention-related activities have been undertaken as a part of prevention strategy related to psychoactive substances. They are particularly designed for schoolchildren and university students of both sexes. Particular attention thereof has been given to women in

reproductive age because of possible risk that this can have for fetus. HIV prevention strategy includes planned activities that are particularly focused on female population in reproductive age.

920. Preventive programs related to sexually transmittable diseases, with particular emphasis on women and children, have been carried out as a part of the Government of Montenegro's strategy on prevention of drug abuse, Human trafficking and all other forms of violence with special emphasis on violence against women and children, strategies against delinquency, protection of mental health and through many other education and information providing strategies at global and local level respectively.
921. Women who are medical workers account for a large share of the employees in medical sector and a large share of medical workers involved in HIV/AIDS and drug-addiction preventive activities. Consequently, there is no need to stipulate it in any piece of legislation.

### **Article 13**

922. Pursuant to Article 59 of the Constitution of the RoM, family enjoys special protection. Parents are obliged to look after children, to bring them up and provide school education for them.
923. The Law on Social and Child protection (»Official Gazette of the RoM«, No. 48/92, Article 9) prescribes that families which have no income or if the income is below the limit defined are entitled to family allowance (»MOP«) provided that: they do not have any business premises, house/apartment, family house in towns or outskirts of towns that are bigger than prescribed size, agricultural land or forests bigger than prescribed.
924. Exceptionally, property owning in the spirit of this article is not impediment to a family whose members are incapable to work and cannot have a job or engage into agricultural activities in order to earn income up to the limit prescribed for entitlement to welfare benefits stipulated by this law to qualify for receiving family allowance provided that they do not lease the land.
925. The basis for entitlement to welfare benefits is determined in relation to average net salary for workers in the Republic in preceding quarter of the year, while the family allowance amount is determined according to the lowest monthly salary in the Republic in the month in which the allowance thereof is disbursed.
926. Family allowance is determined as the amount that is the difference between family allowance and monthly income of the family by all grounds.
927. Family, as defined by this law, consists of spouses or extramarital partners and children (out of marriage, extramarital, adopted or foster children) and other cousins in linear succession and in non-linear succession to the second circle of accession, in compliance with the Family law. Members of the family are also other relatives and other persons who live in the same family.
928. The Law on Financial Support to Families with Children has defined child allowance as a measure of social support to families with children that receive family allowance. This condition is not relevant for children with developmental problems since they receive bigger allowance.

929. Families receive family allowance for the first three children, in line with conditions stipulated by the law, and it is given to a parent who directly looks after a child regardless of whether that person is a mother or a father.
930. The law has defined that families receive baby pay as a support for every family with children and it is given to the family for every child born to it. One of the parents gets a baby pay.
931. In addition to those benefits stipulated by the law, local governments can define some other forms of welfare support for families or mothers according to their competencies and capacities. Married and unmarried mothers have absolutely the same treatment regarding the right to welfare support.
932. The Law on Social and Child Protection prescribed a measure of welfare benefit for individuals or families whose incomes are below the line of social security as stipulated by the law. There are no differences by sex or family status in relation to exercising this right.
933. Women are equal beneficiaries of this right and they have the same rights as men. This equality derives from the law and it is exercised in practice. It is paid to a primary beneficiary.
934. The benefits are paid directly to the beneficiary. It is cleared of any tax. The disbursement of benefits is often late.
935. However, families are not sufficiently protected by those benefits because those benefits are not enough for the living of beneficiary families.
936. Business policies of commercial banks define rules for taking a bank loan. Women do not need any authorization from men (regardless of relationship) before they take a bank loan, but there is a problem with property ownership that is necessary to grant loan payback. Namely, according to the results of a survey that has been done by SCAN agency in Montenegro, one can conclude that if family owns a property it is mostly registered as the property of the male members of the family.
937. The results of this research also indicate to conclusion that there is an economic aspect of inequality in Montenegro.
938. Sports, as an area in which freedom and emancipation is exercised, gives the same opportunities to every person, both to women and men, but women as an actors in society are not equally represented in sports, although they make more than half the population.
939. Although in the last years, generally speaking, the number of women in sports has increased, this does not reflect on their presence in the position of coaches, managers and other leading positions in sports and its organization. As long as the women do not take leading positions in managing sports we cannot speak of equal opportunities for women and men in sports.
940. The draft Sports Law of the RoM (Article 3) stipulates equality of all people in sports: "Sports is based on the principles of voluntarism, partnership, inclination, skill and ethics, scientific and professional knowledge and sports rules. Sports is accessible to everyone regardless of the race, sex, language, religion, nationality, social background, political and other convictions, financial status and other personal characteristics."

941. The Sports Law of the RoM does not stipulate special rules that would prohibit women and girls from engaging in sports and physical education. In schools, girls and boys equally take part in all sports and physical education. In addition, there are no special dress codes that would affect participation of women and girls in sports.
942. Since women are particularly burdened with a large number of responsibilities (work, home, motherhood etc.), regardless of the fact that there are no legal barriers for them to engage or take part in sports, recreation and other cultural pursuits, they are confined by them (except when if they are professional sportswomen).
943. Generally speaking, the distorted gender hierarchy in society which women unconsciously respect and a sort of her passivity to do something about it indicates that there are social and cultural barriers for her active participation in sports and recreation as well as in cultural activities.

#### **Article 14**

944. The Constitution of the RoM pledges right to property and succession as well as freedom of doing business and free entrepreneurship. All freedoms and rights are based on the principle of equality of men and women.
945. As the legislation is based on such principles, women in villages should exercise the same rights to property and inheritance as men and the legislation does not limit right of women to own land. However, in some rural communities, the tradition is followed in such manner that women waive their right to inheritance in favour of their male relatives.
946. According to the 1991 Census, farmers account for 9,27% of the working population and 30,57% of them are women. Both women and men are unevenly distributed by age groups so that most of them are over 65 and the smallest number of them belong to the group of under 20.
947. For the time being, there is no national policy related to provision of services in family planning to women in rural communities. However, the new Program of protection and development of women's health will revisit this program.
948. Services related to family planning and counselling are delivered to women from rural communities as a part of regular medical care delivered by gynaecologists in their outpatient units in villages (gynaecologists visit those units in villages several times a week, if there are any, and they deliver this type of services there). Thos services are not delivered in the villages since there are no such facilities in the villages, but they can get them free of charge in the nearest outpatient centre they are registered at.
949. Medical services of this kind are related to using protection from unwanted pregnancy and they get advice any time they meet their gynaecologists in medical outlets in villages. In case of urgency, women in villages can also consult a general practitioner who is available during work hours looking after all population in the village.
950. There are no data on the basis of which one can make an analysis of status of health on the basis of indicators of health of women by the parameter of living in the village or town.

951. The data on mortality, like other data on state of health, are related to the municipality on the territory of which a person whose health we are analysing lives and they do not distinguish between rural and urban population (According to the MONSTAT survey in 2002, the number of dead women was 2681 and 1028 of them were women and 39,27% were from rural communities).
952. Women in villages have the same access to social welfare programs as women who live in cities and towns.
953. Women in villages mostly have access to adult education, but it is not an organized form of education and professional training for women and men in villages. Only recently some form of education has been organized for rural population and it is primarily related to acquiring knowledge and skill in field of agriculture and tourism.
954. In the forthcoming period particular attention will be dedicated to the population who lives in villages. Vocational trainings in field of agriculture and tourism (rural tourism) have been envisaged along with education in ecological and democratic education.
955. Particularly difficult position of women in villages is reflected in the fact that, apart from house chores (cooking, cleaning, washing, looking after children ...), they cultivate land, sell produce at outdoor markets and thereby contribute to family budget.
956. Under such burden women hardly have time to organize themselves and take part in development and creation of economic and cultural policy. However, some ways for animating them should be found.
957. Women in villages by their attitude to family and responsibility they have at every moment, have developed in such way that they can be holding some important functions in bodies involved in planning, particularly in the field of agriculture, where their personal experience would serve as guidelines, which is most required for villages and agriculture in terms of how to direct further development.
958. Funds that state allocates for agriculture loans and for other ends are equally accessible to men and women and they are approved on the basis of submitted business plan.
959. The Budget still does not provide for funds that would be allocated exclusively to women in village. So far they have not submitted a program for a loan from the Agro-budget although such program would be welcome by the Ministry of Agriculture.
960. Women in rural communities are still not organized in groups that might contribute to improvement in their status, although there are no state-imposed limits for that.
961. All towns have outdoor markets for selling agricultural produce and other goods and 90% of sellers are women who have produced them or women who are selling other goods.

## **Article 15**

962. Pursuant to Article 15 of the Constitution of the RoM, everyone is equal before the law and this is exercised through legislation which does not differentiate the sexes. In relation to legal



capacity, women are not separated from men and legislation does not differentiate between them.

963. Women are recognized as a legal subject on equal basis with men. They can use property in compliance with the law that prescribes the same for men. Woman can acquire property and handle it at her own will except in case of mental handicap. In this case in a non-contentious legal proceeding, regulated by the Law on Civil Procedure, she could be deprived of her business capacity and the same applies to men.
964. Legislation does not differentiate between women and men in relation to loan taking and other transactions related to property nor in other commercial transactions. She can sign contract on/for her own behalf.
965. Women and men have equal proprietary rights. They can have a testament and manage the estate of the deceased. However, in practice women resort to the legal institute of renouncing their succession rights in favour of other successors more often than men. Usually, daughter renounces her succession right in favour of son of the deceased, actually in favour of her brother. This is declared in a renouncement of succession before the court. The law does not differentiate in relation to successor's sex so that there is an opportunity for a male successor to do the same.
966. As it has already been stated, woman independently handles her property except for property acquired in marriage which she shares with her husband. She handles such property with her husband on equal footing.
967. In addition to this, woman is an independent testator like a man. She does not need anyone's approval for handling her property. Pre-nuptial contracts whose objective is to either abrogate or derogate legal capacity of a wife are not a part of national legislation.
968. Woman is an equal legal subject as men and she can present her case or cases of other's in processes before executive and judiciary authorities. Provision of legal aid is not an exclusivity of any sex.
969. Regarding prosecuted criminal offences, it is necessary to point out that women do not commit the same criminal offences as men and they are represented different from men in total statistics. For example, they do not commit offences with elements of violence. Regarding other criminal offences, women get similar sanctions as men (for example, fine, imprisonment or suspended sentence). However, they get lenient punishment on the account of being mothers. There has been no research about various effects that certain actions have on women and on men.
970. In relation to freedom of movement and free selection of residence, women have equal rights with men.
971. Free choice of residence for a married woman comes under the sphere of family relation and it is usually motivated by family's economic interests. They have the same rights in relation to taking a spouse or children abroad.

**Article 16**

972. The Constitution in its Article 58 prescribes that marriage can be registered only at a free consent of both woman and man. Family relations are regulated by the Family Law (“Official Gazette” No. 7/89). This law regulates: marriage and spousal relations, relationship between parents and children, adoption, custodianship, maintenance, proprietary relations in family, special court proceedings in litigations related to spousal and family relations as well as certain forms of social and legal protection of the family.
973. Marriage is based on free will of man and woman to get married, their equal position, mutual affection and love, mutual respect and support.
974. Marriage is a union of man and woman regulated by law. It is deemed registered once the spouses declare before a competent authority that their marriage is concluded, in compliance with prescribed procedure. Marriage is not valid if consent is given under coercion, threat or in error.
975. Bigamy is prohibited and defined as a criminal offence in the Criminal Code.
976. A minor, a person who is under 18, cannot get married except by exception subject to the decision of the court to allow that. In case of that there is yet another limitation which is that a person must not be under 16.
977. In compliance with the law, family is a union of parents, children and other relatives who have rights and obligations.
978. Conditions for registering the marriage and its validity before the law are regulated by law so that marital impediments are: state of being married already, mental incapacity, blood relations, being under age, lack of will (coercion, threat or error/delusion) and relation by adoption.
979. Procedure of entering into marriage starts with application that persons who want to enter into marriage submit to a marriage registrar. With application they enclose birth certificates and, if necessary, other documents. Marriage registrar on the basis of declarations of persons who want to get married checks whether there are any objections to marriage and, if necessary, s/he can also make a check in some other way.
980. Before the persons who want to get married enter into marriage, a marriage registrar will advise them to get informed of each other’s health, visit marriage counselling ward and learn about expert’s opinion on conditions for harmonious marital and family relations, visit medical outpatient ward to learn about possibilities and advantages of family planning and decide about their common surname.
981. Marriage is registered at the moment when spouses declare before a competent authority that they want to get married in the manner prescribed by the Family Law which defines civil marriage as a dominant form of marriage pursuant to its Article 36. This article stipulates that marriage according to church rites cannot be made before the registration of civil marriage.
982. Family law recognizes extramarital union of man and woman that has been legally defined in the way stipulated by that law and it is given the same treatment as the marital union in terms of

rights for mutual maintenance. Also, children born out marriage have the same rights and obligations as children born in marriage (Constitution of the RoM, Article 60).

983. Spouses are equal in marriage, they consensually decide where to live, they are independent in choosing work and profession and they consensually decide about rearing their common children, how to organize mutual relations and how to do household work.
984. At the point of entering in marriage, spouses come to an agreement about their surname so that they can each decide to keep their own surnames, to take either of their surnames to be their common, to take both of their surnames to be theirs or that one of the spouses adds to his/her surname the surname of the other spouse. There is no discrimination whatsoever related to sex.
985. The Family Law regulates right of each person to decide freely about bearing the children which entails that woman decides about having children as a married or single person.
986. The Family Law stipulates relations between parents and children and it prescribes that both mother and father have parental right; that minor children are represented by parents and that property of a child is managed by his/her parents until s/he comes of age. Parental right is exercised jointly and consensually by parents and in case of disagreement a custodian authority shall decide.
987. If parents live separated, a parent with who a child lives with shall exercise parental right. Regarding the relation between parents and child, the law envisages the supervision over exercise of parental right, deprivation, extension and cessation of parental right.
988. The Family Law regulates child's status in the family and in relation to that the procedure of determining paternity or maternity of a child and challenging fraternity and maternity, while the last section of this Law regulates the adoption – definition, conditions, foundation, rights and obligations and termination.
989. A separate section of this Law prescribes the custody, custodian authority, who can be appointed a custodian as well as the competence of custodian authorities and procedures involved, custody for minors, custody for persons who are incapable to work and custody in special cases.
990. Parental right involves duty of parents to look after life and health of their children, to maintain and bring them up, educate and prepare them to live on their own regardless of the fact whether those children were born in marriage or in extramarital union.
991. Also, children without parents enjoy special protection and, apart from social welfare measures, they have been provided with other forms of family-legal protection such as custody, foster family care and adoption. There are no limitations on the basis of sex in either of these forms of family-legal protection and women are equal to men.
992. If parents are separated, divorced or their marriage has been annulled, a child is entrusted to one of them for care and upbringing. An authority that renders such decision is obliged to examine all conditions that are important for proper mental and physical development and upbringing of a child and, before rendering decision, it is primarily concerned with interests of a child so that it has to obtain opinion of experts beforehand. Parent's sex is not decisive for deciding about who to entrust a child with.

993. If one of the parents dies, or is unknown or deprived of parental rights, the other parent shall exercise parental rights.
994. In case of adoption, the adopted child and adoptive parents have the same relations as children and parents with a view to providing adopted child with the same conditions for living that children who live in families have.
995. Parents are obliged to maintain their minor children but also adult children provided they are full-time students under 26.
996. Children are obliged to maintain their parents in case they are incapable for work and do not have means for living or in case they cannot live of their property. The sustenance obligation refers to relations in the first line, whereas sustenance right is exercised in the same succession that is relevant for the line of inheritance.
997. Every souse is entitled to be sustained by his/her souse provided that s/he does not have enough for living, that s/he is incapable to work or cannot find a job, proportionately to the souse's sustenance capacity.
998. Court can turn down the request for sustenance if it is requested by a spouse who has behaved in flagrantly rude manner in marriage without any rational reason, if s/he has wilfully and without justified reason deserted his/her spouse or if his/her request would be an outright injustice for the other spouse.
999. If extramarital union has terminated, both partners have maintenance rights under the same conditions as spouses in conventional marriage if the union thereof has lasted for long enough.
1000. In marital disputes, the procedure can be initiated by a lawsuit or by joint request of the spouses. Marital proceedings are not open to public.
1001. If a procedure is initiated by a joint request of spouses for divorce by consent, the facts quoted in the request thereof are not examined by court. However, the court can decide to request the pleadings in the same manner as in case of divorce lawsuit, provided that in the reconciliation procedure the court finds that preserving marriage will be in justifiable interests of their minor children.
1002. If divorce applicants have children, court can examine facts and introduce pleadings related to the part of the request thereof related to care, upbringing and maintaining children if the court is convinced that the agreement of parents in relation to this issue does not guarantee sufficiently that the interests of their minor or incompetent children will be catered for enough by their divorce agreement.
1003. Parents who are obliged to provide maintenance for children mostly do fulfil their maintenance obligation voluntarily. If a parent fails to fulfil the obligation thereof, the alimony is collected through judicial executive procedure.
1004. Criminal Code envisages criminal liability of parents and other persons who fail to fulfil their maintenance obligations. Article 221 of the Criminal Code prescribes criminal offence of *failure to give alimony* which is punishable by a fine or maximum a year of imprisonment. An offender who did not give alimony out of justifiable reasons shall not be punished. If dependant

person has suffered grave consequences due to not receiving alimony, an offender thereto shall be punished by three month to three-year imprisonment sentence.

1005. According to national legislation, people come of age at 18 and this provision is also stated in the Charter on Human Rights, Article 36, that stipulates that person comes of age when s/he turns 18.
1006. Both spouses have unlimited right to lodge a divorce lawsuit and the divorces are registered in divorce registers.
1007. The Family Law stipulates that marriage gets terminated by death of a spouse, declaration that someone has disappeared or died, by annulment and divorce.
1008. The marriage is void if it was registered without fulfilment of conditions stipulated for validity of marriage, while a spouse can request divorce if spousal relations have been acutely and irretrievably disturbed or if due to some other reason the marriage has no purpose.
1009. Spouses can request marriage to be divorced on the basis of their agreement that has to be supported by their written agreement on looking after their minor children, bringing them up and maintaining them. Husband cannot request divorce while his wife is pregnant and before a child is one, unless a wife gives consent to that.
1010. Spouses can have their separate and common property.
1011. Separate property is the one that a spouse brings into marriage i.e. owns it at the moment when marriage is registered. A spouse can acquire separate property during marriage, too. It can be in the following way: inheritance, gift or other form of acquisition free of charge or duty. Husband and wife independently dispose with their separate property unless they agree otherwise by their own will.
1012. Common property is the property spouses acquire through work during marriage and the profit generated from that. Common property is the income generated from separate property provided it has been acquired by working together and the property acquired by winning lottery unless one of spouses invested his/her property in it. As such, common property is entered in land registers and other registers bearing the names of both spouses.
1013. Unless there is a separate agreement allowing only one spouse to hold title to a property and property registers only one of the spouses to be owner, the registration shall be considered to bear name of both spouses and if both spouses are registered as co-owners of separate parts of the same property it shall be considered as property divided between the spouses thereof.
1014. One spouse cannot dispose of undivided property and cannot burden it by any means as long as the other spouse is alive. Property is managed together and by mutual consent and they can agree to have one spouse managing it.
1015. The object of a contract could be only the management or only the disposal of property but it can also relate to all activities related to management and disposal, to activities of day-to-day management or to certain activities only. The contract can be cancelled by either husband or wife at any time except at time that might affect the interest of other spouse.

1016. Division of common property can be done by mutual consent and if there is not any, then it is divided into equal parts. In case of uneven contribution to acquisition and enlargement of property, one spouse can request division of property by contribution through court. The division can be requested by either husband or wife during marriage and after it ends. The law does not differentiate between husband and wife in rights and obligations.
1017. If the property is divided by consent, it is divided into two equal parts. In weighing contribution of each spouse relevant to acquiring common property, the court shall consider not only personal income of each spouse but also to his/her support to his/her spouse, his/her work, running household and keeping family, looking and bringing up children and any other work and assistance in managing, maintaining or expanding common property.
1018. When common property of extramarital partners is divided, the provisions setting forth rules for dividing property of marital spouses shall be duly applied.
1019. National legislation does not contain separate regulations for minimum age at which a person can have sex. However, Article 206 of the Criminal Code sanctions criminal offence of sexual intercourse with a person under 14 regardless of whether the minor has given consent to it or not. The Criminal Code qualifies and sanctions sexual intercourse with a minor, intercourse by abuse of authority and solicitation of a minor for the purpose of intercourse or other sexual act within the group of offences against sexual freedom.
1020. Regarding the minimum age for marriage, the Family Law has stipulated 18 to be that minimum, withstanding that the court can allow a person to marry even earlier but only if s/he is older than 16. Regarding that, the Criminal Code of the RoM has qualified extramarital union with a minor as a criminal offence (Article 216, Criminal Code of the RoM).
1021. In addition, the Criminal Code defines a criminal offence of violence in family or in family union and sanctions it with fine or imprisonment (Article 220, CC of RoM).
1022. Pursuant to law, a spouse is by rule an inheritor of half of the (movable and immovable) property of a deceased spouse and s/he also takes equal part in the division of other half of property with other inheritors. Children inherit their parents' property equally, regardless of sex. However, in practice the inheritance position defined by law is used with certain exceptions that have to do with custom that women waive their hereditary rights in favour of male inheritors (mothers in favour of sons, sisters in favour of brothers etc.).
1023. The other spouse shall not be responsible for obligations that his/her spouse had before marriage not for obligations s/he assumes after s/he got married. Also, spouses assume separate responsibility with their separate property and their share in common property (Articles 292, 293 of the Family Law).
1024. Registration of marriages and divorces is requested by the Law.
1025. Marriage registrar registers marriage in the Register of Marriages and s/he is obliged to fill out the marital statistics form immediately. The marital statistics forms are forwarded to statistics bureau at the end of each month.

1026. A judge who administers divorce case is obliged to fill out a divorce form. Court is obliged to forward these forms to a competent statistics bureau every month.
1027. In the document titled Strategy for Poverty Reduction in Montenegro there are 13,5% of households headed by women. Among the population in general, those who have more chance to be poor, among other characteristics, are the families with single female parent.

## **Report of the Coordination Centre of Serbia and Montenegro and the Republic of Serbia for Kosovo and Metohija**

### **Convention on the Elimination of All Forms of Discrimination against Women**

Women have since always been discriminated against in Kosovo and Metohija because of backward ethnic Albanian customs and traditions. The situation of modern-day women in this Province can be viewed from various aspects. First and foremost, non-Albanian women suffer the consequences of all the restrictions resulting from the current developments there. Their security is threatened; they have limited freedom of movement and access to courts and other Provisional Institutions of Self-Government; their labour and trade union rights are also restricted, and so on and so forth.

In addition, Kosovo and Metohija is a safe haven for many organized crime suspects. According to UNMIK reports, it hosts about 140 prostitution facilities. Also widespread are sex trafficking and trafficking in children. In this respect, international prosecutors and judges have brought legal action against a number of persons.

To illustrate discrimination of Serb women in Kosovo and Metohija, attention is called to the following case before the District Court of Prizren involving two Albanians as defendants:

On 21 July 1999, the co-defendants, Halit Guri and Mentor Krasniqi, barged into the houses of the Serbian families Mircevic and Krstic in Prizren. The latter remained behind unprotected after Serbian and Yugoslav security forces had withdrawn. They killed the husbands, Vidosav Mircevic and Rade Krstic, right away and inflicted serious injuries on the wives of the victims, Ljubomirka Mircevic and Slobodanka Krstic. Krasniqi and Guri were subsequently sentenced to 18 and 15 years in prison, respectively. However, after the trial lawyers for the plaintiffs were under the impression that they could have been punished more severely. Furthermore, lawyers for the defence insulted their Serb counterparts representing the injured parties, saying that when they came to Prizren next time, they should bring their passports with them as Kosovo was now abroad for Serbia.