

DRAFT Assessment of the implementation by Serbia of the roadmap for visa liberalisation

BLOCK 1 Document Security

General assessment of block 1:

Serbia has made progress in the area of document security. The legislative framework required for the introduction of machine-readable biometric travel documents and identity cards was put into place through the adoption of the Law on Travel Documents and the Law on Identification Card. So far more than 50,000 biometric travel documents have been personalised. Further efforts are required to strengthen administrative capacity to ensure that the old travel documents are fully replaced, and to guarantee the integrity and security of the issuing and distribution process.

In some areas the country's readiness report does not provide a complete picture of the situation, in particular regarding the implementation of policies, results, priorities and timing for their implementation as well as structures and responsibilities. In order to assess the existing and planned measures in more detail, a request for further information is made (see below the information per policy area) and organisation of (a) field mission(s) is planned covering the following policy areas:

- security and issuance procedure for breeder documents;
- security and issuance procedures for new passports and identification documents.

Detailed comments on block 1 by policy area:

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

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.

BLOCK 2 Illegal migration, including readmission

General assessment of block 2:

Some progress has been made in the fields of border management, asylum and migration management. In the area of border management, Serbia is making progress in establishing the legal and administrative framework for completing the relevant criteria of the visa dialogue. The Law on Protection of State Border was adopted on 23 October 2008 and the Border Police Administration was established.

Serbia should take the necessary measures ensuring full implementation of the new law. Further steps must be taken in several areas in order to make the border management system fully operational, in particular: completion of the revision of the legislative framework in order to take into account the EU standards, development of the Border Police Administration and implementation of measures optimising human and technical resources are objectives that must be realised. Regarding Border Control Points (BCPs), Serbia needs to improve facilities and technical equipment, update IT systems and prepare for on-line connections with national databases in order to ensure an efficient, high and uniform level of control at all BCPs.

Progress can be reported in the area of asylum where overall Serbia has started to address the main priorities. Following the entry into force of the new Law on Asylum in April 2008, the Serbian authorities have taken over responsibility for handling asylum cases from UNHCR. A reception centre for asylum seekers has also become operational in Banja Koviljaca.

Serbia has made limited progress in the area of migration management. The Law on Foreigners was adopted on 23 October 2008, but implementing measures are largely still in the planning stage. Serbia has announced its intention to establish an administrative body for migration management by the end of 2008 and adopt a Migration Management Strategy by November 2008. A comprehensive and solid strategy on the reintegration of returnees is planned to be adopted by the end of 2008. Further efforts are required in a number of areas. The adoption of the Migration Management Strategy needs to be completed, and the administrative capacity of the Serbian authorities to manage migration and gather data on migration flows has to be strengthened. Serbia has also to consider measures applying a methodology for inland detection, strengthen its capacity to tackle illegal immigration and implement a comprehensive return management policy.

In some areas the country's readiness report does not provide a complete picture of the situation, in particular regarding the implementation of policies, results, priorities and timing for their implementation as well as structures and responsibilities. In order to assess the existing and planned measures in more detail, a request for further information is made (see below the information per policy area) and organisation of (a) field mission(s) is planned covering the following policy areas:

- border management.
- migration management issues including asylum

Detailed comments on block 2 by policy area:

Border management (benchmarks 6-9)

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;

Asylum (benchmarks 10-11)

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.

Migration management (benchmarks 13-17)

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.

BLOCK 3 Public order and security

General assessment of block 3:

Serbia shows awareness of its responsibilities in the field of public order and security and demonstrates that political will and professional expertise to meet the obligations of the roadmap are present. Key aspects of the general legal framework for the fight against organised crime and corruption are in place. However, additional efforts are needed to comply with the requirements of the roadmap and to make further progress in these fields. Key strategic documents have been adopted in some areas, but such documents are still in the preparation phase for the fight against organised crime and drugs. The adoption of important legislation has been delayed and the entry into force of the new Criminal Procedure Code is delayed. In the absence of new legislation concerning the division of responsibilities, there is a certain lack of coordination among law enforcement authorities in the core areas of organised crime and corruption. In some areas the human, technical and financial capacity of responsible authorities is not fully ensured. As regards protection of personal data, further efforts are required in this area.

The information provided in the readiness report is to be completed in some areas, in particular regarding the implementation of legislation/strategy documents, results achieved and concrete examples of cases. In order to assess the existing and planned framework and measures taken in more detail, a request for further information is made (see below in the fiches the information requested per policy area) and the organisation of a law enforcement field mission is proposed in the following policy areas:

- *organised crime* (including law enforcement cooperation at national, regional and international levels; trafficking in human beings, drugs and confiscation of criminal assets) *and anti-corruption policy*

Detailed comments on block 3 by policy area:

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

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

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

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.

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

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.

Anti-drug policy (benchmark 21)

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).

Policy on preventing and fighting corruption (benchmark 22)

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 welcome 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 1st 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.

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

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 2nd 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.

Law enforcement co-operation (benchmarks 27-31)

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 Code on Criminal Proceedings 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.

Protection of personal data (benchmark 32-33)

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.

BLOCK 4: External Relations and Fundamental Rights

General assessment of block 4:

The legal framework to ensure the freedom of movement and access to identity documents appears to be broadly in place. The same applies for anti-discrimination and provisions to guarantee the protection of minorities. However, some efforts for further progress are still needed as regards the implementation of provisions.

The information provided in the readiness report is not complete in all areas, in particular regarding the implementation of policies, results achieved and reported cases or difficulties.

In order to assess the existing and planned measures in more detail, a request for further information is made (see below the information per policy area) and organisation of a specific meeting on block 4 is planned.

Detailed comments on block 4:

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

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.

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

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.