

# Updated Assessment of the implementation by Serbia of the roadmap for visa liberalisation

18 May 2009

*With a view to facilitating the comparison with the first assessment made in November 2008, the latter has been kept in the present document in open text followed by the updated assessment presented in boxes.*

## **BLOCK 1 Document Security**

### *General assessment of block 1:*

Serbia has made very good progress towards the fulfilment of the block 1 benchmarks in the last year.

From July 2008 until 30 April 2009, 504 225 new biometric passports and 527 362 ID cards have been issued according to the Serbian authorities. The security specifications of the new biometric documents (photos and fingerprints) are in line with ICAO and EU standards.

Serbia has clearly demonstrated the political will to complete the replacement of the old travel documents with new biometric passports by end of 2009 and has therefore developed the appropriate infrastructure to ensure efficient and secure personalisation and distribution procedures as well as administrative capacity for the production of the new biometric passports. Staff involved in the whole passport production process is carefully selected and receives appropriate training. Disciplinary sanctions imposed in relation to corruption regarding forgery rings are also in place.

Breeder document security is reinforced by the use of a PIN system and the existence of an electronic citizens' central database. The recently adopted (March 2009) Law on Matricular Registries will increase the guarantee needed for a strict control in particular in certain areas.

It appears that Serbia generally meet the benchmarks set under Block 1 of the roadmap. Further verification is necessary concerning the issuing of breeder documents to persons residing in Kosovo and the integrity and security of the procedures followed.

### *Detailed comments on block 1 by policy area:*

#### **Passports/travel documents, ID cards and breeder documents (benchmarks 1-5)**

##### ***November 2008 Assessment:***

The issuing of new biometric travel documents commenced in August 2008 and is conducted according to relevant provisions in the Law on Travel Documents. In the period from 7 July

2008 to 20 October 2008, 75,828 requests for new passports were submitted and, so far, 50,359 new passports have been issued. From 1 November 2008, exclusively the new passports are issued. Problems and difficulties faced during the first period of the issuance of biometric travel documents have often been reported.

The Law on Travel Documents initially foresaw completion of replacement of old travel documents by the end of December 2008, but following an amendment to this law, old travel documents will be valid until 31 December 2009.

Information was provided on the security specifications of the new biometric passport (two fingerprints taken, inscription in a chip, collection of data) as well as on the infrastructure for the personalisation and distribution process.

The personalisation of travel documents falls under the competence of the Ministry of the Interior (MoI). For the issuance of new travel documents abroad, diplomatic and consular offices of the Republic of Serbia are involved in the collection of personal data for the personalisation purposes. The issuance of travel documents abroad is foreseen to start on 1 November 2008 in a selected number of diplomatic and consular offices.

Serbia is yet to commence anti-corruption trainings for officials of its public authorities responsible for dealing with visas and passports. In this context, plans are foreseen to adopt an Ethical Code on Anti-Corruption and conduct trainings on it. Additional training programmes on anti-corruption measures with a strong focus on specific elements are required.

Information on lost and stolen passports in writing is sent to the Interpol office in Belgrade but electronic reporting has still to be installed.

Serbia continues to allow citizens to choose whether they have a biometric identification card or not. Regarding the issuance of breeder documents and identity cards, citizens submit applications for ID cards in police stations according to their place of residence while data personalisation is carried out in the MoI headquarters. Long waiting times have been reported for the issuance of ID cards. The necessary human resources need to be provided to issue new ID cards efficiently.

*Further information is requested on:*

- legal framework for data protection legal framework on storage of biometrical data;
- difficulties encountered in issuing biometric travel documents and measures taken to ensure that the new deadline in phasing out old travel documents will be respected;
- administrative context of personalisation and distribution process, in particular regarding storage of documents, administrative capacity of competent authorities, central and regional units involved in process and division of competences between these bodies, issuance process for diplomatic and services passports, and measures verifying the identity of applicants;
- details on future Ethical Code (timeline for adoption, content, scope and frequency of training programmes, profile of persons conducting trainings, number of participating officials);
- trainings held to ensure that human resources possess competences required to implement measures introducing new biometric passports and ID cards;

- plans for ensuring systematic electronic reporting on lost and stolen passports to Interpol;
- storage facilities and security standards of breeder documents, and information on issuance procedures, in particular regarding methods in place for verifying that all personal data entered into relevant databases is authentic;
- statistics on delivery of passports abroad and on number of passports issued to citizens residing or originating from Kosovo.

***May 2009 Updated Assessment:***

As of 30 April 2009, 504 225 new biometric passports and 527 362 ID cards had been issued according to the Serbian authorities. The current personalisation system has a theoretical output capacity of 150 passports per hour. In order to meet the deadline of phasing out all old travel documents by December 2009, plans exist to improve output capacity, in particular by increasing the number of personalisation machines.

Security specifications of new biometric passports and ID documents were found to be in line with ICAO and EU standards, and fingerprints are used as a secondary biometric identifier. However, Border Crossing Points (BCPs) do not possess equipment necessary for the gathering of data from biometric chips.

The personalisation and distribution processes were found to be efficient and secure. Applicants must deposit applications in person at one of the 340 police enrolment stations where biometric identifiers are recorded and electronically transmitted to central level. Personalisation is centralised within a secure facility of the MoI in Belgrade, and the whole process is fully automated. Staff work according to a shift system and have clearly designated roles, with sectioned access authentication applicable for all employees. Blank documents and ID cards are stored in a single common safe, and stocks are checked daily.

The distribution centre is secure and pickups of personalised documents are closely monitored by video surveillance and security officers. Distribution itself is conducted by authorised police couriers. Documents are issued to applicants in person following a verification of their biometric identifiers.

Staff responsible for personalisation is carefully selected and trained. Additional staff will be recruited during 2009 as part of plans to increase travel document production capacity.

The investigation, prosecution and sanctioning of Public officials for corruption in relation to the issuing of travel documents is the responsibility of the Ministry of Interior. A Sector for Internal Control has been established in 2005 by the Law on Police. The Ethical Code for police officers dealing with visas and travel documents has been adopted and a draft training programme has been developed and will be implemented in 2009. Decisive action has been taken in fighting corruption in the administration, leading to the arrest of 211 officers and the imposition of 467 sanctions in 2008. Further efforts are needed to implement targeted anti-corruption measures for staff engaged in travel document issuance and to carry out necessary and planned training activities.

Regarding reporting on lost and stolen passports to Interpol, the MoI is currently developing a project to link the police network with the Interpol I-24/7 INSYST system to allow real-time

electronic reporting. In 2008, 69,248 documents were reported to Interpol as lost or stolen by the Serbian authorities.

Further efforts are required to strengthen the civil registry system. Some local registration offices lack equipment and premises required to guarantee strict control of access to birth and citizenship registers, and storage of local registers on networked electronic media is not widespread. The security level of certificates is to be strengthened. Further efforts are needed to restrict access to blank certificates, to complete forms in a standardised manner and to monitor the number of issued certificates. The new Law on Civil Registries was adopted on 19 March 2009 and the Ministry for Public Affairs has announced plans aimed at modernising and securing infrastructure and registry storage.

Breeder document security is nevertheless strengthened by the PIN system and the existence of an electronic citizen's central database. The unique PIN which is recorded in the national citizens' database and in local civil registries appears on all issued certificates and travel documents.

Registries of Serbian citizens residing in Kosovo are held at special civil registry centres within Serbia designated by a 2003 law. At the special civil registry centre in Nis, which covers six municipalities in Kosovo (including Pristina), secure storage of registries is rendered problematic centre by the inadequate facilities in this centre. A recovery procedure is followed for the reconstruction of records lost from the civil registry which involves an investigation lasting one month and ends with a decision by the Head of Administration of the civil registry. Further verification is necessary concerning the issuing of breeder documents to persons residing in Kosovo and the integrity and security of the procedures followed.

## **BLOCK 2 Illegal migration, including readmission**

### *General assessment of block 2:*

Serbia has made significant progress in the fields of border management, asylum and migration.

On border management a new law on the protection of state borders has been adopted which is in line with EU standards and the authorities have made the commitment to ensure the correct and rapid implementation, allocating the necessary financial resources for this purpose.

The organisation of the border police is in line with EU standards and efforts have been made to improve inter-agency cooperation. Staff is professional and highly motivated. However, additional human resources and adequate training are still needed as a matter of priority. Further improvements of the infrastructure at Serbia's 82 Border Crossing Points (BCPs) and of the technical equipment at certain BCP's are also necessary for ensuring good level of border control and surveillance. Serbia signed a working arrangement with Frontex and has established practical co-operation on border issues with neighbouring countries.

Cooperation of the Serbian authorities with EULEX/Kosovo police at the boundary line with Kosovo should be further strengthened including by the conclusion of ad-hoc working arrangements.

The Serbian asylum system has been found functional and efficient: the legal framework in place is in line with EU standards and appeal procedures are functioning. The capacity of the refugees and asylum seekers centre is adequate and the staff experienced and professional.

The law on Foreigners adopted in October 2008 is in line with the EU standards; it is in force since the 1<sup>st</sup> of April 2009, therefore its implementation has to be verified during the coming months. In April 2009 an Inter-Ministerial Body for Migration Management has been established which is in charge for the coordination of the migration policy. Improvements are necessary for the collection of statistical data on migration flows and the accessibility of these data by all Ministries involved in the management of migration in Serbia.

Further legislation on detection and investigation of illegal migration still needs to be adopted and implemented to complete the current framework. Serbia should also follow a more proactive approach for the integration of foreigners.

The readmission agreement with the European Community is being implemented and in addition, Serbia signed also 15 bilateral agreements with other third countries on return.

It appears that Serbia meets a large majority of the benchmarks set under Block 2 of the roadmap. Further verification is necessary on the implementation of the Law on Foreigners and effective cooperation between different authorities at the boundary line with Kosovo needs to be ensured.

## *Detailed comments on block 2 by policy area:*

### **Border management (benchmarks 6-9)**

#### ***November 2008 Assessment:***

Serbia's Integrated Border Management (IBM) Strategy adopted in January 2006 identifies long-term objectives that must be realized by adopting new legislation, mutual management and organisation, establishing defined and clear procedures, engagement of optimal human resource potential, training and use of modern compatible information and equipment.

Serbia is harmonising its legal framework in order to take on board relevant EU standards. The new Law on Protection of State Border was adopted on 23 October 2008 and its implementation is due to start on 1 April 2009. It is of utmost importance that the necessary bylaws and measures are adopted by 1 April 2009 in order to ensure correct and full implementation of the new law.

In line with the national IBM strategy, the Border Police Administration has been established within the Ministry of Interior and is responsible for organising and performing activities on control of crossing and securing the state border. Progress has been made in clearly defining its organisational structure, and 7 Border Police Regional Centres have been created through which the Border Police Administration exercises its functions at the regional level. The process of demilitarisation has been successfully concluded.

Nevertheless, regarding the development of the Border Police Administration, further efforts are required to strengthen capacities in accordance with assessed needs, establish risk analysis and investigation units, develop and implement Standard Operational Procedures, adjust teaching plans and programs, purchase and update border control equipment, develop information systems, and improve facilities and infrastructure.

So far the Border Police has 3.500 border police officers. There are considerable differences between border crossing points and border surveillance stations in terms of available human resources as well as shortage of staff currently employed in the discharge of border police tasks. Some offices (Regional Centres, BCPs and border surveillance stations) are understaffed and only 50-60% of authorised posts are actually covered. The lack of human resources is more evident at the border surveillance stations. These staff needs should be addressed without delay.

The Law on State Administration sets a general framework for cooperation between state administration bodies. An agreement on Cooperation in the area of IBM has been prepared. In addition, the Action Plan for the period 2008-2009 anticipates the drafting of operational procedures for border control and the adoption of a Memorandum of Understanding between administrative bodies involved in border management.

The equipment and premises of the border police have been improved. So far, 25 BCPs have been linked with a single system of the Ministry of Interior. However, further progress is required regarding facilities and technical equipment at BCPs. Sufficient funding needs to be provided to meet priorities regarding infrastructure, equipment and IT technology as defined

in the IBM strategy in order to provide an efficient, high and uniform level of control at all BCPs.

Negotiations are currently underway between the Serbian MoI and FRONTEX for a Working Arrangement regulating mutual cooperation between the two bodies.

*Further information is requested on:*

- measures planned for implementation of Law on State Border Protection, and timeframe for the adoption of the necessary secondary legislation;
- Human Resources Plan of border police, in particular on maximum future number of personnel, plans and funding to fill vacancies;
- agreements and measures foreseen to ensure cooperation between Serbian border authorities and adopt a Memorandum of Understanding between administrative bodies involved in border management;
- facilities and technical equipment at BCPs, including funding to meet priorities of IBM strategy on infrastructure, equipment and IT systems, and plans establishing on-line connections between BCPs and national databases;
- training system and strategy for the Border Police, inclusion of the Police Ethics Code in the programme of basic police training for border guards, and other anti-corruption trainings;
- existence of a specialised unit in the Border Police and Customs for investigation of cases of corruption;

#### ***May 2009 Updated Assessment:***

Over the last 6 months, significant efforts have been made to bring the border management system in line with European standards.

The new Law on State Border Protection has been in force since November 2008, and a one-year deadline was set for adoption of secondary legislation. The law is broadly in line with European standards. However, concepts and definitions used in legislation and strategy papers are not fully comparable with EU terminology. The authorities must ensure that sufficient financial resources are made available for the implementation of new legislation and implementing measures.

The Border Police is organised in line with EU standards and has a centralised command structure. The planning system is adequate. National plans are drafted at central level and define the aims and points of focus of activities. On this basis, annual and monthly plans are drafted at regional level to give clear guidelines for monthly plans at the local level.

Regarding inter-agency cooperation, in February 2009 a Cooperation Agreement between the main ministries involved in border management was signed. However, Memoranda of Understanding between these state agencies which will further improve coordination and clarify division of competences are still pending and should be signed as soon as possible. In practice, cooperation between the Border Police and other law enforcement authorities is already relatively efficient, and is coordinated by regional IBM centres at the regional level.

The MoI has a comprehensive overview of all positions and vacancies within the Border

Police. Currently 3,300 Border Police posts are manned and the staffing level is 83%. Although efforts have been made to prioritise recruiting of staff in high-risk areas of the country, the filling of remaining vacant posts must remain a priority, in particular for surveillance stations and BCPs. The MoI should be provided with sufficient funding to increase the staffing level and to raise salaries for border police officers in line with those of other police officers.

Regarding training programmes, basic training for the Border Police has to be improved. The development of a dedicated curriculum for the Border Police following a restructuring of the general police training system in 2008 should be finalised as soon as possible. Further efforts are also required to organise more specialised trainings and target beneficiaries according to a training strategy. Until now, specialised trainings have generally been organised by international donors on an ad hoc basis. Since 2007, 71 such events were held for a total of 450 participants. Handbooks for the border police are not yet available and are still being drafted with OSCE support.

The current basis for anti-corruption measures is the general Code of Police Ethics of October 2006. A specific code of ethics for the Border Police is not yet available but is currently being drafted. Once this is completed, the code should be widely disseminated and anti-corruption trainings should be organised at all levels. It is also advisable to create a specialised anti-corruption unit within the Border Police.

A risk analysis system has been operational for less than a year and significant progress has been made in this field. Situational awareness for risk analysis is adequate and is based on daily reports submitted to the Border Police's Operational Centre from local and regional level. Strategic-level awareness and national risk analysis are the responsibility of the MoI's Department for Suppression of Trans-border Crime. Cooperation between regional and central level on risk analysis functions efficiently. Further efforts are now required to increase the number of intelligence officers at all levels and to improve risk analysis at the local level by ensuring systematic transfer of risk indicators and profiles via real-time electronic information exchange.

Border surveillance targets high-risk areas on the basis of systematic risk analysis and adequate tactics are employed. Joint patrols are conducted with regular and traffic police. However the border surveillance system suffers from staffing shortages of Border Police Stations and a lack of technical equipment. Although the number of terrain vehicles and patrol boats is adequate, alarm and surveillance systems are currently unavailable, and sniffer dogs are not used. Regional centres possess mobile units which can be used to increase patrols at high-risk areas.

The professionalism and task awareness of Border Police staff was found to be satisfactory at all levels. However, the quality of checks at BCPs suffers from staff shortages, and in particular the level of checks on trucks should be improved. In addition, Border Police officers should be given the competence to systematically check the boots of cars and trailers of lorries, as currently only the Customs are permitted to do so.

Infrastructure at Serbia's 82 BCPs is improving even if further efforts are required. Reconstruction at the heavily used Horgös, Batrovci and Dimitrovgrad BCPs has been finalised, while modernisation of facilities at Prešovovo and nine other BCPs is currently underway. Several BCPs still require appropriate premises for conducting compulsory



entrance and exit checks.

Availability of technical equipment varies between BCPs. 14 high-risk BCPs possess docubox, and by May 2009 10 BCPs will be equipped with electronic passport readers. The TETRA police radio system is operational in Belgrade and along the Hungarian border. BCPs lack equipment able to detect smuggled migrants in vehicles (carbon dioxide detectors, sniffer dogs etc.) Currently 26 BCPs are fully connected with the single informational system of the MoI, and a plan exists to extend connection to 22 further BCPs by the end of 2009.

Cross-border cooperation with neighbouring countries on border management functions efficiently and several bi-lateral agreements have been signed. With Bulgaria, joint controls on international trains are organised, and as of summer 2009, joint patrols on the Danube will be conducted with the Romanian authorities. A Working Agreement with FRONTEX has now been signed.

Checks at the boundary line with Kosovo are conducted by the general police and not the border police. Cooperation between relevant authorities in policing the boundary line is under-developed and controls at official boundary points are very limited, in particular in the North of Kosovo. Formal steps should be taken to strengthen surveillance and improve exchange of information with EULEX/Kosovo police including by the conclusion of ad hoc working arrangements.

## **Asylum (benchmarks 10-11)**

### ***November 2008 Assessment:***

The new Law on Asylum was adopted in November 2007 and entered into force in April 2008. It defines the principles, conditions and procedure for acquisition and termination of asylum, as well as the status, rights and liabilities of the persons asking for asylum or who are granted such status. However, it should contain a provision guaranteeing appeal on asylum claims to an independent judicial body.

Asylum claims are assessed in the first instance by the new Asylum Office, which is located within the Ministry of the Interior and appeals can be lodged at the Asylum Commission. In certain cases, a legal review by the Supreme Court is possible. However, regarding the provision of adequate infrastructure, the capacities of the Asylum Office and the Asylum Commission remain limited.

Progress has been made in making the Asylum Centre foreseen by the Law on Asylum operational. The Centre provides asylum seekers with accommodation and basic living conditions. Asylum seekers are also entitled to benefit from health care, right to free elementary and high school education and right to social assistance.

*Further information is requested on:*

- progress in the implementation of Law on Asylum;
- functioning of the new Asylum Office (e.g. processing of applications, possibility to launch a general appeal to an independent judicial body);

- measures taken to ascertain number of asylum seekers, length of asylum procedures, types of decisions on asylum requests and the length of the procedures; provision of financial support and basic socio-economic benefits for asylum applicants;
- measures taken to ensure authorities involved in the reception of asylum seekers are adequately trained.

***May 2009 Updated Assessment :***

Implementation of the Law on Asylum is progressing and the asylum system is fully functional.

Institutions responsible for asylum are well structured and organised. As the Asylum Office foreseen by the Law on Asylum has not yet been formally created, currently asylum claims are processed by an asylum unit within the Border Police. The unit employs five persons and is adequately staffed for current needs. Employees were found to be well-informed on national and international asylum legislation, and trainings have been held on the content of the new Asylum Law and on International refugee law issues.

First instance decisions are processed within 60 days and free legal assistance is provided by an NGO. From April to December 2008, 52 asylum applications were lodged to the Serbian authorities.

First instance appeals are processed by the Asylum Commission which is an independent administrative body composed of governmental experts appointed by the Prime Minister. The Commission is fully functional and 4 cases have been decided on so far while 20 are pending. Judicial appeals against decisions of the Asylum Commission may be lodged to the Supreme Court, and two cases are currently under consideration at this level. While appeals to the Asylum Commission automatically have suspensive effect, appeals to the Court do not. However, the Law on Administrative dispute allows asylum seekers to request to remain in Serbia until the Supreme Court reaches a final decision on their claim.

Asylum seekers and refugees are accommodated in the reception centre in Banja Koviljaca. Management of the centre was handed over from UNHCR to the Serbian authorities (Commissariat for Refugees) in December 2008. The capacity of the centre is 80, and facilities were found to be adequate. Staff was found to be experienced and professional, and access to all basic socio-economic rights and benefits is provided. Health screening of asylum seekers occurs at the deportation centre (where most applications are made) and access to health treatment exists in Banja Koviljaca.

**Migration management (benchmarks 13-17)**

***November 2008 Assessment:***

The Law on Foreigners was adopted on 23 October 2008 and enters into force on 1 April 2009. It defines the conditions and procedures for entry and stay of foreigners, the possibility to register residence via the Internet, as well as new rules on visas. Moreover, the material liability of physical and legal persons, including carriers, has been regulated for cases of illegal entry and/or stay of foreigners in Serbia.

The operational body of the Serbian Government for migration management is planned to be established by the end of 2008 and the adoption of a Migration Management Strategy is foreseen by November 2008. The completion and implementation of these two measures should be given priority.

The migration profile for Serbia was completed in Autumn 2007, and presented at the EU/Western Balkan JHA Forum meeting in Brdo. Further efforts are required concerning data collation on migration flows in order to ensure that the relevant categories in Regulation 862/2007 are fully respected.

A comprehensive and solid strategy on the reintegration of returnees covering key areas - documentation, employment and financial assistance – was drafted and its adoption is planned by the end of 2008. It is of much importance that the strategy is adopted and implemented without delay.

Serbia has continued to strengthen the capacities of the border police in order to fight illegal migration and improve inland detection. Sections for suppression of illegal migration and trafficking within the border police and the criminal police directorate continued to ensure good coordination with the 34 police secretariats. A by-law has been drafted ('Instruction on Acting with Smuggled Persons') that plans to establish appropriate administrative structures and work methodologies to deal with the detection and investigation of cases of illegal migration, and provide a framework for collaboration between relevant authorities.

Return policy will be included as an element of the Migration Management Strategy, which is due for adoption by the end of November 2008. However, the information provided is insufficient to allow full analysis of Serbia's progress in return management.

The year 2007 saw an increase of refusals of entry compared to the previous year (+ 24 %) and a decrease of illegal immigrants apprehended (- 31 %). The number of expulsions carried out dropped from 1.947 in 2006 to 1.601 in the year 2007 (- 18 %).

In addition to the readmission agreement concluded with the European Community, several bilateral readmission agreements, in particular with neighbouring countries, has been signed and further ones are planned.

*Further information is requested on:*

- planned measures for ensuring the correct and full implementation of the Law on Foreigners;
- draft Migration Management Strategy and on the plan for its implementation;
- mechanism to monitor migration flows, in particular regarding collection and analysis of data;
- administrative capacity of Serbian authorities in migration field;
- reintegration measures and assistance for returnees (including for persons re-admitted under the EC-Serbia re-admission agreement), including their legal basis, development and implementation of reintegration strategy, period during which assistance is offered, and statistics on beneficiaries;
- existing legal framework for measures against illegal immigration; current practices for inland detection, competent authorities and inter-agency cooperation ;

- provisions on policy for returning third country nationals illegally staying in Serbia to countries of origin or transit in Law on Movement and Stay of Foreign Nationals, legal measures on detention conditions and re-entry bans, administrative bodies involved in return procedure, and resources available to them in fulfilling their tasks;
- statistics on relation between return decisions taken and removal carried out;
- co-operation with countries of origin and transit of illegal immigrants.

### ***May 2009 Updated Assessment:***

Significant progress has been made concerning the legislative framework for migration management. The Law on Foreigners has been in force since 1<sup>st</sup> April 2009 and is largely in compliance with the EU *acquis*. It regulates conditions of entry and stay of foreigners for any purpose, defines issuance procedures for granting temporary and permanent residence permits, and elaborates the rights granted to permanent residents. Separate systems for issuing residence and work permits are established. Provisions on carriers' obligations and sanctions for infringements are also provided by the Law on Foreigners (Article 22).

A 6-month deadline has been established for adoption of 16 by-laws and regulations required for implementation of the Law on Foreigners. The harmonization of pre-existing legislation with the law (in particular the law regulating employment of foreigners) is still pending and should be considered as a priority.

The structures for implementation of the new law are in place. Guidelines with instructions for the application of the law to all relevant authorities are planned to be issued in April 2009. It must be ensured that the necessary human and technical resources for implementation are available at central, regional and local level. In particular, training of staff must be given priority. Correct implementation will also require improved coordination of all authorities with an operational role in the migration field.

The adoption of the Migration Management Strategy currently under preparation by the Commissariat for Refugees which aims to clearly define competences of relevant bodies remains a priority. There is also a need to implement existing plans to establish a specialised agency that will undertake the lead role in coordinating migration management<sup>1</sup>.

Significant efforts are required to improve monitoring of migration flows. An overall strategy on data collection and analysis has not been developed, and existing databases are separated between ministries. Data collection forms on residence permit have been harmonised to reflect the requirements of the Council Regulation 862/2007, and the system for monitoring illegal migration flows is relatively efficient. There is a lack of adequate data on issued work permits and therefore important numbers of foreign workers may not be registered. Improvements should be brought about by the new Law of Foreigners which foresees the establishment of sixteen electronic databases on migration statistics to be kept by the MoI in cooperation with the Ministry of Foreign Affairs. It should be ensured that these databases are accessible to all interested ministries.

Increased cooperation between the Statistical Office and line Ministries in analysing migration data should be a future priority. An updated migration profile was produced by

<sup>1</sup> The Inter-Ministerial Coordination Body for Migration Management was established on April 3 2009.

IOM in 2008.

Regarding integration policy, a more proactive approach is required in order to ensure that the integration component is an important concern of the general migration strategy. Reliable statistical information on the number and socio-economic structure of foreign immigrants is thus necessary for justifying integration policy and identifying specific integration priorities.

The National Strategy for the Reintegration of Returnees from Readmission has been adopted on 13 February 2009 and an Implementation Team, including representatives of all line Ministries involved, is established. The accompanying Action Plan was adopted in April 2009. Financial resources necessary for implementation of the strategy should also be made available.

Regarding the administrative structures and methodologies to deal with detection and investigation of illegal migration a detailed by-law has been drafted. Furthermore, a Strategy on combating trafficking in human beings has been adopted and a Strategy on combating illegal migration is currently being drafted. Further assessment of these strategies will be required in the future. Several authorities are dealing with illegal migration: specialized sections within the Border Police Administration and the Criminal Police Directorate are responsible for good coordination with the police secretariats on the local level. However, there is a lack of staff at every level, especially at the local one. Teams at central level for combating trafficking in human beings consist of only 10 police officers in total. In addition, budgetary problems may hamper the full implementation of the necessary activities foreseen by the aforementioned Strategies.

Inland detection is conducted using special investigative techniques on the basis of risk analysis prepared by the Criminal Intelligence Unit within the MoI.

Expulsion of illegally residing third country nationals is regulated by the new Law on Foreigners which is in line with European standards and *inter alia* defines the meaning of illegal stay of foreigners and allows appeals against return decisions. Further monitoring will be required to assess the efficiency of return procedures introduced by the new law. Regarding the Reception Centre for foreigners, the building and accommodation is below standard and it requires modernisation. At the beginning of March 2009 8 persons in total were held there although the centre has a capacity for 140 persons.

The readmission agreement between the EU and Serbia is being implemented efficiently. Serbia has signed 15 bi-lateral agreements on returns so far.

## **BLOCK 3 Public order and security**

### *General assessment of block 3:*

Serbia has made substantial progress towards the fulfilment of the block 3 benchmarks.

The government has shown its commitment to treat the fight against organised crime as one of its priorities. The general legal framework for the fight against organised crime and corruption is in place. Key strategies have been adopted in most areas, but the accompanying action plans are still in the preparation phase for fight against organised crime, money laundering and drugs. It is important to ensure proper and efficient implementation, including through the allocation of human, financial and technical resources. The Criminal Procedure Code has been revised to address most immediate needs and a new one is expected to be adopted by the end of 2009.

The overall capacity of the law enforcement authorities is satisfactory, but further efforts should be made to improve inter-agency cooperation and in increasing the expertise to fight financial crime. Many positive steps have been taken so far, but convictions in all sectors remain low. The fight against trafficking in human beings has seen some important steps ahead with the adoption of a new action plan, the ratification of the relevant Council of Europe convention, and the appointment of the national coordinator.

Preparations have started to set up the new Anti-Corruption Agency, which is expected to have a key role in the fight against corruption. The legal framework concerning judicial cooperation in criminal matters was improved, but further efforts are needed to increase capacities.

International law enforcement cooperation is functioning well, even though mostly on an informal basis. Good progress has been made in the area of protection of personal data.

It appears that Serbia meets the majority of the benchmarks set under block 3 of the roadmap. Further efforts are needed regarding implementation of the legal framework, including through allocation of adequate financial and human resources.

## *Detailed comments on block 3 by policy area:*

### **General/Overall policy on preventing and fighting organised crime and terrorism (benchmark 18)**

#### ***November 2008 Assessment:***

The National Strategy to fight organised crime is in the preparation phase with the assistance of the OSCE but no timeframe is provided for its adoption. Existing plans do not give a clear picture on further activities in the prevention and fighting of organised crime.

The legal framework is still incomplete due to the delay of the restructuring of police and prosecution services which is also one of the reasons for the delay of the entering into force of the new Criminal Procedure Code. The UN Convention on Transnational Organised Crime and its 3 Protocols have been ratified but still need to be fully implemented via national law.

Owing to the large number of police departments involved in the fight against organised crime, internal coordination is a challenge. Inter-agency and international co-operations is further hampered by the lack of a common database on information related to organised crime.

It is a positive development that there is a number of pending high profile cases in the area of organised crime though, in general, final convictions are rare in organised crime cases

#### *Further information is requested on:*

- timeframe for the adoption of the Strategy to fight organised crime and a clear outline of the measures foreseen in the strategy;
- plans to adopt an action plan on the Strategy to fight organised crime as well as an outline of the priorities;
- organigrammes reflecting the institutional set-up of the fight against organised crime;
- clearer statistics on organised crime for 2004-2008 along crime categories

#### ***May 2009 Updated Assessment:***

The national strategy for the fight against organised crime was adopted on 26 March 2009 and an action plan is under preparation. It is important that the availability of the necessary human, financial and technical resources will be ensured. The institutional and administrative capacity in preventing and fighting organised crime of the law enforcement and judicial authorities is generally good. Recent police action resulting in a number of arrests in organised crime cases shows the commitment of the Serbian authorities to tackle the issue.

A working group has been set up in order to revise the Criminal Procedure Code (CPC). The adoption of the new, revised CPC is foreseen by the end of 2009 and its entry into force by 1 January 2011, provided that the implementation of judicial reforms will be completed on schedule (by 1 January 2010).

Some deficiencies of the current framework for the fight against organised crime remain and it is recommended to further improve the capacities of the law enforcement and judicial authorities.

A Commission for inter-ministerial coordination in the field of justice and home affairs was established in December 2008. The Commission aims at contributing to substantially improving inter-ministerial coordination in the fight against organised crime. To this end it should meet regularly and on a long-term basis.

Effort should continue to develop the common database related to organised crime for law enforcement agencies.

Further improvements are needed in order to collect clear and comparable statistics along all crime categories and stages of criminal procedure.

### **Policy on preventing and fighting trafficking in human beings (benchmarks 19, 23)**

#### ***November 2008 Assessment:***

The Strategy to combat trafficking in human beings, adopted in December 2006, established a coordination mechanism in this area. However, the appointment of new members of the Council for Combating Trafficking in Human Beings and of the National Coordinator for combating trafficking in human beings have been pending for a lengthy period and the action plan for the implementation of the Strategy has not been adopted.

The creation of special police teams for combating trafficking in human beings within the Criminal and border police administrations and the carrying out of a broad awareness raising campaign in November 2007 are welcomed developments. The capacity to assist trafficking victims was recently significantly improved via the establishment of 11 new municipal teams.

Concerning the victims of trafficking, the necessity to meet the needs of identified victims and to take into account the changing trends of victimisation in policy development is acknowledged by the authorities. However, concrete plans on intended measures on victims identification and victim assistance (e.g. allocation of responsibilities, resources required) need to be clarified.

Increased investigation activities are proved by the raising number of criminal charges against traffickers and also police officers suspected to be involved in trafficking although convictions are still awaited in most procedures.

*Further information is requested on:*

- plans (including a timeframe) for the adoption of an Action Plan on the Strategy to combat trafficking in human beings;
- description of responsible bodies involved in fighting trafficking in human beings;
- description of results achieved in the implementation of the Strategy to combat trafficking in human beings;



- more concrete details on the initiatives mentioned, such as timeframes for the foreseen adoption of laws, the ratification of the Council of Europe Convention with the national implementation measures and victim protection measures.

***May 2009 Updated Assessment:***

The action plan to implement the Strategy to combat trafficking in human beings for the period 2009-2011 has been drafted in consultation with relevant governmental and non-governmental stakeholders and has been adopted on 30 April 2009. The action plan outlines specific measures to be taken and indicates clear responsibilities, timeframes and monitoring criteria for the implementation of the actions outlined. Additional consideration should be given to the availability of the necessary budgetary and human resources for the implementation of the action plan.

The law on the ratification of the Council of Europe Convention on Action against trafficking in human beings was adopted by Parliament in March 2009. It should be transposed into the national law as soon as possible.

The appointment of the chairman and the members of the Council to combat trafficking in human beings as well as the National Coordinator for the fights against trafficking in human beings in November 2008 are welcome developments. The National Coordinator also serves as head of the Department for the Suppression of Cross-border Crime in the Border Police Directorate, which enables the close coordination of anti-trafficking policy with the general policy for the fight against cross-border crime. Additional human resources would, however, be necessary to ensure the National Coordinator is able to carry out the full scale of his tasks efficiently.

Police operations in the fight against trafficking in human beings are coordinated by the Department for the Suppression of Cross-Border Crime. These operations are carried out in close cooperation with the units dealing with human trafficking in the local police directorates, regional police centres and the airport where police capacity in this crime area has generally improved.

The Service for the Coordination of protection of victims of trafficking in human beings was established in 2004 and is the key body in this field. The service coordinates the protection, accommodation and reintegration of victims and keeps a database on the victims identified. The two accommodation centres and the victim reintegration programmes are run by NGOs. In order to ensure the effectiveness of this framework for victim protection, the staff of the Coordination Service should be increased and additional funding made available for the provision of services by NGOs.

**Policy on preventing and fighting financial crimes (money-laundering, terrorist financing, confiscation of assets) (benchmark 20)**

***November 2008 Assessment:***

The National strategy against money laundering and the financing of terrorism was adopted in September 2008 but an action plan remains to be adopted. The Law on the confiscation of assets generated through a criminal offence was adopted in October 2008. The adoption of several other draft laws is foreseen before the end of 2008, in particular the draft Law on the prevention of money laundering and the financing of terrorism, together with draft laws on the ratification of several international conventions.

It is of particular importance that the bodies dealing with preventing and fighting financial crimes, in particular the Administration for the prevention of money laundering and the Directorate for the management of confiscated assets, have the necessary human and financial resources available to carry out their mandates. The efforts made for reinforcing the administrative capacity of the Financial Intelligence Unit is key to efficient implementation of the anti-money laundering provisions. These efforts are not yet followed with a similar reinforcement of the expertise and capacities of the police and prosecutors to follow-up the reports of the FIU. For this reason, although the number of cases handled has increased, the number of final convictions is still low.

Sufficient management capacities for seized assets acquired through criminal acts are not yet in place and provisions of the new Law on confiscation of the proceeds of crime has to be sufficiently implemented.

*Further information is requested on:*

- outline of the key priorities Strategy against Money Laundering and information on the planned measures to implement them;
- information on the measures foreseen to ensure implementation of international standards after the ratification of draft laws;
- more detailed and integrated statistics (as opposed to statistics from several sources that correspond to different criteria) on trends of money laundering and confiscation of criminal assets.

***May 2009 Updated Assessment:***

The National Strategy against money laundering and financing of terrorism continues to be implemented. It should also be completed by an Action Plan.

The Law on the prevention and fight against money laundering and terrorist financing was adopted in March 2009, as well as some of the Laws on the ratification of international conventions.

The Serbian FIU is a well-established and well-functioning authority with sufficient human and technical resources. Reinforcement of the expertise and capacities of the criminal investigators, public prosecutors and judges is of outmost importance in order to follow-up the reports of the FIU. As of today, the number of investigations and convictions on money-laundering cases is very low.

According to the Law on the confiscation of criminal assets steps have been taken to establish the Directorate for management of seized assets. An acting Director has been appointed and the Act on the organizational structure of the Directorate has been adopted in February 2009.

Public procurement is ongoing to create the actual storage facility; budgetary allocations are made to this end also to ensure the recruitment of 25 staff members. Efforts should continue to make the system operational.

### **Anti-drug policy (benchmark 21)**

#### ***November 2008 Assessment:***

The National Strategy for the fight against drugs for the period 2008-2012 is still in the preparation phase and the same applies for the Action Plan to implement it.

The announced creation of a new Commission for the Prevention of Drug Misuse chaired by the Minister of Health is positive if the necessary financial and human resources are provided.

The MoI's Drugs smuggling suppression department is Serbia's key coordination body for combating drug-related crime. The department is responsible for coordinating cooperation and information exchanges with the police, as well as with the Customs administration, the Ministry of Justice, and Interpol. The Drug Smuggling Department is currently developing a database for crimes, arrests, and seizures in order to ensure the accessibility of drugs information at border crossing points.

Serbia's drug laws are adequate but implementation is problematic. At the same time, due to reinforced operational activities at the side of the law enforcement authorities, a growing number of drug law violations is detected.

*Further information is requested on:*

- details on key priorities and the measures foreseen in the Strategy and Action Plan for the Fight against Drugs with a timeframe for their adoption and implementation;
- information on international co-operation (e.g. existing/planned co-operation agreements and EMCDDA information collection standards).

#### ***May 2009 Updated Assessment:***

The National Strategy for the fight against drugs covering the period 2009-2013 was adopted by the government in February 2009. An action plan is under preparation and should clearly define measures, actions, available human and financial resources and time-table for the implementation of the Strategy. All relevant stakeholders should be involved in the drafting of this action plan.

The fundamental legislative framework fighting drug crime is in place. Special investigative techniques, such as secret surveillance measures and controlled deliveries, have been used successfully.

The Department for Drug Smuggling Suppression within the Ministry of Interior has established the database containing information on drug-related offences and criminal groups.

This database constitutes an important element in the process of information gathering, but not linked centrally to other databases and BCPs do not have direct access to the data.

The Ministry of Health serves as a focal point for cooperation with EMCDDA (project initiated in January 2008). A national team with a representative of the Ministry of the Interior has been appointed to give assistance to the focal point.

## **Policy on preventing and fighting corruption (benchmark 22)**

### ***November 2008 Assessment:***

The National Strategy for the fight against corruption (2005) and the action plan (2006) are being implemented and the latter is currently being revised.

The adoption of the Law on the agency for the fight against corruption in October is a welcomed development. At present, political and expert support needs to be provided in line with the timetable and budgetary implications as foreseen for ensuring that the enforcement of the Law on the agency will start on the 1<sup>st</sup> October 2009.

Serbia is party to all relevant international Conventions but due to the recent ratifications of the Council of Europe Conventions, their provisions still need to be implemented via national laws. In parallel, recommendations of GRECO need also to be taken fully into account.

The statistics provided are related to general processing of corruption related offences and are not indicative when it comes to actions taken to address high level. The effective implementation of existing law, the use of special investigative techniques in investigation and law-enforcement co-operation to successful operations needs to be further strengthened.

*Further information is requested on:*

- details on the results of the implementation of the anti-corruption Strategy;
- details on public awareness raising activities;
- details on how the recently aligned international standards are/will be implemented into national law;
- details on the current state of implementation of remaining GRECO recommendations;
- details on the work of the Commission for the Implementation of the National Strategy for the Fight against Corruption and GRECO recommendations;
- additionally to the statistics already provided, a clear indication of the number of final convictions reached.

### ***May 2009 Updated Assessment:***

The implementation of the Law on the Anti-Corruption Agency is expected to start from 1 January 2010. This new law will also take over responsibility in the area of conflict of interest. The period foreseen for the preparation for the implementation (staff recruitment, facilities, equipment etc.) should be efficiently used and the powers of the agency extended to

enable it to efficiently carry out all its tasks.

Internal control activities in all law enforcement agencies have been created and are functioning at a satisfactory level. The process of implementing GRECO recommendations and international conventions continued. Efforts should be maintained to complete all remaining actions.

Specialised anti-corruption departments exist within the police, prosecutors' office and the Belgrade district court and cooperation between them is at a satisfactory level. However, the short term of office of the specialised prosecutor and his deputies (2 years) limits their effectiveness and autonomy. Special investigative techniques are increasingly used in corruption cases, but the number of final convictions for corruption crimes is still low compared to the number of opened investigations and also to the public's perception of this phenomenon.

### **Judicial co-operation in criminal matters (benchmarks 24-25)**

#### ***November 2008 Assessment:***

The main European and international conventions and significant number of bilateral treaties in the field of extradition, mutual legal assistance and other forms of legal and judicial cooperation are part of the legal system. Nevertheless, one of the key international documents, namely the 2<sup>nd</sup> Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters still needs to be implemented via national law.

The Ministry of Justice, through its Department for International Legal Assistance, acts as a central authority for incoming and outgoing requests for judicial cooperation, and forwards them to competent Courts for judicial decision. Reported figures on requests for extradition and especially on incoming and outgoing requests for legal assistance are very high.

As regards mutual legal assistance (MLA), the country uses new means of judicial cooperation, such as videoconferencing, especially in the activity of its specialized authorities in combating organized crime and in proceedings for war crimes. As regards cooperation with Eurojust, a contact person has been appointed and the negotiations for a cooperation agreement are ongoing.

*Further information is requested on:*

- the measures foreseen to ensure adaptation of national legislation to meet the requirements of international treaties following their ratification (in particular regarding the special law on international legal assistance under preparation);
- the structure of the Department for international legal assistance of the Ministry of Justice and on the human resources available to it;
- the average timing of compliance with requests of international assistance and on effectiveness of requests of extradition;
- information on legal bases utilized in mutual legal assistance (bilateral, Council of Europe or UN conventions);

- detailed statistics on the number of completed transfers of convicted persons, both of Serbian and foreign citizens;
- details on the specific training activities carried out and foreseen for judges and prosecutors in the area of international cooperation and on the measures to develop and improve direct international contacts with judicial authorities.

***May 2009 Updated Assessment:***

The Law on mutual legal assistance in criminal matters that allows for the implementation of the 2<sup>nd</sup> Additional Protocol to the Council of Europe Convention on Mutual Legal Assistance in Criminal Matters was adopted in March 2009. For the proper implementation of the above mentioned Protocol specific training activities should be carried out for law enforcement and judicial staff in the area of international cooperation, such as protection of witnesses, joint-investigative teams, special investigative techniques and procedural mechanisms like hearings by telephone or videoconferences.

As regards, the Mutual Legal Assistance Department of the Ministry of Justice, it is not sufficiently staffed, in view of the very high and increasing number of requests. The direct international contacts that have been developed with the judicial authorities of several countries had a positive effect on dealing with complex rogatory letters.

There has been an increase in requests for extradition in the last years, especially from neighbouring countries. The new law in the field that will introduce simplified extradition procedures and reduction of some timelines is expected to increase the efficiency of the authorities when dealing with those requests. The shortage of human resources should be addressed to help reducing the average period for complying with rogatory letters and extradition.

**Law enforcement co-operation (benchmarks 27-31)**

***November 2008 Assessment:***

The coordination between the Ministry of Interior and other ministries and government agencies can be improved. On the other hand, cooperation mechanisms at operational level are put in place between the police and the prosecutors and the police and the judiciary. Strengthening and widening of these mechanisms to other law enforcement agencies (customs, border guards etc.) is important. The cooperation also needs to be aligned with the new Criminal Procedure Code that should come into force at the end of 2008.

Capacity-building in the police forces is addressed. A new police training centre came into operation in November 2007 and has held numerous seminars in which members of the judiciary and the police participated. A coherent approach to human resources management is needed.

Some action in the area of regional police cooperation is undertaken and Serbia signed an agreement on strategic cooperation with Europol in September 2008.

With the help of international projects and donors Serbia is gradually upgrading the technical equipment for policing and investigations in several authorities. The legal framework on the use of special investigative techniques, in particular on secret surveillance measures, needs also to be aligned. It is important that adequate training is provided to law enforcement officials to apply the available special investigative means and use the technical facilities in place.

*Further information is requested on:*

- description of the present cooperation mechanisms between the different agencies, with special attention to the mechanisms for information exchange (e.g. what kinds of databases are handled by which law enforcement agency; how other agencies can access the available data);
- examples of successful joint actions based on inter-agency co-operation;
- details of the exact mandate and working methods of the soon to be established coordinating body of the Government for justice and interior;
- information concerning the implementation of existing bi- and multilateral cooperation agreements, the results achieved, concrete cases of information exchange and plans for future developments in this area;
- description of the legal framework and current practice on the use of special investigative techniques;
- examples of successful cases (e.g. in the area of fighting financial crimes and trafficking in human beings) where special investigative techniques have been used;
- details of planned measures and actions to be taken in order to reinforce the use of special investigative techniques.

***May 2009 Updated Assessment:***

The drafting and adoption of the new Criminal Procedure Code is expected to be finalised by the end of 2009 and likely to come into force by 2011. The Code would have several provisions aiming at more efficient exchange of information and operational cooperation among the different law enforcement bodies.

Currently the cooperation among the law enforcement agencies works in a satisfactory manner. In order to further enhance cooperation a Coordination Working Body was established in December 2008. The objective of this body that meets on a monthly basis is to improve information exchange and coordination in the areas of judiciary and law enforcement.

The use of special investigative techniques which requires prior authorisation of the investigative judge has proved successful in a number of cases. The capacity of the police to use such techniques in the framework of criminal investigations should be further enhanced and additional training provided.

International cooperation, for example through the network of police liaison officers placed in the country, work in an efficient manner; at borders cooperation with neighbouring countries is also satisfactory. Such cooperation is often carried out on informal basis and a formal channel to deal with international operational cooperation request should be reinforced.

Serbia should proceed with the ratification of the strategic cooperation agreement with Europol and ensure its effective implementation.

### **Protection of personal data (benchmark 32-33)**

#### ***November 2008 Assessment:***

A new Law on Personal Data Protection was adopted in October 2008. It is however unclear which data protection legislation is covering automated databases containing personal data in the area of criminal records and state security.

Furthermore, Serbia signed the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows (CETS No. 181) in July, and the Law ratifying the Additional Protocol was adopted in October 2008.

#### ***Further information is requested on:***

- details and text of the new law on protection of personal data;
- details on the set-up of the independent supervisory authority, and its integration with the current Commissioner of information of public interest;
- details on which data protection legislation is covering automated databases containing personal data in the area of criminal records and state security [see declaration by Serbia to Council of Europe Convention 108];
- details on the application of the law on protection of personal data and supervision of the Police.

#### ***May 2009 Updated Assessment:***

The new law on the protection of personal data now regulates the processing and use of personal data. The existing independent authority established by the Law on Free Access to Information of Public Importance from 2004 under the name the Commissioner for Information of Public Importance assumed new powers and competences and, in addition to the protection of freedom to access to information, it now also deals with personal data protection.



## **BLOCK 4: External Relations and Fundamental Rights**

### *General assessment of block 4:*

Serbia has made substantial progress towards the fulfilment of the block 4 benchmarks.

The legal framework to ensure the freedom of movement and access to identity documents is in place. The same applies for anti-discrimination and provisions to guarantee the protection of minorities. Implementation has also improved.

The scope of Serbian citizenship and the acceptance of dual citizenship are relatively broad, but applications from persons living in other countries, even in the region, are so far limited. Future developments are difficult to predict, but the length of the procedure to acquire citizenship makes it unlikely that significant changes will appear in short term.

A National Strategy for improvement of the situation of Roma has been adopted. Efforts have been made to foster registration of Roma population and facilitate their access to identity documents.

It appears that Serbia meets a large majority of the benchmarks set under Block 4 of the roadmap.

### *Detailed comments on block 4:*

#### **Freedom of movement and identity documents (benchmarks 34-37)**

##### ***November 2008 Assessment:***

The freedom of movement of Serbian citizens is guaranteed by the Constitution (2006), but may be restricted for the purpose of conducting criminal proceedings, protection of public order and prevention of spreading of contagious diseases or defence of the Republic of Serbia. Regarding mechanisms to handle incidents and complaints, no information is given in the report, which makes it difficult to judge whether the provisions in place are sufficient to ensure freedom of movement.

The access to travel and identity documents is regulated in the Law on identification card and the Law on travel documents. Measures to ensure easier access to these documents to some vulnerable groups have been taken or planned. Documents are issued to disabled persons despite the inability to present the application to the Ministry in person and people belonging to national minorities can have their ID cards issued in the language of the minority to which they belong. Measures to provide travel documents in consular missions to Serbian citizens residing abroad are under preparation. The report states that legal provisions to ensure access to ID cards and travel documents to all citizens including minorities and vulnerable groups are in place. However, no further information is provided regarding these provisions. Moreover, no indication is given as to which are the most difficult target groups, or to measures targeting Roma.

Concerning access to identity documents for refugees, the Law on refugees provides that ID cards for refugees and expelled persons are issued by the organisational unit of the Ministry of Interior, subject to the decision or certificate of the Commissariat for refugees that has acknowledged the status of the refugee/expelled. Refugee status can only be given to persons coming from the territory of the ex-Yugoslav Republics and is decided by the Commissariat for Refugees. Regarding IDPs, it is mentioned that identity documents are issued to IDPs from Kosovo by the relevant police administrations or stations and that the Commissariat for Refugees keeps the records of the persons having had to leave their place of residence in these regions and issues identity cards to confirm that these persons are recorded. No information is given as regards cases where no records are available.

*Further information is requested on:*

- mechanisms for handling incidents and taking complaints regarding restrictions to the free movement of Serbian citizens, as well as information on reported cases/difficulties with specific groups;
- more detailed description of the legal provisions in place to ensure access to ID cards and travel documents to all citizens including minorities and vulnerable groups;
- concrete results of the positive actions mentioned, as well as information on the most difficult target groups and measures planned targeting Roma;
- information on the grounds on which the decision to grant identity documents to refugees and IDPs is made;
- plans to facilitate access to identity documents for IDPs and refugees;
- clearer statistics on access to documents for refugees, indicating the number of applications, the result and the grounds on which it was reached.

***May 2009 Updated Assessment:***

Currently, between 209.000 and 226.000 internally displaced persons live in Serbia, while only some 2.500 to 4.000 have returned to Kosovo and Metohija. At the same time, some 97.000 refugees reside in Serbia.

Integration of these persons shows positive results. Serbia provides identity documents (IDP-cards) and the persons concerned are given the possibility to acquire Serbian citizenship. Some 250.000 refugees living in Serbia have acquired Serbian citizenship since 1996.

For issuing identity documents, there is an accelerated procedure and the fees have been substantially reduced from 10.000 to 600 Dinar (10 € for a family). Efforts have been made to foster registration of Roma population and facilitate their access to identity documents.

The number of requests from refugees and internally displaced persons for Serbian citizenship is declining.

**Citizens' rights including the protection of minorities (benchmark 38-42)**

***November 2008 Assessment:***

As regards anti-discrimination, it is forbidden and punishable according to the Constitution to cause or encourage inequalities, hatred or intolerance, and discrimination is criminally sanctioned in numerous legal acts (in particular the Criminal Code which provides for punishment in case of breaching the provisions of the Constitution). There is no anti-discrimination law regulating this field in a general manner. Concerning the application of the legislation, some affirmative measures have been taken targeting Roma and women.

The requirements to acquire and give up Serbian citizenship are regulated in the Law on Citizenship of the Republic of Serbia and the Law on Amendments to this law. According to the former, citizenship can be acquired by origin, by birth in the territory of the country, by acceptance and under international treaties, and ceases through discharge, renunciation and under international treaties. The applications in both cases are to be filed in a police station or through a consular office abroad. Concerning problems faced after the dissolution of former Yugoslavia and the rules on dual citizenship, it is only noted that provisions of law after the dissolution allowed for a wide range of legal grounds on which to acquire Serbian citizenship and that the Law on Citizenship allows for both dual and multiple citizenship to be acquired.

As regards the investigation of ethnically motivated incidents, the information provided in the readiness report is not sufficient to judge whether it is ensured. It is only noted that no such incidents were reported in the area of freedom of movement. No relevant information on the procedures on investigation of incidents or on the follow-up to ombudsman and NGO reports is given.

There are several constitutional provisions to guarantee the protection of minorities, including the right to self-governance in the fields of culture, education, information and language, and equality in administering public affairs and representation in the National Assembly. Beyond the Constitution, protection is provided for in the Law on Protection of Rights and Freedoms of National Minorities, as well as more generic laws including in the area of education, employment and the selection of national deputies. As to the implementation of the provisions foreseen, selected statistics on the participation of members of minorities in the judicial system are given. As regards the Roma minority, national Action Plans for the enhancement of the status of Roma were adopted in the fields of education, employment, housing and healthcare, based on a draft Strategy for Roma Integration in the framework of the "Decade of Roma Inclusion 2005-2015". In the field of education, numerous projects and programmes were carried out in the period 2005-2008 in order to implement the Action plan, and positive results were achieved in the enrolment and participation of Roma pupils to schools and universities. In the remaining areas (housing, healthcare and employment), Action plans still need to be implemented.

*Further information is requested on:*

- timeframe for planned legislation in the field of anti-discrimination and overview of evaluation of the enforcement of legislation currently in place;
- more detailed information on the rules on dual and multiple citizenship and on problems related to former Yugoslav citizenship as well as the measures taken to tackle these problems;
- more detailed information on ethnically motivated incidents including the procedures of investigation in place, and information on the follow-up to ombudsman and NGO reports;

- assessment of the implementation of provisions on the protection of minorities and information on the follow-up to Council of Europe /NGO/Ombudsman reports in this area;
- information on the planned implementation of Action plans for Roma in the areas of employment, housing and healthcare, and on the timeframe for the adoption of the Strategy for Roma Integration.

***May 2009 Updated Assessment:***

The new anti-discrimination law was adopted by the Parliament in March 2009 and constitutes an important step forward. Its aim is to fill the current gaps in the protection against discrimination. This law covers all article 13 grounds and a wide range of sectors (employment, public services, education). It establishes a new Equality Commissioner which will be appointed and report to Parliament and act as the equality body required under EC directives. The burden of proof will be shifted in cases of discrimination. The institutional framework is in place with the Ministry of Human Rights and Minorities playing a central strategic and coordinating role.

Citizenship legislation is broad and allows for broad categories of citizens of the former Yugoslavia with links with Serbia to obtain Serbian citizenship.

The basic concept for the acquisition of Serbian citizenship is descent. Citizenship can also be acquired by admission, provided that the person has resided in Serbia for at least three years and gives up his previous citizenship or that it is in the interest of Serbia. Citizens from the FYR, who have lived in Serbia for at least nine years, can acquire citizenship without losing their previous citizenship.

Art. 18 and 23 extend the scope of Serbian citizenship further. Art. 18 gives every person 'emigrating' from Serbia and his descendants the right to acquire Serbian citizenship. Art. 23 Para. 1 gives the same right to a "member of Serbian or another nation or ethnic group from the territory of the Republic of Serbia, who is not residing in the territory of Serbia". Para. 2 extends this right to refugees and displaced persons from the FYR residing in Serbia.

Agreements on dual citizenship have been concluded with Slovenia and BiH, but not yet with Croatia and Montenegro. An agreement with Montenegro seems to be difficult as Montenegro has a more restrictive approach to dual citizenship than Serbia.

Around 70.000 persons with another republic's citizenship and residence in Serbia have acquired Serbian citizenship in 2008. Figures of persons living in other republics who have acquired a Serbian passport are still limited. According to information provided by BiH, only some 7.000 persons from Serbia (and Montenegro) have acquired BiH citizenship under the existing agreement on dual citizenship, whereas 2322 persons from BiH have acquired Serbian citizenship under this agreement. As Serbia applies the provisions of Art. 23 and the dual citizenship agreement in parallel, the relevance of these figures is limited.

Serbia delivers passports to persons residing in Kosovo, as these are considered by Serbia as its own citizens. So far, the number of persons living in Kosovo who acquired a Serbian passport is low (7141, of which 1520 ethnic Albanians). *However, future developments are difficult to assess.*

The basis for issuing passports to Kosovo residents are old civil registries which have been transferred by Serbian authorities to the territory of Serbia proper. Where old registers are not complete, Serbia has a specific procedure for establishing the citizenship of a person, which can be done for example through the presentation of birth certificates and other similar documents or copies thereof. The security level of this procedure is rather low.

Ethnically motivated incidents affect primarily Roma, but overall remain occasional. The level of investigations by the police is in general satisfactory, although further efforts are necessary in the area of prosecution and court actions so that perpetrators are brought to justice.

In April 2009 the government finally adopted its National Strategy for improvement of the situation of Roma. The strategy lays down the objectives to be implemented until 2015 through a series of ongoing and new action plans, reflecting the key priorities of the Decade of Roma Inclusion. There is no single budget line for this strategy, but each line ministry concerned is expected to allocate available funds in its area of responsibility. The current demolition of settlements, which will not be legalised, without providing appropriate housing in other locations raises some doubts as regards the will and ability to fully implement the objectives of the strategy and related action plans in the area of housing. The general living conditions of Roma remain precarious and should be further improved.