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**NATIONAL REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH 15 (A)
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Serbia

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I. METHODOLOGY

1. The Republic of Serbia's Report under the Universal Periodic Review was prepared in accordance with the guidelines set out in the Human Rights Council Resolution 5/1 of June 18, 2007 and General Guidelines for the Preparation of Information under the Universal Periodic Review (document A/HRC/6/L.24). The Report was produced by the Ministry of Human and Minority Rights on the basis of the materials provided by this and other Ministries such as Ministry of Interior, Ministry of Exterior, Ministry of Justice, Ministry of Labour and Social Policy, Ministry of Public Administration and Local Self-Government, Ministry of Education, Ministry of Culture, as well as the Commissariat for Refugees of the Republic of Serbia, Provincial Secretariat for Labor, Employment and Gender Equality and Provincial Secretariat for Regulations, Administration and National Minorities of the Autonomous Province of Vojvodina. Broad consultations were conducted during the preparation process of the Report with relevant civil society organizations committed to the protection and promotion of human rights.

II. NORMATIVE AND INSTITUTIONAL FRAMEWORK FOR PROMOTION AND PROTECTION OF HUMAN RIGHTS

A. Constitution and other regulations

1. Human rights under the Constitution of the Republic of Serbia

2. The Constitution of the Republic of Serbia was adopted in the constitutional referendum held in October, 2006. The Republic of Serbia, pursuant to Article 1 of the Constitution of the Republic of Serbia, is a State of Serbian people and all citizens who live in it, based on the rule of law and social justice, principles of civil democracy, human and minority rights and freedoms, and commitment to European principles and values.

3. Human and minority rights are specified under provisions of Section 2 of the Constitution of the Republic of Serbia. Articles 23 through 74 of the Constitution of the Republic of Serbia provide and guarantee for: dignity and free development of individuals; right to life; inviolability of physical and mental integrity; prohibition of slavery, servitude and forced labour; right to personal freedom and security; humane treatment of persons deprived of liberty; special rights in case of arrest and detention without decision of the court; detention only upon the decision of the court; limited duration of detention; right to a fair trial; special rights of persons charged with criminal offense; legal certainty in criminal law; right to rehabilitation and compensation of damage; right to equal protection of rights and legal remedy; right to legal person; right to citizenship; freedom of movement; inviolability of home; confidentiality of letters and other means of communication; protection of personal data; freedom of thought, conscience and religion; rights of churches and religious communities; conscientious objection; freedom of thought and expression; freedom of expressing national affiliation; promotion of respect for diversity; prohibition of inciting of racial, ethnic and religious hatred; right to information; electoral right; right to participate in the management of public affairs; freedom of assembly and association; right to petition; right to asylum; right to property; right to inheritance; right to work; right to strike; right to enter into marriage and equality of spouses; right to procreate; rights of the child; rights and duties of parents; special protection of the family, mother, single parent and child; right to legal assistance; health care; social protection; pension insurance; right to education; autonomy of university; freedom of scientific and artistic creativity; healthy environment. Articles 75 through 81 of the Constitution of the Republic of Serbia provide for a set of collective rights of persons belonging to national minorities.

2. National regulations relevant to human rights protection

4. The Republic of Serbia enacted a large number of laws and other regulations defining human rights in various specific areas. Some of the enacted laws are: Broadcasting Law (2002), Law on Protection of Rights and Freedoms of National Minorities (2002), Public Information Law (2003), Law on the Elements of the Education System (2003), Law on Unrestricted Access to Information of Public Concern (2004), Law on Environmental Protection (2004), Law setting the Organisation and Competences of Government Agencies in stamping out Organised Crime (2004), Criminal Code (2005), Law Dealing with Juvenile Perpetrators of Criminal Acts and Protection of Juveniles under Criminal Law (2005), Criminal Sanction Execution Law (2005), Infraction Law (2005), Law on the Organisation and Competences of Government Authorities for High-Technology Crime Control (2005), Ombudsman Law (2005), Family Law (2005), Labour Law (2005), Code on Civil Procedure (2005), Higher Education Law (2005), Health Care Law (2005), Health Insurance Law (2005), Police Law (2005), Republic of Serbia Citizenship Law (2005), Law Against Discrimination of Handicapped Persons (2006), Law on Asylum (2007). By enacting the stated laws, Serbia implements a harmonization of Serbian legislation with the European standards in the domain of human rights.

3. International obligations

5. The Republic of Serbia is a State Party to six principal international human rights treaties: the International Covenant on Civil and Political Rights (and two Optional Protocols to the International Covenant on Civil and Political Rights), the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (and Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women (and Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women), the Convention on the Rights of the Child (and two Optional Protocols to the Convention on the Rights of the Child).

6. The Republic of Serbia has accepted the authority of the Human Rights Committee, Committee Against Torture, Committee on the Elimination of Racial Discrimination and Committee on the Elimination of Discrimination against Women, as the treaty-based bodies, to consider complaints of the individuals who are under their jurisdiction and claiming to be the victims of the violation of human rights guaranteed under the corresponding international human rights treaties.

7. The Republic of Serbia has ratified 33 Council of Europe's Conventions, thus becoming a State Party to, *inter alia*, the Convention for the Protection of Human Rights and Fundamental Freedoms, Framework Convention for the Protection of National Minorities and European Charter for Regional or Minority Languages. In addition, the Republic of Serbia has ratified 69 Conventions adopted by the International Labour Organization.

4. Relationship between international and domestic law

8. The Constitution of the Republic of Serbia specifies under Article 16, Paragraph 2, that generally accepted rules of international law and ratified international treaties shall be an integral part of the legal system in the Republic of Serbia and applied directly. Ratified international treaties must be in accordance with the Constitution. Pursuant to Article 18 of the Constitution of the Republic of Serbia, human and minority rights guaranteed by the Constitution shall be

implemented directly. The Constitution shall guarantee, and as such, directly implement human and minority rights guaranteed by the generally accepted rules of international law, ratified international treaties and laws. The law may prescribe manner of exercising these rights only if explicitly stipulated in the Constitution or necessary to exercise a specific right owing to its nature, whereby the law may not under any circumstances influence the substance of the relevant guaranteed right. Provisions on human and minority rights shall be interpreted to the benefit of promoting values of a democratic society, pursuant to valid international standards in human and minority rights, as well as the practice of international institutions which supervise their implementation.

5. Implementation of decisions issued by international bodies

9. Pursuant to Article 426, Paragraph 1, Indent 6 of the new Criminal Proceedings Code¹, the reopening of the criminal proceedings which ended with a final judgement is possible only in favour of the defendant providing the European Court of Human Rights or other Treaty-based Court (based on a ratified international treaty) decide that the fundamental human rights and freedoms were violated in the course of the criminal proceedings and the subsequent final decision was founded on such violation, and that the inflicted wrong may be redressed by the reopening of the proceedings.

10. Pursuant to Article 438 of the Criminal Proceedings Code, in case of violation of the law the Public Prosecutor of Serbia is also entitled to file an application for the protection of legality against the final court decision and the court proceedings preceding such decision, and, providing the European Court of Human Rights or other Treaty-based Court (based on a ratified international treaty) establish that the fundamental human rights and freedoms were violated in the course of the criminal proceedings and the subsequent final decision was founded on such violation, where the competent court has precluded reopening of the proceedings, the wrong may be redressed by overruling or altering the decision without a retrial procedure.

11. Similar concept is introduced in the Code on Civil Procedure. Pursuant to Article 422, Paragraph 1, Indent 10 of the Code on Civil Procedure, the procedure that ended with a final judgement may be reopened at the request of a party to a dispute if, upon passing the final judgement by the competent domestic court, the European Court of Human Rights decides on instituting an identical or corresponding legal relationship v. the Republic of Serbia.

B. Institutional framework for the promotion and protection of human rights

1. Courts

(a) Independence of judiciary

12. The Constitution of the Republic of Serbia in Article 4 specifies that government system shall be based on the division of power into legislative, executive and judiciary whilst the relation between three branches of power shall be based on balance and mutual control. Judiciary power shall be independent.

13. Pursuant to Article 143, Paras 1 through 4, of the Constitution of the Republic of Serbia, judicial power in the Republic of Serbia shall belong to courts of general and special jurisdiction. The Supreme Court of Cassation shall be the Supreme Court in the Republic of Serbia.

¹ Implementation of the new Criminal Proceedings Code is postponed until 31 December 2008.

Establishing, organisation, jurisdiction, system and structure of courts shall be regulated by the Law. Provisional courts, courts-martial or special courts may not be established.

14. Pursuant to Article 146 of the Constitution of the Republic of Serbia, a judge shall have a permanent tenure. Pursuant to provisions under Article 147, the National Assembly shall elect as a judge, on proposal of the High Judicial Council, the person who is elected to the post of judge for the first time. Tenure of office of a judge who was elected to the post of judge shall last three years. In accordance with the Law, the High Judicial Council shall elect judges to the posts of permanent judges, in that or other court. The High Judicial Council shall also decide on election of judges who hold the post of permanent judges to other or higher court.

15. Pursuant to Article 148 of the Constitution of the Republic of Serbia, a judge's tenure of office shall terminate at his/her own request, upon coming into force of legally prescribed conditions or upon relief of duty for reasons stipulated by the Law, as well as if he/she is not elected to the position of a permanent judge. The decision on termination of a judge's tenure of office shall be passed by the High Judicial Council. A judge shall have the right to appeal with the Constitutional Court against this decision. The lodged appeal shall not include the right to lodge a Constitutional appeal. The proceedings, grounds and reasons for termination of a judge's tenure of office, as well as the reasons for the relief of duty of the President of Court are governed by the Law.

16. The High Judicial Council is defined in Article 153 of the Constitution of the Republic of Serbia as an independent and autonomous body which shall provide for and guarantee independence and autonomy of courts and judges.

17. The Court Structure Law of 2001 sets out the bases for the introduction of a new network of courts. The Law specifies that the Court of Appeal as well as municipal and district courts shall be courts of general jurisdiction, whilst commercial courts, High Commercial Court and Administrative Court shall be specialised courts.

18. In accordance with the Law on the Takeover of Jurisdiction from Military Courts, Prosecutor's Offices and Legal Offices which came into effect in January 2005, military courts in the Republic of Serbia have been abolished.

(b) Right to judicial protection

19. Pursuant to Article 22 of the Constitution of the Republic of Serbia, everyone shall have the right to judicial protection when any of their human or minority rights guaranteed by the Constitution have been violated or denied, they shall also have the right to elimination of consequences arising from the violation. The Constitution of the Republic of Serbia under Article 35 specifies that everyone shall have the right to compensation of material or non-material damage inflicted on him by unlawful or irregular work of a state body, entities exercising public powers, bodies of the autonomous province or local self-government. Pursuant to Article 36 of the Constitution of the Republic of Serbia, equal protection of rights before courts and other state bodies, entities exercising public powers and bodies of the autonomous province or local self-government shall be guaranteed, everyone shall have the right to an appeal or other legal remedy against any decision on his rights, obligations or lawful interests.

20. Criminal laws of the Republic of Serbia protect the exercise of the guaranteed rights and freedoms by defining any denial or restriction of the scope of the guaranteed rights and freedoms as criminal acts.

(c) Constitutional appeal

21. Constitutional appeal is a special legal remedy for protection of human rights. Pursuant to Article 170 of the Constitution of the Republic of Serbia, a constitutional appeal may be lodged against individual general acts or actions performed by state bodies or organisations exercising delegated public powers which violate or deny human or minority rights and freedoms guaranteed by the Constitution, if other legal remedies for their protection have already been applied or not specified. The institution of constitutional appeal is further regulated by the Law on Constitutional Court which was adopted in 2007.

2. Ministry of Human and Minority Rights

22. The Ministry of Human and Minority Rights, established in mid-2008, is responsible for the public administration affairs related to: general issues of the status of persons belonging to national minorities; the election of Councils of National Minorities; the Registers of the National Minorities Councils; the protection and promotion of human and minority rights; the preparation of regulations regarding human and minority rights; the supervision of harmonization of domestic regulations and international laws; the representation of the Republic of Serbia before the European Court of Human Rights; the status of persons belonging to national minorities with residence in the territory of the Republic of Serbia and the exercise of their minority rights; the realization of relationships between minorities and their mother country; anti-discriminatory policy; the status and exercise of powers vested in the National Minorities Councils; harmonization of the operations of public administration bodies in the domain of human rights protection, and other tasks as stipulated by the law.

3. Provincial Secretariat of Regulations, Administration and National Minorities

23. The Provincial Secretariat of Regulations, Administration and National Minorities was established in 2002 within the the Executive Council of the Autonomous Province of Vojvodina. In the domain of promotion of minority rights, the Secretariat performs normative and legal, analytical, statistical and records-keeping and documentation works pertaining, in the first place, to the improvement of exercise of collective and individual rights of national minorities in the AP Vojvodina. The Provincial Secretariat acts in the capacity as a monitoring authority in the area of the implementation of regulations pertinent to the official use of languages and scripts in the AP Vojvodina. In this respect, the Executive Council of the AP Vojvodina initiated in 2005 a still ongoing project titled "Affirmation of Multiculturalism and Tolerance in Vojvodina" aimed at fostering and developing the values of multiethnic tolerance, mutual respect and confidence in the multicultural society of Vojvodina.

4. Ombudsman/Civic Defender

24. The Constitution of the Republic of Serbia, under Article 138, specifies that Civic Defender shall be independent state body who shall protect citizens' rights and monitor the work of public administration bodies, body in charge of legal protection of proprietary rights and interests of the Republic of Serbia, as well as other bodies and organisations, companies and institutions to which public powers have been delegated. The Civic Defender shall not be authorised to monitor the work of the National Assembly, President of the Republic, Government, Constitutional Court, courts and Public Prosecutor's Offices. The Civic Defender shall be elected and dismissed by the National Assembly, in accordance with the Constitution and Law. The Civic Defender shall account for his/her work to the National Assembly and shall

enjoy immunity as a deputy. The National Assembly shall decide on the immunity of the Civic Defender.

25. Ombudsmen/ Civic Defenders have been established until this time at the levels of the State, AP Vojvodina and at local levels.

26. By virtue of the Ombudsman Law the institution of Civic Defender was in 2005 introduced into the legal system of the Republic of Serbia and established as a National Assembly-appointed, general type Ombudsman. The Ombudsman is independent, self-governing and free from any form of interference in his operation and decision-making. His acts shall comply with the Constitution, legislation and other regulations and general acts, as well as ratified international agreements and universally acknowledged standards of the international law. The Law provides that the Ombudsman shall have four Deputies. The Deputies shall specialize in the following areas: protection of persons deprived of liberty, gender equality, rights of the child, rights of persons belonging to national minority and rights of persons with disabilities.

27. The Ombudsman was elected at the National Assembly session on June 29, 2007 and took office in July 2007. The Ombudsman's administrative and professional service started operation in December 2007.

28. The Provincial Ombudsman was established in 2002 by virtue of the Decision on the Provincial Ombudsman of Vojvodina. The Law on Establishing Specific Competences of the Autonomous Province of Vojvodina and the Statute of the Autonomous Province of Vojvodina instituted the right of AP Vojvodina to independently establish and regulate the status and organization of the Provincial Ombudsman. There are five Deputies to the Provincial Ombudsman (for general issues, gender equality, protection of rights of national minorities and rights of the child).

29. Since 2005, the Provincial Ombudsman has been working on establishing a network for prevention and suppression of family violence, in the first place by connecting and coordinating the operations of the competent institutions and organizations at all levels. Until this time, more than half of the total number of municipalities of AP Vojvodina has joined this network.

30. With support of the Provincial Ombudsman and Provincial Secretariat for Labor, Employment and Gender Equality, the Strategy for Combating Domestic Violence for the period 2008-2012 was produced and forwarded to the Assembly for adoption procedure, in early 2008.

31. Work of the local-level Ombudsman is governed by the Local Self-Government Law. This Law, under Article 97, Paragraph 1, provides that Ombudsman at the local level shall be established in the units of local self-government. The role of the Ombudsman shall be to monitor the recognition of citizens' rights and help to uncover the maladministration in the activities of public administration bodies and public services which interferes with the regulations and general acts in force in the territory of the self-government unit. Until this time, the local-level Ombudsmen have been established in 11 towns.

5. Other institutions for the protection and promotion of human rights

32. The Council for Child Rights is a counseling body of the Government of the Republic of Serbia first established in 2002. The mandate and mission of the Council are: proposing a coherent and holistic policy in accordance to the National Plan of Action for Children which will be based on the United Nations Convention on the Rights of the Child and in accordance with

the global priorities established in the United Nations Millennium Development Goals, the United Nations Declaration World Fit to Children and other relevant international documents; initiating measures for harmonization of the policies of the Government of the Republic of Serbia with the legislation of European Union and international standards in the areas relating to children; promoting awareness on child's rights in the Republic of Serbia, with a special focus on rights of child to protection from all forms of exploitation, abuse and neglect and the right of children to inclusive education; promoting participation of children in defining and implementing policies concerning child rights; analyzing the measures and policies concerning children, young people, families with children and birth rate adopted by the Government and applied by the authorities so far, and monitoring the implementation and protection of the rights of the child in the Republic of Serbia.

33. The Council for National Minorities of the Government of the Republic of Serbia was set up in 2004 on the basis of Article 18 of the Law on Protection of Rights and Freedoms of National Minorities.

34. The Law on Free Access to Information of Public Importance established the Commissioner for Information of Public Importance as an autonomous state body, independent in fulfilling his authority. The Commissioner for Information of Public Importance took office in December 2004.

35. Council for Gender Equality and Council for Combating Trafficking were established in 2004 by the Government of the Republic of Serbia.

36. The Novi Sad-based Roma Inclusion Office was established in 2006 by virtue of the Decision of the Provincial Assembly of Vojvodina, and mandated to implement the Action Plans for Roma integration, and develop and implement the programmes aimed at upgrading the status of Roma in the areas of education, health care, employment, housing, human and other rights. The Roma Integration Council of AP Vojvodina was set up as a working body of the Executive Council of AP Vojvodina, and mandated to: initiate measures and activities for integration of Roma in AP Vojvodina, presents its opinions on measures and activities taken so far, cooperate with the National Council of the Roma National Minority, and perform other tasks with the aim of improving the general status of Roma in AP Vojvodina.

37. In March 2008, the Government of the Republic of Serbia set up the Council for Improving the Status of Roma composed of 22 members including the representatives of the Ministry of Finance, Ministry of Health, Ministry of Education, Ministry of Public Administration and Local Self-Government as well as other authorities relevant for the improvement of the status of Roma national minority.

III. PROMOTION AND PROTECTION OF HUMAN RIGHTS

A. National minorities

38. The Constitution of the Republic of Serbia, under Article 14, provides that the Republic of Serbia shall protect the rights of national minorities. The State shall guarantee special protection to national minorities for the purpose of exercising full equality and preserving their identity. Under Article 47, the Constitution specifies that national affiliation may be expressed freely and no person shall be obliged to declare his national affiliation.

39. Under Article 75, the Constitution provides that persons belonging to national minorities shall be guaranteed special individual or collective rights in addition to the rights guaranteed to

all citizens by the Constitution. Individual rights shall be exercised individually and collective rights in community with others, in accordance with the Constitution, law and international treaties. Persons belonging to national minorities shall take part in decision-making or decide independently on certain issues related to their culture, education, information and official use of languages and script through their collective rights in accordance with the law. In order to exercise their right to self-governance in the field of culture, education, information and official use of their language and script, persons belonging to national minorities may elect their national councils, in accordance with the law.

40. The Constitution of the Republic of Serbia, under Articles 76 through 80, guarantees the prohibition of discrimination against national minorities, equality in administering public affairs, prohibition of forced assimilation, right to preservation of specificity, right to association and cooperation with compatriots.

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

42. The status of national minorities in the Republic of Serbia is governed by the Law on the Protection of Rights and Freedoms National Minorities. Under the terms of this Law (Article 2, Paragraph 1) a national minority is defined as “a group of citizens of the Republic of Serbia sufficiently representative, although in a minority position on the territory of the Republic of Serbia, belonging to an autochthonous group of the population with a lasting and firm connection with the Republic of Serbia and possessing some distinctive features, such as language, national or ethnic belonging, origin or religion, upon which it differs from the majority of the population, and its members should show their concern over preservation of their common identity, including culture, tradition, language or religion.”

43. The Law on the Protection of Rights and Freedoms National Minorities introduced into the legal system the national minorities’ National Councils as a form of cultural autonomy of national minorities and functional decentralization. Under Article 19, Paragraph 1, the Law provides that persons belonging to national minorities can elect national councils for the purpose of exercising their right to self-governance in the fields of the use of language and alphabet, education, media and culture.

44. The Roma population is one of the most vulnerable social groups in the Republic of Serbia; therefore, the State takes necessary measures aimed at strengthening and improving the status of the Roma national minority. The Republic of Serbia joined a regional programme for the improvement of the status of Roma in Central and Southeastern Europe titled the Decade of Roma Inclusion 2005-2015. The Republic of Serbia currently holds the Decade Presidency (July 1, 2008 -June 30, 2009). The National Council of the Roma national minority adopted a Strategy for the Integration and Giving Additional Authorization to the Roma, in 2003. The Strategy contains description of problems, ongoing initiatives and recommendations for further course of action in 13 areas: education, housing, employment, special status of internally displaced persons, integration of returnees in accordance with the Agreements on Readmission, personal identification documents, social welfare, health care, specific status of women, the media, culture, political participation and representation, issues related to discrimination, and recommendations for the implementation of this Strategy. The Strategy served as a basis for many Action Plans which cover the most vulnerable areas for the Roma population, such as:

education, housing, health and employment. In addition, other Action Plans have been drafted covering some areas of social life such as social welfare, status of women, internally displaced persons, antidiscrimination, culture, the media and readmission.

45. The Republic of Serbia adopted in 2005 Action Plans for improving the status of Roma in the areas of education, employment, housing and health.

46. The implementation of the Common Action Plan for Advancement of Roma Education in Serbia has produced the best results so far. On the basis of this Action Plan, the Ministry of Education in cooperation with the National Council of the Roma national minority has launched a project titled "Expansion of Availability of Pre-school Education to Roma Children". The project is realized by 25 participant educational institutions, with 30 local Roma coordinators who contribute to establishing a better coordination between the Roma parents and the institutions. The Ministry of Education and Institute of Pedagogy and Andragogy, with participation of 11 local Roma coordinators, are running a project titled "Functional Primary Education of Adult Roma". Both projects are supported by the Roma Education Fund. In cooperation with OSCE Mission in Republic of Serbia and supported by the European Agency for Reconstruction, the Ministry of Education realizes the project which introduces the role of the Roma assistant teachers. The Roma assistant teachers assist and act as a bridge between the Roma children and teachers in pre-school institutions and primary schools.

47. Since the initiation of the Decade, the Ministry of Education has undertaken, independently or in cooperation with other relevant figures, the following activities: engaging the Ministry of Education's experts within working groups for the readmission of returnees; correlating the programme-activities of the Ministry of Education and local self-governments by agency of the local Roma representatives. In addition, the Ministry of Education in 2006 provided the Principals of schools with the official letters containing a proposed set of measures aimed at increasing the participation of Roma children in primary education, with special focus on the procedure and criteria for enrolment of pupils belonging to the Roma national minority and the preparation of all documents required for their enrollment.

48. In cooperation with the Council of Europe, the Ministry of Education promotes and realizes further development of elective curriculum course "Romani language with elements on national culture". In cooperation with OSCE, the Ministry of Education has realized "Capacity building in the Ministry of Education's School Administrations for the implementation of local Action Plans for advancement of Roma education" project, "Promotion of the Roma Decade in school administrations of the Ministry of Education" project and the Conference "Media-promotion of the activities of Roma teacher assistants in classes". In cooperation with OSCE and Georg Eckert Institute, the Ministry of Education has realized "Ethno Guide". In cooperation with the Roma Education Fund and Faculties of Philosophy of Belgrade and Novi Sad, the Ministry of Education has realized the project "Adaptation of criteria instruments for primary school enrolment". In cooperation with the Government of the Kingdom of Norway, the Ministry of Education has realized the project "Together towards equality".

49. Special projects realized by the Ministry of Education in cooperation with NGOs, UNICEF and UNESCO, are: the programme-activities with NGOs Help to Children, Save the Children, Civic Initiatives, Center for Interactive Pedagogy; programmes for active learning/teaching – adapted methodology for children with special needs; correlation of the Ministry of Education's programme-activities and local self-governments' programme-activities by agency of the local Roma representatives.

50. The Ministry of Education has adopted the criteria for enrolment of students belonging to the Roma national minority at secondary schools. In accordance with the adopted criteria, the students belonging to the Roma national minority can be admitted into their aimed educational profile if the total sum of their points, earned on all bases, is not lower by 30 points than the average sum of the points required for that profile at the targeted school. Under the criteria, only one Roma student who enrolled on grounds of the implementation of affirmative action can be admitted per educational profile per school. As for the higher education, the Roma applicants can be admitted into their targeted faculties and higher schools founded by the Republic of Serbia if they earn the stipulated minimum number of points on the qualifying exam i.e. if they pass the entrance exam. The implementation of the affirmative action measures resulted in the enrolment of 188 Roma students at secondary schools and 98 Roma students at faculties and higher schools founded by the Republic of Serbia, in the academic year of 2007/2008.

B. Gender equality

51. The Constitution of the Republic of Serbia under Article 15 specifies that the State shall guarantee the equality of women and men and develop equal opportunities policy. Pursuant to Article 21, Paragraph 4, special measures which the Republic of Serbia may introduce to achieve full equality of individuals or group of individuals in a substantially unequal position compared to other citizens shall not be deemed discrimination. Under Article 26, Paragraph 3, the Constitution of the Republic of Serbia prohibits the forced labour and specifies that sexual or financial exploitation of person in unfavourable position shall be deemed forced labour. Under Article 62, Paragraph 3, the Constitution of the Republic of Serbia stipulates that contracting, duration or dissolution of marriage shall be based on the equality of man and woman. Pursuant to Article 63, Paragraph 1, everyone shall have the freedom to decide whether they shall procreate or not, and pursuant to Article 65, Paragraph 1, parents shall have the right and duty to support, provide upbringing and education to their children in which they shall be equal. Special protection of the family, mother, single parent and child is regulated under Article 66 of the Constitution of the Republic of Serbia, pursuant to which mothers shall be given special support and protection before and after childbirth.

52. The Republic of Serbia has adopted a set of laws governing various specific aspects of the social status of women, such as: Family Law, Labour Law, and Health Care Law. Special measures aimed at expediting the achievement of gender equality in the area of political rights were introduced in 2002 for the first time by virtue of the Local Elections Law. Under Article 20, Paragraph 3, the Law proscribes that at least 30 per cent of candidates listed on the electoral list must be the candidates belonging to a less-represented gender. The very same provision is also contained in Article 20, Paragraph 3 of the new Local Elections Law which was enacted in 2007. At national level, special measures were introduced in 2004 by the Law amending the Law on the Election of Deputies to the Assembly. Under added Article 40a, the Law specifies that the number of candidates of the gender less represented on the electoral list shall be at least 30 per cent of the total number. By virtue of the Decision on Election of Deputies to Assembly of the AP Vojvodina, the same rule was introduced in this Autonomous Province in 2004. The results of the implementation of electoral quotas of 30 per cent for candidates belonging to less represented gender indicate that participation of female Deputies in 2007 elections rose to 20.4 per cent. The representation of female Deputies in City Councils and Municipality Councils rose to 21.3 per cent after the elections held in 2004.

53. Early in March 2007, the Government of the Republic of Serbia adopted a document titled “National Millennium Development Goals in the Republic of Serbia”, which *inter alia* contains a specialized part dedicated to both targeted goals and explicit measures (yet to be

taken) towards the achievement of full gender equality in the Republic of Serbia. In addition to this strategic document, other earlier adopted national Strategies also provide for the special measures aimed at improving different aspects of the position of women in society in the Republic of Serbia and, in most cases, define indicators on the basis of which the implementation of the envisaged measures can be monitored. Important strategic documents to that effect are the Poverty Reduction Strategy and the National Employment Strategy.

54. Institutional mechanisms for gender equality in the Republic of Serbia, established at different levels, are: Gender Equality Committee of the National Assembly of the Republic of Serbia; Serbian Government's Council for Gender Equality; Ombudsman; Committee for Gender Equality of Autonomous Province of Vojvodina Assembly; Provincial Secretariat for Labour, Employment and Gender Equality; Provincial Institute for Gender Equality; Provincial Ombudsman, and local gender equality commissions.

C. The rights of the child

55. The Constitution of the Republic of Serbia under Article 64 specifies that a child shall enjoy human rights suitable to their age and mental maturity. Every child shall have the right to personal name, entry in the registry of births, the right to learn about its ancestry, and the right to preserve his own identity. A child shall be protected from psychological, physical, economic and any other form of exploitation or abuse. A child born out of wedlock shall have the same rights as a child born in wedlock.

56. The Government of the Republic of Serbia adopted in 2004 the National Plan of Action for Children as a strategic document which defines the general policy of the State, for the period to 2015, on the issue of children and young people. National Plan of Action for Children fully adheres to four basic principles of the United Nations Convention on the Rights of the Child: Non-discrimination, The best interest of the child, Right to life, survival and development of the child, Participation of the child. The priorities set out under the National Plan of Action for Children, are: reduction of child poverty; high quality education for all children; better health for all children; promotion of the rights and position of handicapped children; protection of children without parental care; protection of children from abuse, neglect, exploitation and violence; capacity building for solving the problems related to children in the Republic of Serbia. On the basis of National Plan of Action for Children the Government of Serbia adopted in 2005 the General Protocol on Protection of Children from Abuse and Neglect.

57. The preparation of local Action Plans at local levels (municipalities) of the Republic of Serbia commenced during 2004. The local Action Plans build on the documents "World Fit to Children" and "National Plan of Action for Children". In the Republic of Serbia, 19 local Action Plans for Children have been adopted in the period 2004 – March 2008.

D. Freedom of thought and expression

58. Article 46 of the Constitution of the Republic of Serbia states that the freedom of thought and expression is guaranteed, as well as the freedom to seek, receive and impart information and ideas through speech, writing, art, or in some other manner. Freedom of expression may be restricted by the law if necessary to protect rights and reputation of others, to uphold the authority and objectivity of the court and to protect public health, morals of a democratic society and national security of the Republic of Serbia.

59. Freedom of the media is guaranteed by the Constitution of the Republic of Serbia. According to Article 50 of the Constitution of the Republic of Serbia everyone has the freedom to establish newspapers and other forms of public information without prior permission and in a manner laid down by the law. Television and radio stations are established in accordance with the law. Censorship is not applied in the Republic of Serbia. A Competent court may prevent the dissemination of information through means of public informing only when this is necessary in a democratic society to prevent inciting to violent overthrow of the system established by the Constitution or to prevent violation of territorial integrity of the Republic of Serbia, to prevent propagation of war or instigation to direct violence, or to prevent advocacy of racial, ethnic or religious hatred enticing discrimination, hostility or violence. The law regulates the exercise of right to correct false, incomplete or inaccurately imparted information resulting in violation of rights or interests of any person, and the right to react to the communicated information.

60. Chapter XVII of the Criminal Code regulates criminal offences against honour and reputation. Articles 170 and 171 define a criminal offence of insult, and that of defamation, respectively. These criminal offences are punished only with a fine, which is a novelty when compared to the former criminal law.

E. Prohibition of discrimination

61. Article 21, (1, 2, 3) of the Constitution of the Republic of Serbia stipulates that all people are equal before the Constitution and law and that everyone has the right to equal legal protection, without discrimination. All direct or indirect discrimination based on any grounds, particularly on race, sex, national origin, social origin, birth, religion, political or other opinion, property status, culture, language, age, mental or physical disability is prohibited.

62. In the legal system of the Republic of Serbia there is not a special law which in a general way regulates the issue of discrimination. Nevertheless, discrimination is punishable and prohibited in various segments of social life, particularly in the field of education, employment relations, dissemination of information and health protection.

63. Article 128 of the Criminal Code prescribes imprisonment of up to three years for anyone who denies or restricts another person's right of man and citizen guaranteed by the Constitution, laws or other legislation, general acts or ratified international treaties on the grounds of their nationality or ethnicity, race or religion, or due to absence of such affiliation or difference in political or other conviction, sex, language, education, social status and origin, property status or other personal characteristic, or pursuant to such difference grants another person privileges or benefits. If this is committed by an official in discharge of duty, they shall be punished with imprisonment of three months to five years.

64. According to Article 317 of the Criminal Code everybody who instigates or exacerbates national, racial or religious hatred or intolerance among peoples or ethnic communities living in the Republic of Serbia shall be punished by imprisonment of six months to five years. If the offence is committed by coercion, maltreatment, compromising security, exposure to derision of national, ethnic or religious symbols, damaging other people's property, desecration of monuments, memorials or graves, the offender is punished with imprisonment of one to eight years. In case that the offence is committed by abuse of position or if these offences result in riots, violence or other grave consequences to co-existence of peoples, national minorities, or ethnic groups living in the Republic of Serbia, imprisonment of one to eight years, or that of two to ten years is prescribed by the law.

65. Article 387 of the Criminal Code states that anyone who on the grounds of race, skin colour, nationality, ethnic origin or other personal characteristic violates fundamental human rights and freedoms guaranteed by the universally accepted rules of international law and ratified international treaties, shall be punished with imprisonment of six months to five years. The same penalty shall be imposed on whoever persecutes organizations or individuals due to their commitment to equality of people. Persons spreading ideas of superiority of one race over another or propagating racial hatred and instigating racial discrimination shall be punished with imprisonment of three months to three years.

66. Article 46 of the Law on the Basis of the Education System prohibits activities that compromise and denigrate groups or individuals on the grounds of race, nationality, language and religion, as well as the instigation of such activities. This Law prescribes that persons who compromise or denigrate groups or individuals on the grounds of race, nationality, language, religion and gender shall be punished with a fine.

67. Article 18 of the Labour Law prohibits direct and indirect discrimination of persons seeking employment, as well as the employees, for reasons of sex, birth, language, race, skin colour, age, pregnancy, health condition, and/or disability, ethnic origin, religion, marital status, family obligations, sexual orientation, political or other convictions, social background, property status, membership in political organisations, trade unions, or any other personal characteristic. In accordance with Article 20 of the same Law discrimination is prohibited regarding: employment conditions and choice of candidates for performing a specific job, conditions of labour and all the rights deriving from employment relation, education, professional development and vocational training, job promotion and termination of an employment agreement. The provisions of an employment agreement allowing for discrimination on the ground of any of the above listed reasons shall be null and void.

68. In the public information domain, Article 3, point 6, states that the regulation of relations in the broadcasting sector are based, among other things, on impartiality, prohibition of discrimination and transparency of the procedure for issuing broadcasting licences. Prohibition of discrimination is regulated more precisely by a number of other provisions of the same Law. In accordance with Article 38, (2) of the aforementioned Law a licence to broadcast a radio or television programme is issued under equal terms. Article 77, (3) of the same Law stipulates that in order to achieve public interest within a public broadcasting service it is necessary that programmes produced and broadcast within a public broadcasting service ensure diversity and balance (mutual coordination or conformity) of content upholding democratic values of modern society, particularly the respect of human rights and cultural, national, ethnic and political pluralism. Article 78 of the same Law states that public broadcasting service carriers, among other things, must produce and broadcast programmes intended for all segments of society, without discrimination, particularly taking into consideration specific societal groups such as children and youth, minority and ethnic groups, handicapped, socially and medically vulnerable groups.

69. Article 16 of the Public Information Law prescribes prohibition of discrimination in the distribution of means of public informing, i.e. it states that a person dealing in the distribution of means of public informing must not refuse to distribute another person's means of public informing with no justifiable commercial reason or in a manner that is not in conformity with the principles of the market.

70. Article 20 of the Law on Health Protection contains one of the main tenets of this Law, which is fair health protection that is achieved by prohibiting discrimination in providing health care, among other things, on the grounds of race, nationality, religion, culture and language.

71. Article 1 of the Law on Prevention of Discrimination against Persons with Disabilities determines a universal regime of prohibition of discrimination on the grounds of disability, special cases of discrimination against persons with disabilities, prevention procedure for people exposed to discrimination and measures for promoting equality and social integration of the disabled people. Articles 39 to 45 of the same Law prescribe special rules of civil case procedure in lawsuits for protection against discrimination on the grounds of disability. In a case for protection against discrimination on the grounds of disability the proceedings are initiated by an application lodged by a discriminated person with disability and her legal representative. Under certain conditions laid down by the law, this application may be filed by a person accompanying the disabled person. By filing an application for protection against discrimination on the grounds of disability, one may seek the following: prohibition of an activity which could result in discrimination, prohibition of the continuation of any discriminating action, and/or prohibition of repeating an action causing discrimination, execution of an action to remedy the negative effects of discriminatory treatment, confirmation that the defendant treated the plaintiff in a discriminatory manner and compensation for material and non-material damage. In cases for protection of discrimination on the grounds of disability revision is always granted.

F. Prohibition of torture and other cruel and inhuman treatment

72. Article 25 of the Constitution of the Republic of Serbia lays down that physical and mental integrity is inviolable and that nobody may be subjected to torture, inhuman or degrading treatment or punishment, nor subjected to medical and other experiments without their free consent. According to Article 28 of the Constitution of the Republic of Serbia persons deprived of liberty must be treated humanely and with respect to dignity of their person. Any violence towards persons deprived of liberty is prohibited. Article 202, (4) of the Constitution of the Republic of Serbia states that even in the state of emergency or war the abrogation and limiting of the prohibition of torture is thwarted.

73. Laws regulating prohibitions of cruel and inhuman treatment in the area of criminal legislation are the following: Criminal Code, Criminal Law and Law on Enforcement of Penal Sanctions.

74. Criminal Code incriminates unlawful act of deprivation of liberty (Article 132), extortion of confession (Article 136), and as a new criminal offence – ill treatment and torture (Article 137). Also, illegal conducting of medical experiments and testing of drugs are punishable by the provisions of Article 252 of the Criminal Code.

75. One of the main tenets of the new Criminal Law is prohibition of extortion of a confession or another statement from an accused person or anyone else involved in the proceedings. In accordance with Article 9 of that same Law, any violence towards a person deprived of liberty or a person whose liberty is restricted, as well as any kind of extortion of confession or another statement from an accused person or anyone else involved in the proceedings, is prohibited.

76. Article 15 of the new Criminal Law stipulates that the court's decisions may not be founded on evidence which is in itself or, by the manner it has been obtained, in contradiction with the provisions of this Law, other law, or on evidence obtained or produced by violation of

human rights and fundamental freedoms guaranteed by the Constitution or ratified by international treaties. Article 143, (5) of the aforementioned Law does not allow a suspect, accused person or witness to be subjected to medical interventions or to be given any substances which could influence their conscience or will in giving their statement.

77. Article 6 of the Law on Enforcement of Penal Sanctions states that a sanction is enforced in a manner that guarantees respect of dignity of the person subjected to it, and that actions subjecting the person, to whom a sanction relates, to any kind of torture, maltreatment, degradation or experimentation, shall be prohibited and punished. Coercion, administered to a person awaiting a sanction is in contradiction with what is needed for its enforcement, is also punishable. Article 7 of this Law sets forth that the person upon whom the sanction is enforced must not be put in a discriminatory position due to race, skin colour, sex, language, religion, political or other convictions, national or social origin, property status, education, social status or other personal characteristic. According to Article 165 of the same Law the accused has the right to court protection against final decision that violated some of his rights established by Law during his time in prison. Court protection can be exercised in the administrative proceedings.

78. Code of Police Ethics prescribes that nobody in the Ministry of the Interior is allowed to order, perform, instigate or tolerate torture or other cruel and inhuman treatment which degrades a man's personality, or any other action which compromises right to life, liberty, personal safety, respect of private or family life, freedom of assembly and association or any other right or freedoms guaranteed by the European Convention on Fundamental Human Rights and Freedoms.

79. In September 2005, Minister of the Interior of the Republic of Serbia founded a Commission for monitoring of the implementation of the European Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, with a view to discovering and preventing all forms of torture within the police. The Commission is composed of representatives of the police Internal Affairs Control Sector, Criminal Investigations Directorate and Police Directorate in the Ministry and Belgrade Police Department. Since its foundation, the Commission has visited 27 regional police departments and 108 police stations and sub-stations and had discussions with more than a hundred police officers on protection procedures and respect of fundamental rights and freedoms of the detained persons. These visits included all organisational units of the Ministry of the Interior which have detention facilities in order to have a closer look at the conditions of these facilities and detention centres, as well as the questioning rooms. The aim of these visits was to control the use of unconventional objects in interviews, get the insight into the documentation of detained persons, particularly with regard to respect of fundamental human rights, as well as to improve protection against ill-treatment and torture towards persons arrested and detained in the facilities of the Ministry of the Interior.

80. A particularly important segment in the police reform is the establishment and strengthening of an efficient system of internal control and responsibility of the police as a basis for decriminalization of the police, efficient fight against corruption within the police and as a prerequisite for setting up clear professional standards and police ethics. The most important, institutional segment of this system is the Internal Affairs Control Sector, which was formed by the amendments to the Rulebook on internal organization and systematization of working posts in the Ministry of the Interior in May 2006, in accordance with the new Law on Police. The aforementioned document determines a completely new concept of the Internal Affairs Control Sector that needs to ensure a greater efficiency in police officers' performance, a better coverage of the territory of the Republic of Serbia and bringing the Sector closer to citizens. The main responsibility of the Internal Affairs Control Sector is to prevent all forms of stretching and

abuse of authority by the police officers and to ensure a lawful, professional police treatment in the application of powers granted by the law.

81. Another, also important segment of the police Internal Affairs Control Sector has been introduced by the Rules on Mediating Citizen Complaints against Police Officers. According to Article 2, (1) of the Rules on Mediating Complaints, head of the organizational unit of the Ministry of the Interior deals with complaints, and if a complaint harbours doubt about the committed criminal offence that is prosecuted *ex officio*, he checks the facts and circumstances relating to the statements in the complaint and concedes the whole case file to the commission which proceeds with the case based on the complaint. In accordance with Article 3 of the Rules the complainant can submit the complaint in writing, orally or by electronic mail to the Ministry of the Interior, i.e. to the organizational unit of the Ministry under whose authority is the complainant's permanent or temporary place of residence.

82. Ministry of the Interior issued a decision on the forming of 27 commissions, acting as second-degree bodies in the proceedings for dealing with complaints, out of which 26 are founded in regional police departments and one in the Ministry. These commissions started working in January 2007. Bureau for complaints and grievances in the Minister's cabinet is responsible for the normal and uninterrupted functioning as well as for the harmonization of theory and practice, and dealing with any problems or dilemmas in work.

83. Prevention of ill-treatment towards persons deprived of liberty is ensured through internal supervision over the institutions' work, which is conducted by competent officials of the Administration for the enforcement of institutional sanctions, who control lawful and correct treatment in these institutions by paying regular, control and unexpected visits.

IV. ACHIEVEMENTS, EXAMPLES OF GOOD PRACTICE, PROBLEMS AND CONSTRAINTS

A. Reaching full end effective equality

84. Article 21, (4) of the Constitution of the Republic of Serbia stipulates that special measures which the Republic of Serbia may introduce to achieve full equality of individuals or groups of individuals in a substantially unequal position compared to other citizens is not deemed discrimination. A similar solution, when it comes to persons belonging to national minorities, is contained in Article 76, (3) of the Constitution of the Republic of Serbia.

85. Article 4 of the Law on protection of rights and freedoms of national minorities, stipulates that, in accordance with the Constitution and law, the authorities may issue regulations, separate legal documents and undertake measures in order to ensure full and effective equality among members of national minorities and the majority nation. Authorities must enact legal documents and undertake the said measures with the view to improving the position of Roma people. Regulations, separate legal documents and the measures undertaken are not to be deemed discrimination.

86. Article 31 of the Law on employment and insurance against unemployment states that the Government, i.e. the competent body of territorial autonomy and local self-government, may create an active employment policy programme which determines priorities, measures, resources, and competences for their implementation, particularly in providing employment for certain categories of the unemployed, for refugees and displaced persons, as well as members of national minorities, among whom a somewhat more pronounced unemployment rate is

manifested. Article 34 of the same Law stipulates that the employer who establishes employment relation with persons seeking their first employment, waiting for some time to get a job, those above 50 years of age, refugees and displaced persons, members of national minorities, disabled persons and persons with limited work ability may obtain subsidy contributions for pension and disability insurance, health insurance and insurance against unemployment which is enjoyed through National Employment Service.

87. Article 8, (1) of the Law on Prevention of Discrimination against Persons with Disabilities stipulates that provisions of law and regulations, as well as decisions or special measures enacted in order to improve the position of disabled persons, members of their families and their associations, who are given special support which is necessary to enjoy and exercise their rights on equal terms with other people, are not deemed violation of equality of rights. Article 32, (2) of the same Law states that using incentives to promote faster employment of persons with disabilities in accordance with the law regulating employment of the disabled is not deemed discrimination within the employment practice.

88. Measures of affirmative action are laid down in by-laws introduced at different levels of the organization of public authority. The Conclusion on measures for greater participation of members of national minorities in state bodies, adopted by the Government of the Republic of Serbia in May 2006, states that state bodies where it is determined that more than 1/3 of the total number of system executives shall work in regional units, formed on the territory where in accordance with the decisions of the competent bodies of local self-government one or more minority languages are in official use, should take up measures so that the Rules on internal organization and systematization of working posts shall include a certain number of posts where the knowledge of at least one of the minority languages and its script, which is used officially on the territory of the local self-government unit, is essential for meeting the requirements of certain executive posts. Also, when there is a written test of a candidate's professional competence, knowledge and skills, in the process of implementation of election procedure in accordance with the open call for filling of vacancies in the regional units, eligible candidates will be given tests or other forms of written assessment in the appropriate languages of national minorities. The most important form of measures of affirmative action is reflected in the fact that during the compilation of the election list and choosing of a suitable candidate in accordance with the open call, the open call committee, i.e. managers of state bodies, in the application of professionalism principle, which implies that a candidate has competence, knowledge and skills for jobs within state bodies, are obliged to take special care of the appropriate representation of members of national minorities in the whole structure of the staff in the body.

89. By-laws containing measures of affirmative action have been adopted by the local bodies as well. In certain local self-government units statutes have been adopted containing provisions which stipulate that municipal administration and public enterprises which were founded by the municipality, are obliged to take into account national composition, and/or outline in their acts on systematization the minimum number of posts occupied by members of national minorities.

B. Refugees, internally displaced persons, asylum seekers

90. The Republic of Serbia is a party to the Convention Relating to the Status of Refugees from 1951 and the Protocol Relating to the Status of Refugees from 1967.

91. Today there are 97 354 refugees in Serbia from Bosnia and Herzegovina and the Republic of Croatia and 209 722 internally displaced persons from Kosovo and Metohija. In 1996 there were 537 937 registered refugees and this number was reduced by 80 per cent

primarily through the integration process and partly through the return of refugees to their countries of origin.

92. The Commissariat for Refugees of the Republic of Serbia, founded by the Law on Refugees, is responsible for the housing care of refugees. Refugees are accepted and provided with temporary accommodation and assistance in providing food, adequate health protection and are given certain social protection rights. In accordance with the Law on Refugees, persons with refugee status have a guaranteed right to employment and education. The Republic of Serbia finances the accommodation of 6 370 most vulnerable refugees and internally displaced persons in collective centres. The Republic of Serbia has made great efforts to provide means to these purposes and to find permanent solutions. A great number of refugees automatically obtained the citizenship of the Republic of Serbia as soon as they entered the country, which created conditions for their formal integration. It is still necessary to employ considerable financial means for their actual, economic and social integration.

93. Internally displaced persons, as the citizens of the Republic of Serbia, enjoy all rights guaranteed by the Constitution and Laws of the Republic of Serbia. The Republic of Serbia has provided the means for the immediate acceptance and housing care of these persons. The Commissariat for Refugees assisted in the accommodation of the most vulnerable categories of these persons in collective centres. Through various projects, in cooperation with the international community, the Republic of Serbia strives to ensure their return. The means provided for these purposes are far from sufficient.

94. Aims and actions for solving the problem of refugees and internally displaced persons are defined in the National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons and in the National Strategy Implementation Programme adopted by the Government of the Republic of Serbia in 2002. The Commissariat for Refugees together with the Government of the Republic of Serbia implements the activities defined in these documents. The adoption of the Poverty Reduction Strategy created another strategic framework for activities necessary to solve the problems of these people.

95. The Government of the Republic of Serbia signed the Sarajevo Declaration together with the Government of the Republic of Croatia and the Government of Bosnia and Herzegovina within the process initiated by the European Commission, the OSCE and the United Nations High Commissariat for Refugees. By signing this document the signatory countries committed themselves to formulating a Road Map containing the obligations that must be fulfilled to solve the problem of refugees in the region.

96. The Asylum Law of the Republic of Serbia came into force in December 2007 and has been effective since April 1, 2008. The Law defines the competences related to the acceptance, housing care and status approval of asylum seekers in the Asylum Centre. The Ministry of the Interior is responsible for legal procedures pertaining to foreigners coming from third countries.

97. The Commissariat for Refugees has launched a procedure for the modification of the existing Law on Refugees aimed at its harmonization with present needs.

C. Combat against trafficking in persons

98. The Constitution of the Republic of Serbia, Article 26, paragraph 1 and 2, prohibits slavery and all positions similar to it as well as all forms of trafficking in persons. Trafficking in persons is incriminated in Article 388 of the Criminal Code.

99. The Law on Health Protection from 2005, in accordance with Article 241, paragraph 6, ensures the health protection of foreign citizens, victims of trafficking in persons, from the budget of the Republic of Serbia.

100. Council for Combating Trafficking in Persons was founded in 2005 as an expert advisory body of the Government of the Republic of Serbia. The Council was established with the purpose of coordinating national and regional activities aimed at combating trafficking in persons, considering reports of the relevant international community bodies dealing with trafficking in persons as well as taking positions and proposing measures for the implementation of international bodies' recommendations pertaining to trafficking in persons.

101. Department for Combating Trafficking in Persons functions within the Service for Combating Organized Crime in the Crime Investigation Police Department within the Ministry of the Interior, and the Section for Combating Illegal Migrations and Trafficking in Persons within the Department for Combating Cross-Border Crime and Criminal and Information Affairs was formed in the Border Police Directorate. Special police teams for combating trafficking in persons were formed in Police Directorates, Regional Centres for the neighbouring countries and at the Belgrade Airport.

102. In December 2006 the Government of the Republic of Serbia adopted the *Strategy for Combating Trafficking in Persons*. The strategic goals of the Republic of Serbia relating to the combat against trafficking in persons are grouped in five fields: institutional framework; prevention; aid, protection and reintegration of victims; international cooperation and monitoring and evaluation of results.

103. As the result of the joint project of the Ministry of Labour, Employment and Social Policy and the OSCE Mission to the Republic of Serbia, within the Institute for Education of Children and the Youth, the Service for Protection Coordination of Human Trafficking Victims was established in Belgrade in 2004. The main task of the Service is to act as a coordination body in organizing assistance and protection for human trafficking victims in the Republic of Serbia and to carry out the first assessment of a potential victim and his/her needs. The Service for Protection Coordination of Human Trafficking Victims refers victims to institutions offering direct assistance, informs victims about their status, issues necessary certificates, monitors the stabilization and reintegration process and assists victims in registering their place of residence. The Service for Protection Coordination of Human Trafficking Victims works with victims of all forms of human trafficking (sexual exploitation, forced labour, forced begging), both national and foreign citizens, and is not responsible for illegal migration cases.

104. Activities implemented in the Republic of Serbia pertaining to the combat against trafficking in persons come in the form of seminars on trafficking in persons and children organized for police officers, social workers, judicial workers, diplomats, journalists, Serbian Red Cross staff and members of non-governmental organizations. Media campaigns referring to trafficking in persons have been organized by non-governmental organizations. TV documentaries have been showed and articles have been published in weekly magazines. During October 2007, which was declared as the month of the combat against trafficking in persons, a regional seminar entitled "Combat against Trafficking in Persons: Measures of Protection and Enhancement of Rights of Victims" was organized in Belgrade in 2004 under the auspices of the Council of Europe.

D. Suppressing domestic violence

105. The Family Law, Article 10, paragraph 1, prohibits domestic violence. Provisions of Article 197, paragraph 1, define domestic violence as a conduct of a family member which endangers physical integrity, mental health or tranquillity of another family member.

106. According to Article 198 of the Family Law, the following measures may be taken against a family member who commits violence: issuing warrants for moving out of a family flat or house regardless of the property or leasehold right; issuing warrants for moving into a family flat or house regardless of the property or leasehold right; restraining order; prohibition of access to the space surrounding the place of residence or a working place of a victim; prohibition of the further harassment of a victim.

107. Since this is a newly-fledged legal institution within legal family protection, special provisions of Articles 283-289 of the Family Law foresee the procedure of implementing these measures. This procedure is characterized by urgency, derogation from the disposition principle as well as the principle that an appeal does not delay its execution.

108. The Criminal Code of the Republic of Serbia defines domestic violence in Article 194. The use of force or serious threat of attacks against life or body which endangers physical or mental integrity of a family member is incriminated. In addition, the incrimination of this criminal act does not protect only a woman from domestic violence, but other family members as well, primarily children, who are also exposed to various forms of violence.

E. Criminal-law protection of minors

109. The criminal-law protection of minors in the Republic of Serbia is primarily realized in accordance with a special law – Law on Juvenile Offenders and Criminal Protection of Juveniles – which has been in force since January 1st, 2006. This is a modern law which respects human rights standards proclaimed in the international documents such as the Universal Declaration of Human Rights, the Convention on the Right of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

110. The Law on Juvenile Offenders and Criminal Protection of Juveniles regulates the criminal-law position of minors, both offenders and victims. The Law combines the provisions of material, process and executive legislation referring to minors and introduces novelties which prioritize the principle of upbringing over the principle of punishment, insist on extra-judicial forms of intervention while respecting the subsidiarity principle in passing criminal sanctions, and pay more attention to the protection of minors in all phases of the criminal proceedings.

111. The Law on Juvenile Offenders and Criminal Protection of Juveniles explicitly foresees the specialization of all people responsible for the criminal protection of juveniles, in all phases of the criminal proceedings. The Judicial Training Centre, in cooperation with the competent ministries of the Government of the Republic of Serbia, scientific institutions, professional associations and non-governmental organizations, is responsible for the acquisition of specialized knowledge and professional development of all participants in the criminal proceedings against minors. After the first training phase, the Judicial Training Centre issued certificates for 4 642 trainees during 16 regional seminars.

112. In the first instance, the procedure is conducted in front of a judge for juveniles and the council for juveniles of the county court. In the second instance, the responsibility lies with a

specialized council for juveniles of a higher court. At the time being, since there are no appellate courts, the specialized higher council is that of the Supreme Court of the Republic of Serbia.

113. In the Republic of Serbia there are 109 municipal and 30 county public prosecution authorities with public prosecutors who have acquired specialized knowledge relating to the rights of the child and criminal protection of minors; 138 councils of municipal courts and 30 county courts presided by judges who have acquired specialized knowledge relating to the rights of the child and criminal protection of minors. Specialized judges are responsible in the second instance as well, i.e. the Supreme Court of the Republic of Serbia.

114. With the aim of ensuring professional, ethical and legal conduct of the police towards minors, the Ministry of the Interior has adopted two internal legally binding acts: Guidelines on the Conduct of Police Officers towards Minors and Younger Adults and Special Protocol on the Conduct of Police Officers while Protecting Minors from Abuse and Neglect.

F. Human rights in the Autonomous Province of Kosovo and Metohija

115. The Report does not contain the information on the state of human rights at the part of the territory of the Republic of Serbia which is under the interim administration of the United Nations. Since June 1999, the Autonomous Province of Kosovo and Metohija has been under the United Nations international administration in line with Resolution 1244 (1999) of the United Nations Security Council. According to Resolution 1244 of the United Nations Security Council, Kosovo and Metohija is an integral part of the territory of the Republic of Serbia, while the United Nations Interim Administration Mission to Kosovo (UNMIK) was entrusted with the complete administration of the Province.

116. The general situation of the human rights in the Autonomous Province of Kosovo and Metohija is unsatisfactory and especially distressing in respect of disregard for elementary human rights of the members of non-Albanian communities, primarily Serbs and Roma people. A unilateral illegal independence declaration of Kosovo and Metohija, on February 17, 2008, additionally complicated and aggravated the state of uncertainty and insecurity pertaining to the human rights of non-Albanian population in the Province.

117. Since 1999, when the Autonomous Province of Kosovo and Metohija came under international administration, more than 250,000 Serbs and representatives of other non-Albanian communities have been exiled from Kosovo and Metohija and with the status of internally displaced persons they today reside in other parts of the territory of the Republic of Serbia. To the present day they have not been given the right to sustainable return. The rest of the members of non-Albanian communities in the Province are exposed to all-pervasive discrimination based on ethnic and religious affiliation, origin and language.

118. In such a situation, the Government of the Republic of Serbia has officially requested from the Head of the United Nations Interim Administration Mission to Kosovo (UNMIK), as the only legal international mission to Kosovo and Metohija, the relevant information about the legal regulation and its practical implementation related to human rights in the Autonomous Province of Kosovo and Metohija. The obtained information would be included into the state report of the Republic of Serbia on the basis of the mechanisms of the Universal Periodical Review. Until the moment when the state report of the Republic of Serbia was submitted to the United Nations Human Right Council Secretariat, no reply has been given on the part of UNMIK.

V. PRIORITIES OF THE REPUBLIC OF SERBIA RELATING TO HUMAN RIGHTS ENHANCEMENT AND PROTECTION

119. Priorities of the Republic of Serbia relating to the human rights enhancement and protection at a national level are:

- (a) To ratify international agreements it has not yet signed;
- (b) To continue the harmonization of national regulations with international obligations relating to human rights protection;
- (c) To strengthen the role of national mechanisms for human rights protection;
- (d) To implement measures for promoting complete and effective equity in different fields;
- (e) To adopt the anti-discrimination law;
- (f) To adopt the Law on Children's Right Ombudsman;
- (g) To promote the role of women in different fields;
- (h) To protect children from abuse and provide conditions for the active participation of vulnerable groups' members in all fields;
- (i) To stimulate the development of multi-ethnic and multi-cultural society;
- (j) To improve the cooperation with the civil society in promoting and implementing human rights protection programmes.

120. Priorities of the Republic of Serbia relating to the enhancement and protection of human rights on an international level are:

- (a) To cooperate with international and regional organizations in human and minority rights protection;
- (b) To actively act in international cooperation programmes relating to minority rights, gender equality, children protection, democracy development and the rule of law;
- (c) To fulfil obligations from the Millennium Development Goals;
- (d) To support the activities of the Office of the United Nations High Commissioner for Human Rights;
- (e) To cooperate with contractual United Nations bodies, both in monitoring the implementation of international agreements and in reforming those contractual bodies;
- (f) To continue the cooperation with special United Nations procedures with an open invitation to the representatives of thematic procedures;
- (g) To support the adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.
