

## **VISA LIBERALISATION WITH SERBIA REPORT ON READINESS**

When the **Visa Facilitation Agreement and Readmission Agreement** between the European Union and the Republic of Serbia came into force on 1 January 2008 it was the beginning of a new phase in the activities of the Republic of Serbia aimed at full liberalisation of the visa regime with the European Union and lifting of the visa obligation for the citizens of the Republic of Serbia..

Apart from the relevant ministries, the European Integration Office and the Vice-President's Cabinet, one of the main roles in the activities aimed at qualifying the Republic of Serbia for inclusion on the positive Schengen List, is played by the Task Force for coordination of activities aimed at fulfilling the provisional criteria for visa regime liberalisation of the European Union for the Republic of Serbia, which was established on 19 July 2007. It consists of three representatives from the Ministry of Interior and one from each of the Ministry of Foreign Affairs, Ministry of Justice, the Vice-President's Cabinet and the European Integration Office. This Task Force is chaired by Dražen Maravić, Head of the Bureau for international cooperation and EU integration- the Ministry of the Interior of the Republic of Serbia.

This Task Force has the following tasks: coordination of activities aimed at fulfilling the provisional criteria for visa regime liberalisation, preparation of the action plan for relevant authorities for the purpose of fulfilling these criteria, identification of priorities and the tasks arising from the provisionally set criteria and their closer definition, preparation of the relevant authorities for political dialogue on European Union visa liberalisation for the Republic of Serbia.

The first meeting of experts of the two parties, which represented the beginning of the dialogue on visa regime liberalisation, was held in Belgrade on 30 January 2008. Opening of the session was attended by the EU Commission Vice-President Franco Frattini and the Vice-president of the Government, Božidar Đelić.

Negotiations continued in Brussels on 8 February 2008 and 9 July 2008. The European Commission Delegation was both times headed by Jean Louis de Brouwer, Director, Directorate General for Justice, Freedom and Security, and the Serbian Delegation was headed by Dražen Maravić, Head of the Bureau for international cooperation and EU integration- the Ministry of Interior. On the last meeting it was agreed that the Serbian party will prepare the Report on readiness of the Republic of Serbia towards visa regime liberalisation.

The Task Force for coordination of the activities aimed at fulfilling the provisional criteria for visa regime liberalisation of the European Union for the Republic of Serbia made the Report, enclosed further in this text, in accordance with the reports of the relevant ministries and institutions. The Report follows the structure of the Road Map with guidelines for action and represents a review of activities of the relevant authorities with the aim to fulfil the criteria for the visa regime liberalisation.

Involvement of the Task Force and all key ministries of the Government of the Republic of Serbia to date confirms our readiness to pursue reforms and harmonization of legislation in the fields of key relevance for visa liberalisation (security of documents, illegal migration, border management, organised crime, corruption, public order and security, visa regime, human rights, external relations).

## **I Requirements related to the correct implementation of the European Community Visa Facilitation and Readmission Agreements**

### **A. READMISSION AGREEMENT**

**Serbia has to take necessary measures ensuring effective implementation of the Community Readmission Agreement and in particular the replacement of the previous bilateral agreements or arrangements by the Community readmission agreement, the conclusion of "implementing protocols " with member states, the adoption of the measures ensuring that proper infrastructure is in place, in particular sufficient staff to deal with readmission applications, the respect of the various deadlines set by the Community Readmission Agreement, the refusals of the readmission applications only on the grounds provided by the Community Readmission Agreement, the acceptance of "EU standard travel document for expulsion purposes", the acceptance of readmission applications for third country nationals /stateless persons**

The Readmission Agreements (bilateral and multilateral) facilitate organised, reciprocal and institutionalized return of persons in irregular situation in the other party's territory, thus creating the preconditions for their reintegration in the society after return to the Republic of Serbia.

Readmission processes within the bilateral cooperation has been conducted in the Republic of Serbia since 1996. To date, our state has entered into 15 bilateral Agreements on readmission covering 17 countries: Federal Republic of Germany (the first signed in 1996, and the second on 16 September 2002), Swiss Confederation (signed on 3 July 1997), Republic of Slovenia (21 December 2001), Kingdom of Sweden (15 March 2003), Slovak Republic (27 July 2002), Republic of Bulgaria (9 August 2001, Protocol has not been signed), Republic of Hungary (29 March 2003), Republic of Italy (1 April 2005), Kingdom of Denmark (8 March 2004), the Benelux countries (29 May 2004: Kingdom of Belgium, Kingdom of the Netherlands and Grand Duchy of Luxembourg), Republic of Croatia (17 June 2004), Republic of Austria (29 April 2004), Bosnia and Herzegovina (ratified on 22 December 2004), Canada (signed on 16 March 2006) and Republic of France (ratified on 8 November 2007).

Implementation of the Readmission Agreement in the Republic of Serbia involves: Ministry of the Interior of the Republic of Serbia, Ministry of Health, Ministry of Labour and Social Policy, Ministry of Human and Minority Rights, Ministry of Public Administration and Local Self-Government, relevant ministries which, if necessary, take part in the specific development plans for care of the repatriated in accordance with the Readmission Agreement ( Ministry of Education, companies willing to support).

In the Ministry of Interior, the body in charge of implementation of the Readmission Agreement is the Administrative Affairs Directorate, Department for Implementation of the Readmission Agreement.

When admitting the residents of the contracting parties, the main preconditions for classifying a person in the group subject to readmission, are person's citizenship and identity. After receipt of a petition from the relevant foreign authorities and checking of the citizenship status and identity, a reply notice is sent to the relevant foreign authority that the legal readmission/repatriation procedure can be applied. It should be noted that the Readmission Agreements are anti-illegal migration mechanisms.

Negotiations of the European Union and the Republic of Serbia on the Visa Facilitation and Readmission Agreement began in 2006. In the name of the European Union the negotiator was the European Commission, delegated the negotiating mandate by the EU Council, and in front of the Government of the Republic of Serbia the Minister of Interior. After three rounds of negotiations, the Agreement between the Republic of Serbia and the European Commission was initialled in Brussels, on 16 May 2007. The Agreement was signed in Brussels on 18 September 2007.

The National Assembly of the Republic of Serbia ratified these Agreements on 7 November 2007 when the Law on confirmation of the Agreement between the European Community and Serbia on facilitated procedure for visa issuance was adopted (*Official Gazette of the Republic of Serbia, 103/07*) and the Law on ratification of the Agreement between the European Community and the Republic of Serbia on readmission of persons with illegal residence (*Official Gazette of the Republic of Serbia, 103/07*).

Provisions of this Agreement shall take precedence over other bilateral readmission agreements or arrangements between the Republic of Serbia and the EU member states, to the extent of inconsistency between the provisions of these agreements or arrangements and this Agreement.

In joint declarations annexed to the single Agreement, the Republic of Serbia undertakes the obligation to enter into bilateral agreements on readmission harmonised with this Agreement, with the European countries which do not fully apply the Schengen acquis, including Denmark, Iceland, Norway and Switzerland.

Promptly after signing the single Agreement, the responsible government departments commenced their activities on entering into bilateral agreements on readmission with the abovementioned states, and the current situation is as follows:

- **Danish** party considers signing of a new agreement unnecessary because the existing bilateral readmission agreement is in conformance with the single Agreement and has been applied without any problems;
- **Norway** party presented its Draft Agreement on readmission in March 2008, and we have been conducting the process of obtaining the opinion of the competent department before presentation to the Government for approval;
- During the experts' talks in Bern, **Switzerland**, at the end of March 2008, the two parties agreed principally on the provisions of a bilateral agreement. Negotiations about the final text were held in Belgrade on 27/28 August 2008.
- **Iceland** - Draft Readmission Agreement was submitted by the Iceland party at the end of May 2008. According to our relevant institutions, this Draft Agreement can be used as an initial document in future negotiations, provided some minor

corrections and adjustments were made for the sake of harmonisation with the Community Readmission Agreement.

- **Estonia** – MofI of Estonia proposed the Draft Protocol on implementation of the Readmission Agreement, which regulates technical and organisational issues of the readmission process. Our party has accepted this Draft as an initial document for negotiations in Tallinn (proposed date 25/26 September) to agree on the final Protocol.

In connection with the *implementation of the existing bilateral readmission agreements*, 24.337 **petitions** for readmission of our citizens were received from the foreign authorities and 1.711 petitions for readmission of third countries' citizens in the period from 1 January 2003 till 30 June 2008,.

*Pursuant to the Community Readmission Agreement*, out of 101 petitions received *in the same period*, 98 were from Germany. Necessary **checks were made and replies sent** to all of these petitions within the time set in the agreements.

The process of return of the citizens of the Republic of Serbia who live illegally in the EC territory is conducted in full compliance with the best European human rights and freedom standards, and regula iuris other international conventions for the protection of human rights and freedoms.

The fact that the single Community Readmission Agreement is ratified and has been implemented since 1 January 2008, shows that the Republic of Serbia is ready and open for all states which have the interest to enter into bilateral or multilateral readmission agreements incorporating the highest standards of the human rights and freedom protection.

## **B. VISA FACILITATION AGREEMENT**

**Serbia shall closely cooperate with the European Commission to support the EU Member States' implementation of the Visa Facilitation Agreement, ensuring in particular continuous monitoring of all institutions, authorities and bodies involved Serbia with implementation of this Agreement, as regards the issuance of invitations, certificates and other documents.**

As mentioned earlier, the Agreement between the European Community and the Republic of Serbia on the facilitation of the issuance of visas came into force on 1 January 2008.

Pursuant to the provisions of the Agreement between the European Community and the Republic of Serbia on the facilitation of the issuance of visas, Serbia assumed the obligation to enter into bilateral visa facilitation agreements, harmonised with this Agreement, with the European countries which do not apply in full the Schengen acquis, including UK of Great Britain, Ireland, Denmark, Iceland, Norway and Switzerland.

Promptly after signing the single Agreement, the responsible government departments commenced their activities on entering into bilateral agreements. The initiative for

signing such agreements was launched through the diplomatic channels to all above countries, and the current status is as follows

**Denmark** – Agreement signed in the MofFA, Belgrade, on 13 March 2008. MofFA has submitted the Draft law on ratification of the Agreement to the Government for acceptance and then it should be ratified by the National Assembly of the Republic of Serbia.

**Norway** – Text of the agreement is fully harmonised with the Norway party, and will be submitted to the Government for acceptance. It will be signed simultaneously with the Readmission Agreement with Norway.

**Iceland** – Iceland party sent the Draft Agreement at the beginning of May, this year. Our party did not have any major comments and notified the Iceland party about that. Further steps will be taken to sign the Agreement.

**Switzerland** – During the experts' talks in Bern, **Switzerland**, at the end of March 2008, the two parties agreed principally on the provisions of a bilateral agreement. The Swiss party sent the official Draft Agreement at the beginning of August. Negotiations about the final text are scheduled for 27/28 August this year in Belgrade.

**United Kingdom** has responded to our initiative for entering into a bilateral visa facilitation agreement with reserves stating that the issue of visa regime liberalisation should be postponed until the time when the issuing of the biometric passports begins.

**Ireland** has announced that it will follow the steps of UK as regards the visa regime liberalisation for our citizens.

As it has been mentioned earlier, for the sake of strengthening the dialogue on qualification of the Republic of Serbia for inception on the positive Schengen List, on 19 July 2007 the Government of the Republic of Serbia established the Task Force for coordination of activities aimed at fulfilling the provisional criteria for visa regime liberalisation of the European Union for the Republic of Serbia. It consists of three representatives from the Ministry of Interior and one from each of the Ministry of Foreign Affairs, Ministry of Justice, the Vice-President's Cabinet and the European Integration Office.

This Task Force has the following tasks: coordination of activities aimed at fulfilling the provisional criteria for visa regime liberalisation, preparation of the action plan for relevant authorities for the purpose of fulfilling these criteria, identification of priorities and the tasks arising from the provisionally set criteria and their closer definition, preparation of the relevant authorities for political dialogue on European Union visa liberalisation for the Republic of Serbia.

Apart from that, the Task Force proceeded with its coordination activities related to the implementation of the Visa Facilitation and Readmission Agreements with the EU, after their signing and ratification. On 20 November 2007, the Task Force had a meeting with the representatives of the European Commission in order to agree on the Guidelines for implementation of the Visa Facilitation Agreement between the European Union and the Republic of Serbia, with the purpose to facilitate its implementation and prevent problems that could possibly occur when the implementation starts.

The Guidelines represent a joint document of the European Commission, the EU member states and the Republic of Serbia, which should insure uniform actions of all EU member states in the issuing of visas in accordance with the new facilitated procedure.

The first meetings of the joint EU and the Republic of Serbia committees for readmission and visa facilitations were held in Belgrade, in April this year.

The Republic of Serbia's representatives in the joint committees are the members of the Task Force. The European Commission was represented in the readmission committee by P.Bosch and P.Busiakievic from the Directorate General for justice, freedom and security, and in the visa facilitation committee by J.De Ceuster, D.Gogu from the Directorate General for justice, freedom and security and H.Rundegren from the Directorate General for Enlargement. Discussion about visa facilitation was attended by the representatives of the Consulates of the member states.

As for the management of implementation of the Agreement with the EU, the Republic of Serbia made a list of uniform documents/certificates to be issued for certain categories of applicants for the Schengen visas. Certificate Forms, and the Information, were adopted by the Conclusion of the Government of the Republic of Serbia 27-1255/2008 of 27 March 2008. In addition to the uniformity and specification of the kinds of such documents/certificates, precisely are also stated the issuing authorities – Commercial Chamber of Serbia, national company or Association of the international road transport operators of the Republic of Serbia, Serbian Railways Company, Association of Journalists (UNS, NUNS, NDNV), municipal administrations, NGO and citizens' societies registrars, etc.

The categories of applicants include: business people, representatives of business organisations, drivers conducting international cargo and passenger transportation services in vehicles registered in the Republic of Serbia, members of train, refrigerator and locomotive crews, journalists, for visiting military and civil burial grounds, representatives of civil society organisations when undertaking trips for the purpose of educational training, seminars or conferences, and representatives of the religious communities in the Republic of Serbia.

## Block 1: Document security

### 1. PASSPORTS/TRAVEL DOCUMENTS, IDENTIFICATION CARDS AND OTHER BREEDER DOCUMENTS

- **Issuance of machine readable biometric travel documents in compliance with ICAO and EC standards, and plan of further activities on gradual introduction of biometric data, including photo and fingerprints**

By passing the Law on Identification Card (Official Gazette of RS, 62/06) and the Rulebook on Identification Card (Official Gazette of RS, 11/07) the recommendations of the Council of Europe for implementation of the project for integrated automated system for identity documents personalization were incorporated, and in this way the need to follow the world's technology trends in this sphere has been satisfied.

New, modern, functional electronic primary identification document was introduced by above acts. Its issuance in the territory of the Republic of Serbia started on April 14, 2008 and it represents the best and the most reliable means to identify a person.

In accordance with the above Law, identification card is issued by the Ministry of the Interior at personal request of citizens. Together with his application, the applicant must submit documents and evidence prescribed by the Rulebook based on which the officer establishes identity of the applicant and other data specified in the application, which is of decisive significance for issuance of this identity document. During submission of the application for issuance of identification card, biometric data of the person to whom identification card is to be issued is taken. Such biometric data provides reliable verification and authentication of person's identity because biometric identity is determined by unique physical characteristics of an individual, such as photo, fingerprint and signature. This data is taken by use of adequate technical means and then translated to and stored in electronic form. To verify the accuracy of the data taken, the officer possessing the application electronically signs every single phase and the entire procedure of identification card issuance. Identification card is handed over to the applicant in person in the premises of the organizational units of the Ministry of the Interior.

In the period from the beginning of issuance of the new identity document until August 4, 2008 in the territory of the Republic of Serbia **116,406 applications for issuance of Identification card** were submitted; among them 32,267 applications for issuance of identification card without chip and **84,139 applications with chip**. New biometric identification cards were made on the basis of submitted applications, out of which **78,891 identification cards were handed over** to the applicants.

By introducing new biometric identification card, a dynamic document was created which enables change of certain data contained in the document because the prescribed identification card form contains area for contact microcontroller (chip) and area for machine readable zone for the needs of automated data reading from the identification card. At the same time, it contains security elements owing to which the possibility to counterfeit the identification card as document is maximally minimized.



The mechanisms for control of identification card issuance were also implemented, which are contained in the form of program protection of the application for issuance of identification card. In this way the operating process for issuance of this document is fully automated.

Integrated automated system decreased the possibility of counterfeiting and misuse the identification cards; enabled uniform identification of persons, protection of data integrity, non-repudiation and protection of data confidentiality; increased the level of safety of citizens, society and state in its entirety; accelerated development of e-government; improved system of data exchange with national and international entities and enabled more efficient cooperation with international police organizations and security structures of other countries.

Regulatory assumptions for introduction of new passport have been fulfilled by adoption of the new Law on Travel Documents (Official Gazette of RS, 90/2007), which entered into force on October 9, 2007 and the enforcement of which initiated six months after the date of its entering into legal force. This Law defines types of travel documents, deadlines for issuance, conditions and procedure for obtaining these documents and other relevant matters.

The new Law on Travel Documents will enable full protection of travel document forms against misuse by entering biometric data. This will contribute to higher legal safety in use and security of travel documents, in compliance with:

a) European standards – European Union recommendations and directives from 2004 and 2006, regulating the contents and appearance of mandatory electronic passport (specification for biometric data – face photo and fingerprints, memory type-chip, logic structure on chip, compatibility of the chip with application), and

b) standards of the International Civil Aviation Organization – ICAO, which stipulate that by April 2010, all countries must introduce travel documents with integrated photograph and mechanically readable zone that must comply with the ICAO Standard.

#### ***Current way of invitation of tenders and planned time frame for introduction of machine readable biometric travel documents***

Mass production of new biometric travel documents for whose issuance the applications had been submitted in the territory of the Republic of Serbia started on July 7, 2008. Until now more than 10,000 regular passports for citizens have been personalized. The first 204 new passports were promotionally handed out on May 3, 2008 to the meritorious citizens of Serbia. As soon as technical-technological conditions for transferring the data gathered by off-line acquisition are met (planned until October 2008), production of new passports for our citizens who submit applications outside the territory of the Republic of Serbia (in Diplomatic Consular Missions worldwide) will commence. In this way, the collected data will flow into the Ministry of Foreign Affairs, from where it will, via protected connection, reach the Personalization Centre in the Ministry of the Interior for production.

Furthermore, production of other two types of passports (diplomatic and official) is planned in the same period. The appearance and security elements of these passports

are completely identical to regular passports, the only difference being that these passports include data on the position of passport holders instead of residence address.

Acceptance of applications and taking of biometric data for issuance of passports of the Republic of Serbia started in police administrations and police stations of the Ministry of the Interior of the Republic of Serbia on July 7, 2008, and the first passports have already been handed out to the citizens of the Republic of Serbia.

### ***Steps to gradually withdraw the existing travel documents from use***

Travel documents on the old form will be valid until the date of expiry indicated in the travel document and until December 31, 2008 at the latest, pursuant to Article 53 of the Law on Travel Documents. Procedure for amendment of the said article of the Law was initiated in July 2008 and Draft Law on amendment of the Law on Travel Documents was prepared, according to which the passports on the old form will be valid until December 31, 2009 instead of December 31, 2008.

### ***Overview of conformance of travel documents to ICAO and EC standards***

Passing the Law on Travel Documents provided significant contribution to issuance of secure travel documents with the highest level of security, according to the ICAO and EU standards, with application of biometric data. This Law provides for complete security of travel document forms against misuse by inclusion of biometric data, what will contribute to increased legal safety in use and security of travel documents.

Furthermore, security elements and standards for travel documents are prescribed by by-laws (Rulebook on Travel Documents Official Gazette of RS, 54/08).

New biometric travel document is based on ICAO Standards - Document 9303, European Union recommendations and directives.

Passport booklet is complied with the latest ICAO 9303 recommendations for travel documents. Booklet format is ID-3, dimension 88 x 125mm. Passport booklet with 32 pages + polycarbonate data page is foreseen for all three passport types (regular, diplomatic and official passport). Material for making the passport cover is complied with ISO Standard.

Alphanumeric and biometric data of passport bearer is inscribed into passport booklet. Alphanumeric data is the signs visible to the naked eye, inscribed on polycarbonate data page of the travel document, and it refers to the data inscribed with letters (name and surname etc.) and data inscribed with numbers (date of birth, PIB, etc.). This data is provided also in machine readable zone according to predefined sequence (ICAO Standard)

Contactless chip with antenna (Philips, Starcos 3.0 OS, 72 kb memory) is implemented on the polycarbonate data page. The chip meets technical specification relating to the standards for security measures and biometric data. The chip includes alphanumeric data from machine readable zone and digital data, such as Public Key Infrastructure (PKI) and biometric data and/or face image.

Since standard ICAO 9303, besides optical data, prescribes also the type of data on the chip according to Logical Data Structure (LDS), the data is organized into logical units - Data Groups (DG). Group of alphanumeric data (DG1) and photos (DG2) is anticipated for inscription on the chip, what is complied with the latest EU recommendations.

Furthermore, according to EU directive, Basic Access Control (VAS) is provided, what represents a mode of cryptographic protection against unauthorised and remote reading. The method of implementation of this control is defined by ICAO Standard. This control requires that when reading the data from the chip, first one has to open the passport, and then read the data from machine readable zone which is inscribed on the first page of the passport. Generation of the access parameters for reading the contents on the chip is made on the basis of this data. Since European Union anticipates that this data (DG3) is also entered in the part of cryptographic protection of fingerprint, this Project leaves open the possibility to upgrade the Extended Access Control-EAC, what implies that it is impossible to read the data from the chip without adequate certificate of the country which has issued the passport.

International legal regulations and standards which represent the basis for preparation of technical and functional specifications of travel documents in our country are:

- ICAO NTWG, Biometrics Deployment of Machine Travel Documents, Technical Report, Version 2.0, 05.Maj 2004 [ICAO Bio]
- ISO/IEC 19794-5:2005, Biometric Data Interchange Formats – Part 5: Face Image Data
- ISO/IEC 19794-4:2005, Biometric Data Interchange Formats – Part 4: Finger Image Data
- ISO/IEC 14443, Identification cards - Contactless integrated circuit(s) cards – Proximity cards (standard for contactless chips)
- ICAO NTWG, Use of Contactless Integrated Circuits In Machine Readable Travel Documents, Technical Report, Version 3.1, 16 April 2003
- ICAO, machine Readable Travel Documents, Doc 9303 Part 1 Machine Readable Passports, Draft 6-th Edition, 2006
- ICAO NTWG, Development of a Logical Data Structure – LDS for optional capacity expansion technologies, Technical Report, Revision 1.7, 18 Maj 2004
- ICAO NTWG, PKI for Machine Readable Travel Documents Offering ICC Read-Only Access, Technical Report, version 1.1, 01.Oktobar 2004
- ISO/IEC 7816-4:2005, Identification cards - Integrated circuits cards – Part 4: Organization, security and commands for interchange
- Advanced Security Mechanisms for Machine Readable Travel Documents, Version 1.0, 2005
- Common Criteria Protection profile for Machine Readable Travel Documents with “ICAO Application”, Basic Access Control, Version 1.0
- ANSI/nist-ITL,1-2000 Standard “Data Format for the Interchange of Fingerprint, Facial, Scarmark & Tatto (SMT) Information”
- Common Criteria Protection profile for Machine Readable Travel Documents with “ICAO Application”, Extended Access Control, Version 1.0
- Brussels Interoperability Group, Terms of Reference

- ICAO NTWG, RF Protocol and Application Test Standard for E-Passport; Parts 2&3
- ISO/IEC 7816-8:2004, Identification cards - Integrated circuits cards – Part 8: Commands for security operations
- „COUNCIL REGULATION(EC) No 2252/2004 on standards for security features and biometrics in passports and travel documents issued by Member States”

***Detailed description of security features in travel documents (biometric photo, fingerprints)***

The Rulebook on Travel Documents (Official Gazette of RS, 90/07) prescribes in detail security features in travel documents of the Republic of Serbia, which are provided by taking biometric data during submission of application for issuance of passport (photos, fingerprint, signature).

Taking of biometric data implies translation of face photo, fingerprint and signature into electronic form by use of adequate technical means.

Taking of photo is made by digital camera or scanning the photograph submitted together with the application.

The photo must comply with the following requirements:

- Its size should be 50x50 mm;
- The face must take up 70-80% of the photo;
- It must be clear, of high-quality, without impurities and scratches;
- Skin tones should appear natural;
- Eyes must be open and clearly visible (not covered by hair);
- Single-coloured grey background;
- For persons wearing glasses: the eyes must be clearly recognizable, the frame may not cover any part of the eye, without reflection;
- The photo should show only the person photographed, not other persons, pieces of furniture or other objects.

The fingerprints are taken using a fingerprint scanner. Both left and right index finger is scanned at the touch by rolling the finger in one direction from one nail edge to other nail edge.

The signature capture is made by use of signature digitalization pad. The signature captured must be legible, affixed in script letters and true to original.

Personalized travel document contains visible data, security elements and electronic data inscribed on the contactless chip and protected in adequate manner (digitally signed with defined access rules).

Complete security of passport booklet is achieved by use of various security printing techniques and great number of security elements, such as:

- Iris print (Rainbow)
  - guilloche lines
  - anti-scan elements
  - lines thickness graduation
  - micro text
  - invisible fluorescent details visible under UV light
  - UV colours (visible under ultra violet light)
  - IR elements (symbols visible under ultra violet light)
  - tilt effect (two images visible at various angle)
  - transparent register
  - kinegram (transparent visible to the naked eye, highly-protected element implemented within polycarbonate data page; each attempt of counterfeit would be easily noticeable)
- OVI (Optically Variable Ink showing different colours as the angle of view changes)
- MLI (multiple laser image visible at various angles)

Alphanumeric data of the travel document holder, photo, signature image, ghost photo on MLI security element and machine readable zone into which data prescribed by the standard are inscribed on the polycarbonate data page in the course of personalization, using laser engraving technique.

The contactless chip, on which the data of the passport holder is inscribed, is integrated into the polycarbonate data page. The incorporated Basic Access Control prevents the possibility of unauthorised and wilful reading of the chip contents. To enable reading of chip contents the passport holder must open the passport booklet, thus enabling reading of the machine readable zone and in this way authorised officers are allowed to access to the data contained on the chip. The contents of the e-passport chip are identical to the data which is optically personalized.

Security of electronic data is achieved by establishing Public Key Infrastructure (PKI). This type of security is prescribed by ICAO standard provided in the document „ICAO NTWG, PKI for Machine Readable Travel Documents Offering ICC Read-Only Access, Technical Report, version 1.1“ dated October 1,2004.

Country Signing CA and Document Signer CA were established according to the standard provided in this document.

The Country Signing CA is the highest point of confidence and it issues the highest-level certificate which confirms the validity of other certificates in the chain of certificates being issued for e-passport. Based on ICAO recommendation, Country Signing CA key pair (public and private) is generated and secured in strictly protected off-line CA infrastructure. The Country Signing CA Certificate is self-signed certificate and its distribution must be strictly secured in diplomatic sense. Preparation of distribution of the Country Signing CA Certificate to ICAO organization (for the purpose of validation of the Document Signer Certificate) is in progress, including bilateral exchange of certificates with all interested states. Private key of the Country

Signing CA is used for signing the certificate of other CA body - Document Signer CA.

Document Signer CA: On ICAO recommendation private and public key of the Document Signer CA is generated and secured in strictly protected on-line CA infrastructure. Document Signer private key is used for signing the Document Security Objects (SOD), i.e., data group which has to be entered into chip memory of e-passport. Document Signer CA Certificate is used to verify authenticity and unchangeability of data contained on the passport memory chip.

Activities on preparation of the mechanism which enables forwarding of each Document Signer CA Certificate generated by the Republic of Serbia to ICAO organization are in progress. To enable easier verification of authenticity and unchangeability, the data on the chip and Document Signer CA Certificate are incorporated on the chip of each travel document. Bilateral exchange of the Document Signer CA Certificates between states is in preparation.

- **Adoption of adequate administrative measures ensuring the integrity and security of the personalization and distribution process**

#### **Method for organization of personalization and distribution of travel documents**

Personalization of travel documents is centralized and is falling under competence of the Information Technology Administration of the Ministry of the Interior (MoI). It is a part of the system which includes acceptance of applications for document issuance, data processing and personalization. When citizens submit application for issuance of new passport, the processed data, through telecommunication and information system of the Ministry of the Interior, reaches the data preparation system. Via protected connection, the prepared crypted data is transmitted to personalization, what implies laser engraving of alphanumeric data and inscription of data on the chip. After that, visual and electronic control of produced passports is conducted. Information on produced passports is returned via the same crypted tunnel into MoI IS. Through courier service of the authorised MoI officer persons, personalized passports are forwarded to the point of issuance.

The entire personalization system is placed within the Faraday Cages interconnected by optical cables to prevent any possibility of unauthorised data access. Equipment for personalization of travel documents is based on state-of- the-art technology.

Parallel to implementation of the e-passport production project, an information system has been developed which uses the advantages of the new e-passport and enables automated passenger control on border crossings. Automated passport reading and checking of data on the chip considerably accelerates passenger identity check. Higher security of travel documents means not only more secure but more open borders as well.

Distribution of personalized travel documents to police administrations and police stations is performed by authorised officials (couriers), who during takeover of the

documents signs a receipt for the documents being collected on behalf of the police administration they are coming from.

The Ministry of Foreign Affairs of the Republic of Serbia will not perform personalization of travel documents, but only data acquisition for personalization purposes in the premises of the Ministry for diplomatic and official passports and in diplomatic consular missions of the Republic of Serbia abroad for ordinary passports.

Delivery of personalized diplomatic and official travel documents from the Ministry of the Interior to the Ministry of Foreign Affairs will be made through official couriers, with all necessary security measures. Delivery of personalized travel documents into diplomatic consular missions of the Republic of Serbia abroad will be made through DHL.

**Description of undertaken administrative measures, including control mechanisms to provide integrity and security of travel documents personalization and distribution**

When process of laser perforation of passport booklet is finished, during which each form acquires its unique serial number, passport booklets are stored into finished products vault. Passport booklets are packed with clearly marked quantity, date, initial and final serial number, and signature of responsible operator. On the basis of an order, the sales department opens the order for issuance of finished products.

Based on this order, in the Passport Booklet Production Plant, the key keeper opens the Protocol on bringing the finished products out of the Production and Personalization Centre's vault. In the interspace between the plant and special purpose garage intended for takeover of the finished products, the key keeper leaves the ordered quantity of the finished products. Access control system regulates that at the moment when the outside garage door opens, the armoured door which separates the interspace from the Passport Booklet Production Plant closes, thus preventing physical contact between the key keeper from the Plant and the person coming to collect the finished product (courier). Communication is made through the counter, where signed Protocol is interchanged.

After loading the finished products, the courier leaves the interspace; then the inner garage door closes and only after that the security officer, who constantly monitors takeover of the products, can open the outside garage door to enable the courier to leave the space of the Passport Booklet Production Plant. The entire takeover process is monitored and recorded by the interior supervision system.

Acceptance of passport booklet forms into storage space of the Personalization Centre of this Ministry is carried out according to the same principle. Further handling of these documents is regulated by the strict access control system for the authorised officers.

- **Establish training program and adopt ethical codes on anti-corruption targeting the officials of any public authority that deal with visas and passports**

1. Training on adoption of police ethics is provided within teaching plan and programs of the basic police training and within the Program of Professional Advance Training of the Serbian MoI officers, but with small number of lessons.
2. MoI – Administration for Professional Education, Qualification, Advance Training and Science, during 2008 and 2009 is planning to organize and implement the courses for managers in cooperation with the OSCE Mission and DCAF. Their teaching plan and programs will include the subjects of police ethics and ethical code on anti-corruption.
3. Furthermore, the Administration for Professional Education, Qualification, Advance Training and Science is planning to organize and implement a special course for adoption of ethical code on anti-corruption. The attendees of this course will be police officers from two structures: 1) administrative officers that deal with visas and travel documents; 2) operative officials involved in border security, control and management. Future teaching plan and programs for this course provisionally will include the following topics and number of lessons (see table below):

**Table 1: Topics for the Course for Adoption of Ethical Code on Anti-Corruption**

No	TOPIC NAME	No of lessons
1.	Notion and types of corruption	1
2.	Causes and consequences of corruption and application of anti-corruption regulations on national and international plan	2
3.	Legal regulations and criminal acts stipulated by the Criminal Code of the Republic of Serbia relating to corruption	2
4.	Prevention and education of police officers with the purpose to eliminate corruption as a social problem	2
5.	Application of special investigation measures to prove criminal act from this area	2
6.	Corruption connections of organized criminal groups and organizations	1
7.	Case study (experiences in struggle against corruption of Border Police and the Serbian MoI)	4
<b>Lessons total:</b>		<b>14</b>

**The Ministry of Foreign Affairs** is ready to take over the ethical code on anti-corruption for the officials that deal with visas and passports from the Ministry of the Interior and to prepare a plan for training of its employees. Considering the fact that commencement of acceptance of applications and/or data acquisition for biometric passports personalization in diplomatic-consular missions of the Republic of Serbia abroad is delayed due to objective reasons, anti-corruption education might be included into a broader training program for the staff working on acquisition tasks.

The advisor for human resources management in CAFAO (Customs and Fiscal Assistance Office) in Novi Sad and Belgrade organized the seminar entitled the Code of Conduct for Customs officers for 50 customs officers – managers from different customs houses in November 2007.



The text of new Code of Conduct for **Customs officers** is prepared. The employees of the Internal Control Department participated in its drafting, pursuant to the Strategy to Combat Corruption which was adopted in 2005 on the level of Customs Administration and it represents a part of the Serbian National Strategy to Combat Corruption. The starting base for adoption of the Code is the Arusha Declaration (Declaration of the World Customs Organization concerning Good Governance and Integrity in Customs), Integrity Development Guide and Model Code of Ethics and Conduct of the World Customs Organization.

Lectures on the subject of integrated border management are introduced into the regular training program for professional education of customs officers. Certain number of lessons is aimed to familiarize the employees with the notion of internal control and results of operation of the Internal Control Department of the Customs Administration achieved in combating corruption.

The Customs Administration, and the Internal Control Department within it, has no specially trained and equipped organizational unit exclusively dealing with fight against corruption, but these issues are addressed within regular activities of the Department.

Within the Action Plan, resources for establishing, training and equipping of special-purpose organizational unit should be anticipated which will deal with the fight against corruption, what implies high-quality and trained personnel, special-purpose equipment, information exchange with other state agencies and implementation of joint actions.

<ul style="list-style-type: none"><li>• <b>Report to Interpol/LASP Database on lost and stolen passports</b></li></ul>
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*Description of the manner of reporting to database and regularity of reporting to Interpol LASP on stolen and lost travel documents*

To enable more efficient cooperation with foreign polices and responsible services of the Ministry of the Interior of the Republic of Serbia the following projects were produced at NCB INTERPOL Belgrade:

- Project for accessibility of all identification documents and documents used in public transport / this project enables all police officers to use data in INTERNET network of the Serbian MoI/;
- Project of national databases of stolen or lost travel documents and their insertion into the ASF database of M.O.K.P INTERPOL/;

The Ministry of the Interior informs Interpol about the lost and stolen travel documents immediately after reporting their loss or theft, mainly in writing because necessary conditions for electronic reporting have not been met yet.

To enable more efficient fight against wrongful acts performed by use of counterfeited documents it is necessary to **initiate access to Interpol databases** on

stolen and counterfeited documents, but also on stolen vehicles and persons being searched for within search activities.

Furthermore, for efficiency reasons it is necessary to initiate direct data interchange through early warning system between the services of the ministries of the interior of the countries of South Eastern Europe.

- **Ensure a high level of security of breeder documents and identification cards and define strict procedures surrounding their issuance**

### *Flow of procedure for issuance of breeder documents*

Identification card is the basic national document used to verify identity of its holder. Citizens submit application for issuance of this document in police stations according to their place of residence, while data personalization is made centrally in the MoI headquarters.

When submitting the application for issuance of identification card, the applicant addresses the administrative officer and hands over the required documents. The administrative officer checks the completeness and accuracy of the documents attached and establishes identity of the applicant (visually comparing the face photo from the document with appearance of the applicant). If the applicant fails to enclose all necessary documents, the officer points out to the deficiencies and gives reasonable time limit for completion of the application. By his signature on the application the officer verifies the checks made. If the application is complete, i.e. all necessary documents are enclosed; the officer finds personal data in the application or enters it into screen form, if necessary. The applicant declares whether he wants his identification card to be with or without the chip, and in which language and alphabet he wishes his data to be inscribed on the identification card form. The administrative officer prints the application for issuance of identification card and hands it over to the applicant to read it and to verify the accuracy of the printed data by his signature.

After that, acquisition of biometric data of the applicant follows (taking of photograph, fingerprints and hand-written signature). Taking of photograph is made by digital camera in PhotoBox. If applicant wishes the document to bear the photograph he has enclosed with the application, such photo may be scanned, provided that it is compliant with the effective standards. The photo which the applicant has brought must conform to the current standards. After that the applicant's fingerprints are taken using fingertips scanner. Two fingerprints of both left and right index finger are taken (or the first next finger if the applicant has no finger). First, fingerprint is taken by rolling the finger in one direction from one nail edge to other nail edge. After that, the print of the same finger is taken, but only by a touch. Both activities are repeated for the index finger of the other hand. After that the applicant affixes hand-written signature on a special signature capture pad. The signature must be legible, affixed in script letters and true to original. Within the procedure of biometric data acquisition the administrative officer who processes the application must electronically sign each single phase of issuance of identification card in order to verify the accuracy of such data.

After that, the administrative officer scans the complete documentation submitted by the applicant. When the procedure is completed, a receipt for submitted application is printed and given to the applicant for checking. The applicant signs the checked receipt which is then issued to him. The receipt is scanned prior to its handing over to the applicant. The approved applications, which have been submitted to legally prescribed administration procedure, arrive into the centralized personalization centre of the Serbian MoI, where data preparation and the identification cards personalization itself are performed. After successful production of identification cards, their visual and electronic quality control is performed. Correct identification cards with chip are sent to packing process (envelope inserting). Finished, packed identification cards are forwarded through MoI courier service to place of issuance. Together with the e-identification card its holder is given the data about user name and password for accessing the protected data on the identification card chip. This data is printed below specially secured layer which prevents the possibility of unauthorised reading.

At the end of this procedure the identification card is handed over to the applicant in person by applying the appropriate procedure through application. To verify the document, during handing over of the identification card, fingerprint taken on the spot is compared with the one already stored on the e-identification card chip.

MoI Police Administration or Police Station in whose area the applicant has his permanent or temporary residence issues the passport in the prescribed manner.

To persons who submit the application for issuance of passport through diplomatic or consular missions of the Republic of Serbia the passport is issued by the Police Administration for the City of Belgrade – the Ministry of the Interior of the Republic of Serbia.

Travel documents are issued on personal request. Together with the application for issuance of travel document, the applicant produces for inspection his identification card or other document which can verify his identity, citizenship certificate only for the first time applicants, and other public documents which verify the data provided in the application.

The travel document which has expired or which can not serve its purpose is also enclosed with the application, for cancellation.

The responsible organ must decide on the application for issuance of travel document within 30 days from the day of application submission. On the application for issuance of travel document submitted through diplomatic-consular mission the responsible organ must decide within 60 days from the day of application submission.

Travel document is collected by the applicant in person or his lawful representative or a person authorised by him.

### ***Detailed description of standard for breeder documents security***

Inclusion of biometric data provides full security of travel document forms against misuse. Besides the area for contact microcontroller and the area for machine readable zone for automated data reading, the prescribed travel document form also contains security elements owing to which possibility of counterfeiting these documents is maximally minimized. At the same time, control mechanisms for issuance of these documents are developed in the form of program protection of the applications for issuance of documents, by what full automation of the operating process for issuance of travel documents is enabled.

Integrated automated system for document personalization enables prevention of new forms of criminality based on misuse of the up-to-date technical and technological achievements, improves the system for data exchange with national and international entities, contributes to more effective cooperation with international police organizations and security structure of other states, and reduces the possibility of counterfeiting and other misuses of these documents.

On the new identification card which replaces the previous paper identification card the following is inscribed: alphanumeric personal data (name, surname, PIN, sex, date and place of birth, address, citizenship...), photo of the holder, fingerprint image and signature image.

The new identification card contains visible textual and biometric data of its holder, invisible textual and biometric data, asymmetrical private keys, digital certificates, and machine readable zone, all this to enable nonrepudiate identification of the document's holder, authorised data access and protection of privacy.

The card contains also machine readable zone with the citizen's basic data prescribed by the ICAO standard. The Serbian Government Ordinance prescribes that the chip must be incorporated into identification card only with the consent of citizens, meaning that this is an optional category. All data (textual and images) which is printed on the card and additional security elements which prevent card misuse and unauthorised use is inscribed on the chip. If card holder wishes so, a certificate for digital signature may be created on it. Data access on new identification cards is facilitated in two ways:

1. Public data (photo, name and surname, PIN, name of one parent, date and place of birth, citizenship, residence address, issuing office, date of issuance and expiration date) may be accessed by all citizens and institutions which have data reading devices and applications at their disposal. The data may be read by anyone, but only the authorised persons in police stations may modify it by use of their official smart cards.
2. Security data (fingerprint) may be accessed only by authorised persons in police stations by use of their smart cards.

Every document checking is recorded in the system and each activity of the officers is electronically signed and permanently stored. Databases are centralized, they also may be accessed only by authorised persons by use of their smart cards. Contact chip with

proprietary operative system is used. Very significant security related characteristic is that information-telecommunication system may be accessed only by authorised persons on the devices for which they have authorised access. In addition, efficient and reliable procedure will be provided for verification of authenticity of travel documents and visas and other documents on border crossings. Use of up-to-date devices for validation (verification and identification) of identification documents is anticipated for implementation of the identification documents verification and identification system.

Production of new vehicle registration books and driving licences is planned to begin by the end of this year.

### ***Procedure of storing and keeping breeder documents***

The card files for issued travel documents in the Republic of Serbia are stored and kept in the card registers, whereas the unique card register of issued travel documents is maintained in the Police Administrations (PA) headquarter in the territory of Serbia: in PA for the City of Belgrade; PA Valjevo; PA Sombor; PA Zrenjanin and PA Pančevo, including PAs in the territory of AP K&M (from June 1999).

Other PAs, other than the headquarters, have unique card register of issued travel documents also in police stations or police departments. **194,220 passports** were issued in the Republic of Serbia in the six-month period in 2008.

Takeover of identification card forms is carried out in the premises of the Institute for Manufacturing Banknotes and Coins and in the warehouse space of the MoI Personalization Centre. The warehouse space consists of several parts: entrance interspace with two doors, warehouse space and treasury (safe-deposit box) space.

Handling of documents of all types, both non-personalized and personalized, is regulated by the system of strict access control for certain authorised officers and strict procedures prescribed for day-to-day operation.

Implementation of information-telecommunication systems and technologies with integrated security enables, besides documentation personalization, efficient digital filing of existing documents (record cards for issued identification documents) and creating the archive and current fingerprint and face image bases. The obtained electronic archive serves for further direct application of fingerprint and face recognition software independently from the document personalization process. Inclusion of such base into the process of direct data capture from citizens - what is complied with the EU Data Protection Directive which took effect in 1998, Digital Signature Directive from 2000, and with other current documents – besides the data and documents digitalization and personalization process, also enables automated checking of such data and documents in electronic archive in local application of verification of persons, documents and connection person-document on the basis of the data stored on the document itself.

### *Detailed description of existing security procedures*

By passing the Law on Identification Card (Official Gazette of RS, 62/06) and the Rulebook on Identification Card (Official Gazette of RS, 11/07) the recommendations of the Council of Europe for implementation of the project for integrated automated system for identity documents personalization are incorporated, and in this way the need to follow the world's technology trends in the sphere field has been satisfied.

New, modern, functional electronic primary identification document was introduced by above acts. Its issuance in the territory of the Republic of Serbia started on April 14, 2008 and it represents the best and the most reliable means to identify a person.

In accordance with the above Law, identification card is issued by the Ministry of the Interior at personal request of citizens. Together with his application, the applicant must submit documents and evidence prescribed by the Rulebook based on which the officer establishes identity of the applicant and other data specified in the application, which is of decisive significance for issuance of this identity document. During submission of the application for issuance of identification card, biometric data of the person to whom identification card is to be issued is taken. Such biometric data provides reliable verification and authentication of person's identity because biometric identity is determined by unique physical characteristics of an individual, such as photo, fingerprint and signature. This data is taken by use of adequate technical means and then translated to and stored in electronic form. To verify the accuracy of data taken, the officer possessing the application electronically signs every single phase and the entire procedure of Identification card issuance. Identification card is handed over to the applicant in person in the premises of the organizational units of the Ministry of the Interior.

By introducing new biometric identification card, a dynamic document was created which enables change of certain data contained in the document because the prescribed identification card form contains area for contact microcontroller (chip) and area for machine readable zone for the needs of automated data reading from the identification card. At the same time, it contains security elements owing to which the possibility to counterfeit identification card as document is maximally minimized. The mechanisms for identification card issuance control were also implemented in the form of program protection of the application for issuance of identification card. In this way the operating process for issuance of this document is fully automated.

Integrated automated system decreased the possibility of counterfeiting and misuse the identification cards; enabled uniform identification of persons, protection of data integrity, non-repudiation and protection of data confidentiality; increased the level of safety of citizens, society and state in its entirety; accelerated development of e-government; improved system of data exchange with national and international entities and enabled more efficient cooperation with international police organizations and security structures of other countries.

To provide secure system for issuance of new breeder documents, upgrading of the entire MoI information system has been made, which is reflected in the following:

- Provision of faster and safer transfer routes – High-throughput information channels were provided to each police station and communication equipment capable of data crypting was installed on them. Provision of newer-generation equipment is in progress which will enable introduction of new security services on information channels.
- Provision of single-sign-on system and Public Key Infrastructure (PKI) has been established and official smart cards have been issued to MoI employees working on issuance of new documents. These smart cards are compliant with all standards prescribed by ICAO recommendations for identity document. This enabled implementation of single-sign-on system, what increased security of access to information system. All activities are logged in a uniform and unambiguous way.
- Applications – created for the needs of document issuance are integrated with official smart cards and eliminate any possibility of misuse. Client applications serve for establishing of security channel from the workstation to application web server. For their operation Web applications require digital signature which is possible only by use of authorised officer's smart card.

## **Block 2: Illegal migrations, including readmission**

### **BORDER MANAGEMENT**

- **Adopt and implement legislation governing the movement of persons at the external borders, as well as the law on organization of border authorities and their functions, in accordance with the Serbian National Integrated Border Management (IBM) Strategy which was adopted in January 2006**

- **Take necessary budgetary and other administrative measures ensuring efficient infrastructure, equipment, IT technology at the external borders.**

Activities related to integrated border management in the Republic of Serbia, pursuant to legal framework, are mostly **performed directly by the Ministry of the Interior**. The activities in question relate to police activities on control of crossing and securing the state border. **Services authorised for certain duties** in the process of control of crossing and securing the state border are: the Border Police Administration – the Ministry of the Interior of the Republic of Serbia, the Customs Administration - the Ministry of Finance, the Veterinary Administration (Veterinary Inspection) and the Phyto-Sanitary Administration (Fyto-Sanitary Inspection) – the Ministry of Agriculture, Forestry and Water Management of the Republic of Serbia and the Inland

Water Transport Sector – the Ministry of Infrastructure (in charge of harbour authority).

**Integrated Border Management Strategy** in the Republic of Serbia was adopted at the Government session held on January 26, 2006, and the **Action Plan** for Implementation of the Strategy was adopted on June 1, 2006. In March 2006 the Serbian Government appointed the **Coordinator** for all activities related to integrated border management in Serbia.

The National Integrated Border Management Strategy is important as the **strategic state document**, adjusted to specific needs and preparations of the Republic of Serbia to fulfil the conditions defined by the National Strategy of the Republic of Serbia for EU Accession. The Strategy is designed to enable adjustment to and harmonization with the changes in the developed European countries, countries in the region and the European Union.

The basic **goal** of the Integrated Border Management **Strategy** is realization of cooperation and coordination between and among the **Services authorised for certain duties** in the process of control of crossing and securing the state border, and **cooperation with responsible services of other countries**.

The Integrated Border Management Strategy of the Republic of Serbia identifies also the **long-term objectives** related to improvement of collaboration within and between border services having competencies at the state border, as well as of international collaboration in order to obtain more efficient and more effective border management. The above mentioned objectives **will be realized** by passing new legislation, mutual management and organization, establishing defined and clear procedures, engagement of optimal human potentials, with adequate individual and joint training, by use of modern, compatible information and other equipment.

Upon adoption of the documents on Integrated Border Management Strategy and Action Plan for its implementation, the Minister of the Interior; the Minister of Agriculture, Forestry and Water Management and the Minister of Finance signed the **Functional Strategies** which define the areas of common interest for all four border services (joint training, infrastructure, equipment and IT and telecommunication systems). In connection with implementation of the part of the Integrated Border Management Strategy relating to cooperation within the services, three competent ministries produced **Sectoral Strategies**.

In the previous period, the greatest progress was achieved in the area of cooperation between border services on central, regional and local level. Within the scope of this cooperation, regular meetings of border services are held in order to reach an agreement about the joint activities and resolution on operative issues in day-to-day activities. These services, including the Inland Water Transport Sector – the Ministry of Infrastructure (in charge of harbour authority), jointly produced the **Agreement on Cooperation in the Area of Integrated Border Management**. Preparation of protocol on cooperation is planned, which would specify conditions and procedures for cooperation in individual areas.



The **Action Plan for Implementation of the Integrated Border Management Strategy** was prepared in the Serbian MoI. Twinning Project for implementation of the Integrated Border Management Strategy in the Republic of Serbia was initiated with the basic goal of increased efficiency and capacity of state administration in charge of implementation of the Integrated Border Management System in compliance with the European Standards.

In the year 2008, the Customs Administration took over the activities on control of poison, waste and substances that deplete the ozone layer from the Inspection within the Ministry of Environmental Protection. Instructions for performance of above activities were also produced. It is important to point out that the Customs Administration took over the activities on preliminary radiation control of goods at border crossings from the above mentioned Inspection Service on the basis of direct application of the International Convention on Harmonization of Border Control of Goods – UN Convention, so called 1982 Geneva Convention and mutually signed agreement. We also point out that as of December 15, 2007 the fyto-sanitary and veterinary inspection services took over the activities on control of trade in endangered and protected flora and fauna species at border crossings from the ecological inspection.

In order to strengthen the cooperation between agencies for integrated border management, what is one of the short-term priorities of the European Partnership (2007), among other matters for the period 2008-2009 the Action Plan anticipates signing of the Agreement on Measures in Case of Extraordinary Hazards and drafting operational procedures for border control. In this period adoption of the Memorandum of Understanding is expected. As regards cooperation and coordination between border services it should be noted that satisfactory level of cooperation has been achieved, both on central and regional and local level. The Law on State Administration sets a general framework for cooperation between state administration bodies. The Customs Administration of the Republic of Serbia achieves significant cooperation with inspection bodies both on central and local level. A separate permanent Committee for Coordination of Activities with all Inspection Bodies was established in 2005 on central level in the Customs Administration with the purpose of increased efficiency of control on border crossings. The task of this Committee is further improvement of cooperation with the goal of coordinated and efficient implementation of the controls of inspection services in trade in goods across state border and to initiate improvement of procedures related to enforcement of regulations in the field, resolve disputed issues, establish mechanisms and dynamics for exchange of information between the Customs Administration and inspection services. Such mode of regular and active cooperation showed extremely good results, because, besides information exchange, it enables joint risk analysis, and thus joint control. Cooperation with Border Police is also raised on a higher level, precisely through the activities on implementation of the Integrated Border Management Strategy. After joint work of the representatives of the key border services on preparation of the Action Plan for Implementation of the Integrated Border Management Strategy and after its adoption by the Serbian Government, joint meetings and agreements related to planning and implementation of individual and joint activities continued. Operative meetings on central level between the representatives of customs service, Border Police and veterinary and fyto-sanitary inspection (if necessary, representatives of harbour authority), are regularly held on

monthly level with attendance of national coordinator for implementation of the Strategy. Mandatory regular monthly meetings of representatives of all border services at border crossings and reporting to the head office on achieved agreements and existing or potential problems within cooperation is introduced as of January 2007. These reports are discussed at joint monthly operative meetings and measures for improvement of cooperation, harmonization and coordination of ongoing activities at border crossings are proposed.

In compliance with the activities on implementation of the Integrated Border Management Strategy, the representatives of management of border services on the central level (customs, Border Polices, veterinary, fyto-sanitary inspections and harbour authorities), during 2007 made joint visits to certain number of border crossings. The basic goal of these visits was to communicate the basic objectives and obligations from IBM Strategy and the Action Plan, as well as rising awareness of the need for joint work, harmonization of activities and agreement on joint activities related to transport and border formalities. At the same time, this visit initiated implementation of recommendations of the World Customs Organization (Framework Standards) related to strategic management; the need that “management becomes more accessible to other part of the service through a series of visits during which their ideas would be explained and communicated directly to those they relate to”.

The grounds for legal regulation of control of crossing and securing the state border in the Republic of Serbia in the previous period are set forth in the Law on Crossing the State Border and Movement in the Border Area (Official Gazette of SFRY, 34/79).

Pursuant to that Law, the Republic of Serbia protects and controls its borders following the model that is outdated and obsolete, and it does not contribute completely to achievement of the objectives that modern border management systems need to provide.

Intensive activities of the Serbian MoI on the **reform of the state border security system**, transfer of the tasks of securing the state border from the Army of Serbia and Montenegro and **establishing integral border service in the domain of internal affairs**, commenced in January 2005 at the border with Hungary and were completed at the end of January 2007, by taking over the tasks of state border security from the Serbian Army and establishing Border Police stations for the tasks of state border security at the border with the Republic of Macedonia. In this way the **process of demilitarization of complete state border of the Republic of Serbia was successfully completed**. At the end of July 2007, competence of MoI for security of approximate state border with the Republic of Montenegro and control of state border crossing at the existing security checkpoints was established.

**Organization of Border Police** of the Ministry of the Interior was established, what was supported by the relevant international organizations, by establishing the Border Police stations which perform the tasks of state border security of the Republic of Serbia (total 42) and by establishing Border Police Regional Centres (7) during 2007. In this way *significant part of the obligations envisaged by the Integrated Border Management Strategy* in the Republic of Serbia was realized as planned, despite numerous problems which mostly resulted from deficiency of necessary material resources for equipping the newly established stations for state border security and

creation of general conditions for work of the Border Police members performing the tasks of state border security.

By transferring the tasks of state border security from the Army one of the reform objectives in the process of European Union association was achieved – demilitarisation of the state border.

In the Ministry of the Interior of the Republic of Serbia, *the Border Police Administration* has been established *as an integrated and centralized service*, hierarchically organized on central, regional and local level, and which is in charge of direct organization and performance of activities on control of crossing and securing the state border. On the central level, the Administration performs the said function through the Department for Border, Department for Foreigners, Department for Prevention of Cross-Border Criminal and Criminal-Intelligence Affairs, then through the Department for International Cooperation and Duty Operation Centre. On regional level this function is exercised through Border Police Regional Centres established for every neighbouring country. On local level, the Border Police Administration exercises its function through Border Police Stations for control of crossing and securing the state border; their work is coordinated under regional centres. Such organization of the Border Police Administration increases the possibility of prevention and fight against all forms of cross-border criminal activities, international terrorism, illegal migrations, human trafficking and other non-allowed activities and actions at the border.

The Integrated Border Management Strategy in the Republic of Serbia as a priority envisages adoption of enactments on regulation of state border security which will be complied with the models, standards and recommendations of the European Union. In connection with this the **Draft Law on State Border Protection** has been prepared and submitted to the Serbian Government for review and acceptance in the form of a proposal.

The National Assembly of the Republic of Serbia **ratified** the Convention on Police Cooperation in South Eastern Europe on July 23, 2007 (Official Gazette of RS, 70/07). The Ministry of the Interior of the Republic of Serbia in the previous period has undertaken measures and activities falling under its competencies in connection with application of this Convention. On the Fifth Annual Ministerial Conference on Cooperation on Border Security on the Western Balkans held in Budva in the period from February 21 to 23, 2008 the following documents were signed:

- Protocol between the Ministry of the Interior of the Republic of Serbia and the Ministry of Internal Affairs and Public Administration of the Republic of Montenegro on Holding Regular Meetings of representatives of Border Police authorities (**came into effect and being enforced**);
- Protocol between the Ministry of the Interior of the Republic of Serbia and the Ministry of Internal Affairs of the Republic of Macedonia on Holding Regular Meetings of representatives of Border Police authorities (**came into effect and being enforced**);

During 2007, representatives of MoI in cooperation with DCAF, **prepared drafts** of the following **implementation agreements and protocols for implementation of the Vienna Convention**:

- Agreement between the Serbian Government and the Government of the Republic of Croatia on Cross-Border Police Cooperation (**Draft interchanged and amendments agreed**)
- Agreement between the Serbian Government and the Government of the Republic of Montenegro on Border Control at Joint Border Crossings;
- Protocol between Ministry of the Interior of the Republic of Serbia and the Ministry of Internal Affairs and Public Administration of the Republic of Montenegro on Exchange of Liaison Officers,
- Protocol between MoI of the Republic of Serbia and the Ministry of Security of the Bosnia and Herzegovina on Exchange of Liaison Officers,
- Protocol between MoI of the Republic of Serbia and the Ministry of Security of the Bosnia and Herzegovina on Mixed Patrols along Common State Border,
- Protocol between MoI of the Republic of Serbia and Ministry of Internal Affairs of the Republic of Croatia on Border Control at Joint Border Crossings;
- Protocol between MoI of the Republic of Serbia and Ministry of Internal Affairs of the Republic of Croatia on Opening of and Cooperation in the Joint Centre;
- Protocol between MoI of the Republic of Serbia and Ministry of Internal Affairs of the Republic of Croatia on Holding Regular Meetings of Border Services;
- Protocol between MoI of the Republic of Serbia and Ministry of Internal Affairs of the Republic of Croatia on Mixed Patrols along Common State Border;
- Protocol between MoI of the Republic of Serbia and Ministry of Internal Affairs of the Republic of Croatia on Exchange of Liaison Officers.

In its further development the Border Police Administration is planning to:

- Strengthen capacities of the Border Police along with development of capacities of other border services, and restructuring of Border Police in accordance with the real needs, along with observance of transparency and liability principles.
- Continue with of initiated activities related to development of the training system for Border Police members within the training system for police officers in the Ministry, with adjustment of the teaching plan and programs for Border Police specialization trainings to modern tendencies and trends;
- Continue with the development of good-quality personnel for conducting the training, along with maintenance of good cooperation with relevant international organizations;
- Develop and implement the plans of purchasing the up-to-date equipment for control of crossing and securing the state border in accordance with the real needs and capacities, along with follow-up and implementation of best practice examples of the border services of the EU member countries.
- Harmonize organisational structure of the Border Police with the organisation of departments of the countries in the region and EU;
- Proceed with the development of information system for the needs of the Border Police;

- Proceed with the development of functional facilities and infrastructure at border crossings in order to facilitate faster flow of people and goods, along with upgrading the level of quality control;
- Produce project documentation and participate in the competitions for international support within European funds and programs for innovation and purchase of up-to-date equipment for performance of control of crossing and securing the state border
- Improve infrastructure of the detention centre for illegal immigrants, along with improvement of technical equipping level.

As regards the Customs Administration, within modernization of the customs infrastructure, up to now BC Horgoš and Batrovci, which are located on Corridor X, have been reconstructed. Construction of BC Prešovo is in progress, which is one of the four most important crossings and it is also located on Corridor X, as well as construction of 8 secondary border crossings (BCs) (BC Sremska Rača, BC Badinovci, BC Trbušnica, BC Bajna Bašta, CP Mehov Krš, CP Gostun, CP Jabuka and BC Prohor Pčinjski).

Within the joint project of the International Atomic Energy Agency and the European Commission, in the year 2007 the first portable radioactivity monitor was installed (BC Gradina) and hand-held radiation detection equipment was acquired. Hand-held equipment was also obtained earlier within the Import Control and Border Security Project and purchased by use of budget funds.

The equipment at disposal of the Sector for Control of Application Customs Regulations within the Customs Administration (off-road vehicles, vehicles, computers, busters, fibre optics, narcotic detection sets...) was procured by use of budget funds and foreign aid programs. The Customs Administration has submitted proposal for the project applying for allocation of IPA 2008 funds, which has not been approved yet. The Project entitled "Strengthening Capacities of the Sector for Control of Application of Customs Regulations of the Customs Administration in Accordance with Best Practices of the EU", which anticipates further strengthening by way of training the employees of the Sector for Control of Application Customs Regulations, and acquisition of equipment.

The Customs Administration Information Centre (ISCS) was established in 1995 and it provides information support to business processes of customs service. Information system interconnects all Customs Administration organizational units, and in the entire service Intranet and Internet network is introduced. The existing network enables use of modern WEB services, E-mail, IP phone and connections with the networks of other public administration organs, as well as with foreign customs administrations. Customs outposts are equipped with PC computers.

Considering the fact that preparation of the new reorganization plan for all border services as regards their personnel is expected by the end of 2009, its realization will commence in the period from 2010 to 2011, as regards manpower staffing, and special focus will be on the matters related to training and professional education (draft teaching program planned by the end of 2009). In the Centre of Professional Training of the Customs Administration from January 2007, the implementation coordinators of the Customs Administration have regularly optionally introduced the concept of

Integrated Border Management and activities on implementation of the Strategy to the attendees at professional customs exam.

- **Establish training programs and adopt ethical codes on anti-corruption, targeting the border guards, customs and other officials involved in border management**

As already mentioned, there is training for adoption of police ethics within the teaching plan and programs of the basic police training and within the Program of Professional Advance Training of the Serbian MoI officers, but with small number of lessons.

MoI – Administration for Professional Education, Qualification, Advance Training and Science, during 2008 and 2009 is planning to organize and implement the courses for managers in cooperation with the OSCE Mission and DCAF. Their teaching plan and programs will include the subjects of police ethics and ethical code on anti-corruption.

Furthermore, the Administration for Professional Education, Qualification, Advance Training and Science is planning to organize and implement a special course for adoption of ethical code on anti-corruption. The attendees of this course will be police officers from two structures: 1) administrative officers that deal with visas and travel documents; 2) operative officials involved in border security, control and management. Future teaching plan and programs for this course provisionally will include the following topics and number of lessons (see table below):

**Table 1: Topics for the Course for Adoption of Ethical Code on Anti-Corruption**

No	TOPIC NAME	No of lessons
1.	Notion and types of corruption	1
2.	Causes and consequences of corruption and application of anti-corruption regulations on national and international plan	2
3.	Legal regulations and criminal acts stipulated by the Criminal Code of the Republic of Serbia relating to corruption	2
4.	Prevention and education of police officers with the purpose to eliminate corruption as a social problem	2
5.	Application of special investigation measures to prove criminal act from this area	2
6.	Corruption connections of organized criminal groups and organizations	1
7.	Case study (experiences in struggle against corruption of Border Police and the Serbian MoI)	4
<b>Lessons total:</b>		<b>14</b>

As already mentioned, the text of new Code of Conduct for Customs officers is prepared. The employees of the Internal Control Department participated in its drafting, pursuant to the Strategy to Combat Corruption which was adopted in 2005

on the level of Customs Administration and it represents a part of the Serbian National Strategy to Combat Corruption. The starting base for adoption of the Code is the Arusha Declaration (Declaration of the World's Customs Organization concerning Good Governance and Integrity in Customs), Integrity Development Guide and Model Code of Ethics and Conduct of the World Customs Organization.

The advisor for human resources management in CAFAO (Customs and Fiscal Assistance Office) in Novi Sad and Belgrade organized the seminar entitled the Code of Conduct for Customs officers for 50 customs officers – managers from different customs houses in November 2007.

Lectures on the subject of integrated border management are introduced into the regular training program for professional education of customs officers. Certain number of lessons is aimed to familiarize the employees with the notion of internal control and results of operation of the Internal Control Department of the Customs Administration achieved in the fight against corruption.

The Customs Administration, and the Internal Control Department within it, has no specially trained and equipped organizational unit exclusively dealing with fight against corruption, but these issues are addressed within regular activities of the Department.

Within the Action Plan, resources for establishing, training and equipping of special-purpose organizational unit should be anticipated which will deal with the fight against corruption, what implies high-quality and trained personnel, special-purpose equipment, information exchange with other state agencies and implementation of joint actions.

When criminal acts of corruption are discovered, the Customs Administration, within its current competencies, initiates the disciplinary procedures against its employees, and information on criminal act is referred to the Ministry of the Interior for further procedure. Further cooperation between the Customs Administration and MoI depends on the case itself.

<ul style="list-style-type: none"><li>• <b>Conclude a working arrangement with FRONTEX</b></li></ul>
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The Ministry of the Interior initiated establishment of direct cooperation with the FRONTEX Agency, whose basic task is to coordinate the operational cooperation on the level of the European Union, with the goal to strengthen the external borders of the European Union.

As a result of our initiative, in the period May 12-14, 2008 the FRONTEX delegation visited the Ministry of the Interior. It was agreed that in the forthcoming period a draft document/agreement is prepared which would regulate mutual cooperation between MoI and FRONTEX. The draft of this agreement was submitted to us by FRONTEX on May 20, 2008 and is currently in procedure.

The final signing of the Working Arrangement between FRONTEX and the Serbian MoI should follow after the meeting of FRONTEX Management Board convened for mid September this year.

## CARRIER'S RESPONSIBILITY

- **Provide detailed description of undertaken and planned activities regarding adoption and implementation of legal regulations on carrier's responsibilities, with definition of sanctions**

Article 22 of the Draft Law on Foreigners, adoption of which in the National Assembly is expected by the end of the current year, regulates the question of carrier's responsibility. Namely, the carrier may bring a foreigner to the border crossing only if such foreigner holds valid travel document (and visa, if required). If a foreigner has no valid travel document (or the visa required), the carrier must, without delay and at its own cost, drive the foreigner away. If such transport can not be immediately effected the carrier will bear the costs of the foreigner's stay and his forceful escorting. The same applies to the carrier which brings a foreigner to the international transit zone of an airport, if another carrier refused to transport the foreigner into the country of destination or if entrance to the country of destination is prohibited to such foreigner. Organizer of tourist or business trip must compensate the costs of stay and forceful escorting of the foreigner (in the manner described in previous two sentences) if such costs can not be collected from the foreigner himself, and if his illegal stay in Serbia resulted from the fault of the trip organizer.

As regards the sanctions, Article 81 of the above mentioned Draft Law prescribes the pecuniary penalty in the amount of CSD 100,000 to 500,000 for legal entity and/or entrepreneur which brings or refuses to drive away a foreigner in the territory of Serbia, contrary to the provisions of Article 22 of the Draft Law on Foreigners. The same article prescribes the penalty in the same amount for the legal entity and/or entrepreneur – tourist or business trip organizer, due to whose fault such illegal stay of the foreigner in the territory of Serbia occurred. A penalty for the responsible person in the legal entity in the amount of CSD 10,000 to 50,000 is prescribed for above mentioned violations.

## ASYLUM POLICY

- **Adopt and implement legal regulations on asylum in line with international standards (1951 Geneva Convention with New York Protocol) and the EU legal framework and standards**

- **Provide adequate infrastructure and strengthen responsible bodies, in particular in the area of asylum procedures and reception of asylum seekers**

With a view to harmonizing legal regulations with the regulations of the European Union, the Law on Asylum was adopted in November 2007 (Official Gazette of RS, 109/07), which entered into force on April 1, 2008.



The Law on Asylum is harmonized with the UN Convention on Status of Refugees from 1951, the Protocol on the Status of Refugees from 1967, the Universal Declaration of Human Rights from 1948, the European Convention on Protection of the Human Rights and Fundamental Freedoms from 1950, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment and Punishment from 1984 and the UN Convention on the Rights of the Child from 1989.

The Law on Asylum 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 persons to whom the right to asylum is recognized in the Republic of Serbia.

In the first instance, the Asylum Office, as the competent organizational unit of the Ministry of the Interior, takes decisions on the submitted requests for asylum and on the type of granted protection.

To the decisions taken by the Office it is possible to lodge a complaint to the Asylum Commission, which is under the Law established as an independent, second instance body in the procedure of establishing the right to asylum. In this way the principle of two-instance system is observed (and by that fact, objectivity in decision making), as one of the fundamental postulates of our legal system.

The asylum procedure provides for court protection of the asylum seeker, in the form of possibility to initiate administrative dispute before the Supreme Court of Serbia, in which way the principle of court control over operation of the public administration organs is also realized.

By the Resolution of the Serbian Government no. 119-1643/2008 dated April 17, 2008 which was published in the Official Gazette of RS, 42/08 dated April 20, 2008, the members of the Asylum Commission were appointed. At the Commission session held on August 11, 2008 the Committee members unanimously adopted the Rulebook on Asylum Commission Operation, and thus this Commission commenced its official work. The Asylum Office has not been officially established yet, but its work is very successfully carried out by the Asylum Section, which has been systematized in the Border Police Administration, by whose reorganization and re-systematization the Asylum Office will be established.

To enable implementation of this Law, the Serbian MoI enacted the Rulebook on the Contents and Appearance of the Asylum Application and Documents which may be Issued to Asylum Seekers and Persons to whom Asylum of Temporary Protection have been Granted, while the Rulebook on the Manner of Recording and Registering the Persons Seeking Asylum and the Manner of Keeping and Contents of the Records Maintained under the Law on Asylum is under preparation. In addition, the proposal the list of safe countries of origin and safe third countries is prepared, which should be adopted by the Government.

On the basis of this Law, accommodation and basic living conditions are provided to the asylum seeker in the Asylum Centre, which operates within the Commissariat for Refugees, as a separate organizational unit. In addition to accommodation, the Asylum Centre provides to the asylum seekers also the basic living conditions:

clothes, food, financial aid and other conditions in accordance with the special regulations and principles of asylum procedure.

Operation of the Asylum Centre is managed by the public officer, managing the Commissariat. That person passes the regulations on conditions of accommodation, house rules, and provision of the basic living conditions in the Centre, as well as the internal organization and job classification.

Health care, right to free elementary and high school education and right to social assistance are provided to the persons asking for asylum, refugees and the persons given subsidiary protection.

Persons with recognized right to asylum or subsidiary protection are provided with accommodation up to one year from the final decision on recognition of their status.

Within the asylum procedure care will be taken about specific situation of the persons with special needs seeking the asylum. Categories of the persons with special needs include: minors, persons deprived of full or partial capability to work, children separated from parents or guardians, persons with disabilities, elders, pregnant women, single parents with underage children and persons who have been exposed to torture, rape or other major forms of psychological, physical or sexual violence.

In accordance with the Law on Asylum and the obligations arising from it and relating to the Commissariat for Refugees, adequate activities have been initiated in order to establish the Asylum Centre. The time limit for establishment and commencement of work of the Asylum Centre was April 1, 2008. In connection with this the Commissioner has enacted the following:

- Rulebook on House Rules in the Asylum Centre
- Rulebook on Manner of Keeping and the Contents of the Records on Persons Accommodated in the Asylum Centre
- Rulebook on Accommodation Conditions and Provision of the Basic Living Conditions in the Asylum Centre

These Rulebooks were published in the Official Gazette no. 31 dated March 28, 2008.

Under above mentioned Rulebooks, accommodation of the asylum seekers is provided with observance of the principles of non-discrimination, family unity, gender equality and care for persons with special needs.

With the purpose of further implementation of this Law, the Commissariat has prepared the following:

- Proposal of the Decision on Establishment of the Asylum Centre and Provision of the Funds for Operation of the Asylum Centre in the Budget of the Republic of Serbia
- Proposal of the Rulebook on Amendments of the Rulebook on the Internal Regulation and Job Systematization in the Commissariat, which envisages jobs in the Asylum Centre

Above proposals have been submitted to the competent ministries for review. The Ministry of Public Administration and Local Self-Government and the Human Resources Management Service gave positive opinion about these proposals. The Ministry of Finance is of the view that these proposals should be reviewed during enacting the Law on Amendments of the Budget Law of the Republic of Serbia for the year 2008. In order to fulfil its statutory obligations, the Commissariat sent repeated letter to the Minister of Finance.

Although above mentioned documents which regulate operation of the Asylum Centre have not been adopted yet, the preconditions for its functioning have been provided by signing and implementing the Memorandum of Understanding between the Serbian Government and the UNHCR. Based on this Memorandum, the facility at Banja Koviljača was renovated in 2006, which will function as the Asylum Centre (accommodation and basic living conditions for asylum seekers). Currently the Asylum Centre is temporarily financed by the UNHCR.

Organizational, material and personnel preconditions for commencement of permanent functioning of the Asylum Centre in accordance with the Law will be met by adoption of above mentioned proposals.

Based on Article 41 and Article 67, item 3) of the Law on Asylum (Official Gazette of RS, 109/07) and Article 17, item 4 and Article 24 of the Law on Government (Official Gazette of RS, 55/05, 71/05 – corrigendum and 101/07), the Minister of Labour and Social Policy on April 16, 2008 enacted the Rulebook on Social Welfare for Persons Seeking Asylum and/or to whom Asylum has been Granted. The social welfare is provided in the form of monthly financial support.

## MIGRATION MANAGEMENT

**• Set up and start to apply a mechanism for the monitoring of migration flows, defining a regularly updated migration profile for Serbia, with the data both on illegal and legal migration, and establishing bodies responsible for collection and analysis of data on migration stocks and flows**

**• Adopt and implement the Law on Reception and Stay of Third Country Nationals, which defines the rights and obligations persons concerned (including family members of third country nationals)**

**• Ensure effective expulsion of illegally residing third country nationals from the territory**

Starting from the fact that migrations represent a global phenomenon whose impacts and consequences go beyond national frameworks, the Republic of Serbia is committed in this segment to be a **part of the European policy and strategy of migration flows management**. Such an approach to migration issues represents also the basis for participation of the Republic of Serbia in all initiatives related to migration movements in the region of the South Eastern Europe. This is manifested

both through **formulation of new legal solutions** and **cooperation** with all relevant international organizations involved in migration issues, and through bilateral cooperation with other countries.

**In order to combat illegal migrations**, the Republic of Serbia, as all other countries, protects its border by laws and other measures against illegal entrances and exits of all persons, by imposing conditions for entrance of foreign citizens into the country and carrying out control at border crossings.

In 2003 our country took decision on unilateral visa abolition for about 40 European and non-European countries, including the EU member countries. At the same time stricter conditions for issuance of visas and tourist passes at border crossings were imposed, visa regime was introduced for one number of Afro/Asian countries; stricter procedures were imposed for issuance of visas to nationals of **migration risk countries** and from countries from which human trafficking victims originate.

The **Draft Law on Foreigners** has been prepared and submitted to the Serbian Government for review and acceptance in the form of a proposal.

The above-mentioned Law defines requirements for entrance and stay of foreigners in the country, possibility of registering residence of foreigners through Internet, the existing types of visas have been abolished and new ones introduced (A – airport transit visa, B – transit visa, C – short stay visa and D – long stay visa).

Tourist pass has been abolished and border permit has been introduced, which is issued under strictly regulated conditions and within the procedure stipulated by the Law. Temporary residence has been introduced for the victims in human trafficking, which was previously regulated by the by-laws. Material liability of physical person – guarantee grantor and legal person – company and/or carrier has been regulated for the cases of illegal stay of foreigners and/or foreigners not fulfilling requirements for entrance into the territory of the Republic of Serbia.

In the forthcoming period it is necessary to:

1. establish operational body of the Serbian Government for migration management, in which the Serbian MoI would have an important role, time limit by the end of 2008;
2. prepare and adopt the Migration Management Strategy by November 2008;
3. update the Migration Profile of Serbia on the level of permanent operation body of the Serbian Government, where the Serbian MoI has an important role, and which can be posted on the Web site.

By analysing day-to-day activities of the Serbian MoI police officers on combating the human smuggling into the European Union states, across and from the territory of the Republic of Serbia, it was observed that there is a need to initiate changes in Article 350 of the Criminal Code of the Republic of Serbia – “Illegal Crossing of State Border and Human Trafficking“. The requested changes are complied with the international standards for regulation of this area and they are in the spirit of the Directive of the Council of Europe 2002/90/ES dated November 28, 2002 which defines aid to illicit entry, transit and residence (OJ L328/17, 05.12.2002.)

To work permanently on education of Border Police members, related to the modes of counterfeiting travel documents, visa and other documents and ways of discovering such counterfeiting, in order to develop the system of early warning which was established at border crossings during the first six months in 2008. To this end it is necessary to organize education on risk analysis on three levels, preparation of situation reports and SWOT analysis adjusted to the border activities.

To organize education of employees for the work on programs for criminal intelligence data processing and conducting analysis in cooperation with the employees of the Crime Investigation Police Department (I2 Notebook analyst and ANAKAPA method). To include into the project of the United Nation Office on Drugs and Crime in Serbia.

Within continuation of already established international cooperation of the Border Police Administration, multilateral activities are anticipated for the forthcoming period within the most significant international organizations EU/CE/UC (European Union /Council of Europe /European Commission) those having their missions in the Republic of Serbia: Delegation of the European Commission in Belgrade and EAR (European Agency for Reconstruction), OSCE (Organization for Security and Cooperation in Europe), SP (Stability Pact), and the organizations active in the region: SECI CENTER (Southeast European Cooperative Initiative), MARRI (Migration, Asylum, Refugees Regional Initiative), DCAF (Geneva Centre for the Diplomatic Control of Armed Forces), IOM (International Organization for Migrations), ICMPD (International Centre for Migration Policy Development), UNHCR (United Nations High Commissioner for Refugees), Hans Zeidel Foundation, UNDDC (United Nation Office on Drugs and Crime) and realization of support to the Border Police - CARDS 2006/2007, IPA projects, TWINNING Project in the area of IBM, etc.

<ul style="list-style-type: none"><li>• <b>Adopt and implement the National Strategy for Reintegration of Returnees, including sustainable financial and social support</b></li></ul>
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Considering the commitments undertaken by signing the Readmission Agreement and a series of activities that should be carried out until the first wave of returnees, the interministerial **Council for Integration of Returnees under the Readmission Agreement was formed on November 22, 2007 by the Resolution of the Government of the Republic of Serbia No. 02-7748/2007 (Official Gazette of RS 107/07)**, and it consists of the representatives of all responsible line ministries and offices. It is also foreseen to establish an Interministerial Team for reception, provision and integration of returnees.

Tasks of the Council are to:

- 1) consider and propose measures and activities for realisation of reception, provision and integration of returnees;

- 2) provide support in establishing and realising the measures at the level of local self-government for assistance to returnees, in accordance with possibilities and needs of local community;
- 3) propose establishing a framework for a dialogue between states on issues with respect to protection and realisation of the migrants' rights and problems of illegal migrants, so as to strengthen the regional cooperation of significance for returnees;
- 4) monitor the implementation of established measures and make proposals and give opinions about other issues within the competence of the Government, aimed at conducting complete and coherent policy;

It has been foreseen that the representatives of all line state bodies and organisations, as well as experts in different fields, who can contribute to the Council's work by giving expert opinion with regard to particular issues, may participate. In the course of work, the Council may also form permanent and intermittent task forces.

New Government should appoint new members of the Council.

Wishing that the activities in reintegration of returnees under the Readmission Agreement are performed systematically and in organised manner, the Ministry of Labour and Social Policy **has formed interdepartmental Task Force for preparing Draft Strategy for the Reintegration of Returnees under the Readmission Agreement and Action Plan for reception, provision and integration of the returnees under the Readmission Agreement**, which Task Force has proceeded with the work on preparing the Draft Strategy commenced in 2005 in the Ministry of Human and Minority Rights.

Text of the Draft Strategy has been referred to the line ministries for their opinion and the adoption thereof by the Government by the end of 2008.

### **Reintegration of returnees based on Readmission Agreement**

Having examined the signed Readmission Agreements, a necessity for urgent drafting of the measures which are to be implemented for reception, admittance and reintegration of this population category after their return has been recognised, as follows:

- **possibility of obtaining basic documents for persons without documents (returnees and members of their families)** in collaboration with the MoI (regulation of the citizenship and registration of permanent and temporary residence), the Ministry of Public Administration and Local Self-government and the Ministry of Justice (competent for the first and subsequent entry into registers of births), the Ministry of Health (regulation of health protection)
- **solving the issues of temporary accommodation and providing other social protection services** – first accommodation of the housing and financially imperilled families and more permanent provision of children and the aged without family care and health and financially imperilled persons
- **one-off aid to persons who have no means of livelihood**
- **assistance in solving the housing question of able-bodied families**

- **creating employment possibilities** in collaboration with the Ministry of Economy and Regional Development – Sector for Employment and the National Employment Service
- **enabling the access to other rights** in social, family, legal and child protection domain, as well as other rights of significance for social security of citizens
- **providing support in defining, planning and realising the measures at local self-government level** for assistance to returnees in accordance with possibilities and needs of local community.

For a sustainable and permanent return of persons we also consider that, as a preliminary issue, it is necessary to intensify collaboration between the states of arrival and the state of reception, first of all in order to reach agreement with regard to respect of the basic human rights of returnees in the process of their return to the country, preliminary preparations of such persons for their return, delivery of complete reports by a relevant service of the country from which person arrives (health, economic, family, educational...) etc.

### **Activities planned for the year 2009**

#### **1. Sustainable integration of returnees with respect of social and cultural aspect of the integration**

A sustainable integration means providing the conditions for reception, provision and reintegration of returnees under concluded Readmission Agreements, who, due to long-standing absence from the country, will face major problems in social integration.

The activities are aimed at **training the returnees for independent and equal life** through providing the support for housing and employment (self-employment), through active involvement of returnees in the process of elaboration of activities and measures, as well as their implementation.

**2. Developing the network of support services in local community and region, in accordance with the needs of returnees**, contributes to strengthening of their resources for satisfying the social protective needs of citizens and supports decentralisation processes

#### **3. Prevention of new poverty and secondary migration.**

##### **Involving the business capable returnees into labour sphere**

Include easier employable returnees into labour sphere through informing on possibilities of employment, self-employment, conditions for starting up own business, access to start-up funds, funds for potential farmers, existing tax allowances, as well as through general training and training in specific knowledge and skills by the National Employment Service.

### **Activites results:**

<b>1.</b>	<b>Database has been established</b>
<b>2.</b>	<b>Provided temporary accommodation ( reception centres, reception points) for 1200 returnees at annual level</b>
<b>3.</b>	<b>Decision-makers, professionals, public and beneficiaries have been informed on possibilities of enforcing the rights and all other issues in connection with successful integration of returnees to a local community informed.</b>

4.	<b>Education of professionals in the system of social protection and other public services on readmission process – on necessary measures and activities which shall be implemented within the framework of three regional gatherings have been realised.</b>
5.	<b>Local self-government has been informed on necessary measures and made sensitive to problems and their solving in the process of social integration of returnees</b>
6.	<b>Informative campaign for stimulating the employers to employ returnees with support and involvement of local self-government and in partnership with the Chamber of Commerce of Serbia has been realised</b>
7.	<b>Funds for providing urgent one-off financial aid to financially unsecured returnees have been provided</b>
8.	<b>Network of associates for support to integration of returnees has been formed</b>

### Activities plan in the forthcoming period

#### INSTITUTIONAL LEVEL

	Document	Legal ground	Reasoning	Harmonisation	Deadline
1.	Through amending job classification of the Ministry of Labour and Social Policy it is planned to form smaller organisation unit for issues of the integration of returnees under readmission agreement and refugees and internally displaced persons		For coordination of activities and efficient implementation of the commitments undertaken under international agreements it is necessary to form special organisational units which would deal with these problems	The Strategy and Action Plan for the Reintegration of Returnees under the Readmission Agreement	2008

#### OPERATIONAL LEVEL

	Project	Harmonisation	<i>Deadline</i>	Financing source	Expected results
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1.	Decision on forming the Republic Team for Implementation of the Strategy for the Reintegration of Returnees under the Readmission Agreement	The Strategy and Action Plan for the Reintegration of Returnees under the Readmission Agreement	2009	<b>Budget</b>	Coordination of implementation activities and efficient implementation of the commitments undertaken under international agreements
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In 2006, the **Readmission Office** of the Ministry of Human and Minority Rights commenced its work at the Airport “Nikola Tesla”. Having office-hours from 10 a.m. to 10 p.m., the employees meet forced returnees who are returning and provide basic counselling. “Information Bulletin for Returnees in the process of Readmission”, published in the Serbian, Roma, Dutch, German and English Language is distributed to Returnees. The Information Bulletin contains basic information and contacts useful for returnees and is distributed by the Readmission Office at the Airport „Nikola Tesla“ and other important points (centres for social work, schools, NGOs, Diplomatic Consular Missions of our country abroad, etc.).

As per its basic purpose, role and function, the *Readmission Office* ensures identification of deported persons and those voluntary returned, information on the process of reintegration in Serbia to the deported persons and to those voluntary returned, identification of basic problems of persons after readmission, basic legal assistance and advice in domain of regulation of personal status, social and health protection, employment and schooling, gathering data on human and minority rights condition of people after readmission, gathering other relevant data of significance for the process of reintegration of returnees and informing the Ministry of Human and Minority Rights on the condition and problems of persons – returnees.

A *Centre for Integration of Returnees* has also been founded, which has undertaken a series of activities, among which there is to stress the gathering and coordination of representatives of all line ministries and non-governmental organisations with the objective of identifying “sustainable integration mechanisms”, and also a development of the *Manual for Acting Inside Returnees Integration* which has been published in the Serbian, English, Hungarian and Albanian languages.

In progress is implementation of the project “**Awareness Raising among Local State Institutions and Concerned Individuals/Returnees to Deal with Returnee Issues**” which is financed by Dutch Government and implemented by the Ministry of Human and Minority Rights together with UN Development Program, as an implementation partner.

General objective of the project is ensuring better integration of returnees to the Republic of Serbia through activities of raising awareness at central and local levels. Activities of raising the awareness concern the following domains where the access to rights may be troublesome for returnees: issuing personal documents, social protection, health protection and education/language.

The objective of the project is also establishment of partnership and collaboration among the employees in the mentioned domains, which should ensure joint access to solving the problems of returnees. Employees of state institutions and bodies, as well as of local self-government are expected to acquire relevant knowledge and skills helpful in solving problems returnees are facing. In line with set aims, training in 10 municipalities/cities in Serbia was held: Belgrade, Novi Sad, Zrenjanin, Kragujevac, Zaječar, Niš, Novi Pazar and Vranje.

The training is based on a set of practical measures based on the existing legislation framework, which may ensure returnees to have easier access to the rights (so-called “sustainable integration mechanisms”), i.e. to make them equal to Serbian citizens, and to support their integration to society. These mechanisms are described in the “*Manual for Reintegration of Returnees after Readmission*” intended for employees of state institutions and local self-governments.

231 persons attended the training from the following bodies/institutions: police administration, National Employment Service, registry services with municipalities, Public Health Institution, health centres, emergency ambulance services, centres for social work, school administrations and school and pre-school institutions, republic, province and local authorities.

The activity whose aim is to teach Serbian language and to integrate returnee children to schools in 15 municipalities with the largest number of returnee children is in the course of implementation, considering that the problem of lack of knowledge or insufficient knowledge of the Serbian language, i.e. the teaching language in schools, is alarming and has been recognised as priority in integration of returnee children to education system.

- **Define and apply methodologies aiming at detecting and taking measures in the inner territory of the country so as to improve capacities for investigating cases of organised, supported and illegal migration**

For the purpose of establishing appropriate administrative structures/work methodologies in detecting and investigating cases of illegal migrations, including collaboration among line bodies, it is necessary to pass a by-law – Instruction on Acting with Smuggled Persons.

### **BLOCK 3: PUBLIC ORDER AND SECURITY**

#### **1. PREVENTING AND FIGHTING ORGANISED CRIME, TERRORISM AND CORRUPTION**

Following the efforts of the Serbian state to ensure building of stable institutions and implement radical reforms of the economic and industrial sectors, the Ministry of Interior has in its programme documents marked the **fight against organised crime and corruption**, which is faced also by much more developed countries of Europe and

the world, as **one of the most important strategic tasks**, whose implementation has continuously been worked upon. A high degree of danger, particularly in the light of the current transition processes in our country, as well as the desire to meet all the standards in order to speed up the accession to the European integration flows, represent the basic reasons because of which the fight against organised crime and corruption is among the top strategic commitments of this Ministry.

When it comes to terrorism as one of the most serious forms of endangering security, our country strongly supports all the decisions of the international organisations adopted so-far and the measures undertaken in combating terrorism and it is ready to fully engage along with other members of the international community in all forms of the fight against international terrorism. Within the scope of the obligations which our country, as a UN member, has undertaken with regards to the implementation of the international documents dealing with the issue of global terrorism, the competent state bodies, security services and the Ministry of Interior of the Republic of Serbia, in line with their authorities, are taking a number of measures and activities aimed at disclosing all forms of terrorism and the prevention of using the territory of our country for the preparation and execution of terrorist activities. In this way, the support is given to all the international efforts aimed at uprooting terrorism in line with the United Nations Charter<sup>1/</sup>. Beside the intensive measures intended for the prevention and the timely detection of international forms of terrorism that would take place on the territory of the Republic of Serbia, the Ministry of Interior has been taking measures related to the detection of the **interior forms of terrorism** faced by our country for a long time now. This primarily concerns the attempts of transferring terrorist actions of the Albanian extremists and their terrorist organisations from the region of the Autonomous Province of Kosovo and Metohija to the area of Southern Serbia. The Serbian police has been successfully preventing such attempts. In addition, at the beginning of last year, a new form of terrorist activities on the territory of the Republic of Serbia has been discovered, more precisely, the preparation of terrorist activities of the Vahabia in Raska district. In order to have full disclosing of this activity, large-scale activities have been undertaken which led to the arrest of a group of the Vahabia that had been trained for the execution of terrorist actions, and on that occasion a large quantity of fire arms, hand grenades, plastic explosives, ammunitions, anti-infantry and other mines, and military equipment were discovered.

Within the scope of the overall attempts for the police to combat all risks of terrorism on its territory in a more organised and efficient way, the necessary organisational changes have been made at the Ministry. A special Department for Monitoring and Researching the Occurrence of Terrorism, which directly deals with the criminal aspect of the fight against terrorism and the collection of material evidence for the needs of conducting criminal proceedings. Also, with the same goal, an Anti-Terrorist Unit has been separated from the Gendarmerie as an independent organisational form

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<sup>1/</sup> In line with the Security Council resolutions 1368, 1373, 1390 and 1455, and the UN General Assembly Resolution 56/1, a number of measures have been taken in the past period at the national level, including the ratification of 12 international anti-terrorist conventions. The Convention on the Marking of Plastic Explosives for the Purpose of Detection was ratified in October 2005. Along with submitting the report to the UN Security Council on the implementation of the said resolutions, our country cooperates directly with the regional and international institutions and structures of the EU, OSCE and the Council of Europe, whose Parliamentary Assembly has adopted the Resolution on the Confirmation of the Principles of the Unacceptability of Terrorism.

within the Police Directorate and it gave a significant contribution in all of the activities of arresting the Vahabia.

The Law on Organisation and Competences of State Bodies in Countering Organised Crime (“The Official Gazette of the Republic of Serbia,” number 42/02, 27/03, 39/03, 67/03, 29/04, 58/04, 45/05, 61/05) governs the education, organisation, competence and authorities of special organisational units of the state bodies with the aim to detect and criminally prosecute offenders who commit criminal acts with elements of “organised crime.”

This Law stipulates the setting up of specialised state bodies for combating organised crime, as follows:

- Special Prosecution Office – a separate department for countering organised crime at the District Public Prosecution in Belgrade;
- At the Ministry of Interior – Criminal Police Administration, the Division for Combating Organised Crime has been set up;
- The proceeding in the criminal act cases in the area of organised crime falls under the competence of the District Court in Belgrade, as the first-instance court (Special Department), while the Appeal Court in Belgrade (Special Department) is the second-instance body.
- At the District Prison in Belgrade, there is a special detention unit being created for serving the detention established in a criminal proceeding for criminal acts of organised crime (Special Detention Unit).

Within the Division for Combating Organised Crime of the Ministry of Interior, the following organisational units have been created:

- Department for Combating Organised Financial Crime, within which there are three sectors:
  - Sector for countering money laundering
  - Sector for countering counterfeiting of money and other means of payment
  - Sector for countering corruption
- Department for Combating Organised General Crime, with the following units:
  - Sector for countering human trafficking and smuggling of people.
  - Sector for countering kidnappings, extortions and blackmails with elements of organised crime
  - Sector for countering smuggling of arms and hazardous materials
  - Sector for countering international smuggling of motor vehicles
  - Sector for countering smuggling cultural properties
- Department for countering smuggling of drugs:
  - Sector for countering smuggling of cocaine, heroine, marihuana and cannabis
  - Sector for countering smuggling of synthetic drugs and misuses with precursors
  - Sector for coordination tasks, exchange of information and operational work

- Department for Combating High-Tech Crime
  - Sector for countering electronic crime
  - Sector for countering crime in the area of intellectual property
- Department for operational telecommunications, permanent duties and security:
  - Sector for operational telecommunications and crypto protection
  - Sector for permanent duties and securing of facilities.

• **The implementation of the Strategy to fight organised crime (concretely with cross-border aspects) through the adoption and implementation of the Action Plan which includes the timeframe and sufficient human and financial resources**

The Strategy to Fight Organised Crime is currently in the preparation phase together with the OSCE Mission in Belgrade. That document is divided into three parts:

1. Strategy of the Government of the Republic of Serbia
2. Strategy of the Ministry of Interior
3. Internal strategy of the SFOK adopted and approved by the Minister.

The contribution of the competent state institutions that have taken part in its preparation have been collected (Tax administration – Ministry of Finance, Administration for the prevention of money laundering – Ministry of Finance, Security Information Agency, Military Security Agency, Institute for Intellectual Property, Customs Administration – Ministry of Finance, Ministry of Culture).

The Ministry of Justice, in cooperation with the OSCE and the experts engaged by the OSCE, has prepared the part of the Strategy that relates to the competences of the Ministry of Justice and the judicial bodies, which will be submitted upon the final preparation for the compilation. With this, the precondition for further activities related to the preparation of the Strategy has been met and thus the activities will intensify in the forthcoming period.

The statistics of the Division for Combating Organised Crime shows that 43 criminal groups of different level and degree of organisation were discovered during the period from 2006 to June 2008. A total of 123 criminal complaints have been filed against 742 individuals. Among the disclosed criminal groups, the highest number is from the field of organised financial crime, then from the field of organised general crime (18) and from the field of drug trafficking and smuggling (5).

On the basis of the statistical data of the competent court for the processing of this kind of criminal acts, 357 individuals were processed during the period from 2004 to 30th June, 2008. For 332 individuals condemnatory judgement was issued, 329 individuals were adjudged to jail, there was one probation judgement, 8 acquittals, 17 nonsuits and proceeds were confiscated from 106 individuals.

The type of criminal acts that were processed by disclosing individuals associated into groups for criminal acting are: homicide; aggravated murder; kidnapping; coercion; grand larceny; robbery; fraud; extortion; money counterfeiting; manufacturing,

acquisition, and giving to others tools for counterfeiting; unauthorised production, keeping and putting into circulation of narcotic drugs; causing general hazard; assassination of the highest state representative; criminal association; illegal keeping of guns; illegal crossing of borders and smuggling people; counterfeiting documents; abuse of official position; receiving bribe; giving bribe and human trafficking.

### **Plan of further activities of the MI – CPA - DCOC:**

In line with the available personnel and technical potentials, continuous and planned activities will be undertaken aimed at identifying and monitoring the activities of organised criminal groups in the Republic of Serbia. Within the scope of these activities, all available measures will be taken in cooperation with the other organisational units of the MI of the Republic of Serbia aimed at disclosing and proving criminal actions of organised groups and their organisers.

In order to collect, organise and use all relevant data on organised crime, the cooperation will be enhanced with all competent services fighting organised crime in the neighbouring and other countries, as well as with international and regional organisations, in the form of timely exchange of data, planning and conducting joint actions, as well as other joint activities which may be of interest for countering organised crime in our country and the region. To that end, measures will be taken aimed at identifying activities of organised criminal groups that are integrated in the regional and international flows of organised crime.

In the sphere of the fight against organised crime, the cooperation will continue with the communications officers of those countries that have their respective representatives in the Republic of Serbia.

The training of the staff will be carried out in order to implement new methods of fighting organised crime and the technical tools whose function is to collect and process the data on organised crime, all of this with the view to raise efficiency in counteracting organised crime.

The priority in the work in the area of **organised general crime** will be given to countering, disclosing and clearing up organised forms of criminal acts of kidnapping, extortion and blackmails with elements of organised crime, human trafficking and smuggling of people, countering smuggling of arms and hazardous materials, smuggling of cultural properties and organised international smuggling of motor vehicles. This activity will cover the field of operations both within the Republic of Serbia and at the international level. The work will continue at carrying out initiated operative ripping of members of organised criminal groups for whom there are reasonable doubts that they are executors, accomplices, and/or organisers of the most serious criminal acts carried out on the territory of the Republic of Serbia during the period from 1991 to 2006.

**Smuggling of people and human trafficking** in the Balkans represent an international problem which requires a coordinated action in the region and Western Europe, as well as mobilisation of police forces. Human trafficking will be treated as a form of criminality linked with illegal migrations, money laundering, narcotic drug

trade and trade of human organs. The priority task will be to cut the channel for smuggling people that goes from Bulgaria, Ukraine and Albania via our country towards Western Europe, in which prominent positions are held by our citizens in the form of organisers, transporters, etc. With the aim to counter this criminal activity, mutual cooperation at the operative level with police administrations in the surrounding countries will be enhanced.

The measures and activities related to countering **smuggling of arms and hazardous materials** will be strengthened in order to disclose and cut smuggling channels for illegal trade and to help disclosing organisers of these criminal acts.

In the area of countering **smuggling of cultural properties**, permanent operative work will be organised aimed at collecting useful information for the purpose of disclosing these criminal acts, establishing and identifying groups that in an organised manner work on illegal archaeological excavations, resale and smuggling of archaeological artefacts. The cooperation with other state bodies and institutions dealing with the study and protection of cultural properties will be enhanced, as well as the technical and expert professional training of the employees engaged in these tasks.

Within the scope of the work aimed at countering **organised international smuggling of motor vehicles**, the activities will relate to the identification of organised groups, their criminal links with the groups from the surrounding countries and their modus operandi, with the intention to cut these types of organised smuggling channels. In order to have as efficient counteracting of this form of organised crime as possible, the cooperation will be established with all relevant organisational units in Serbia and abroad.

<ul style="list-style-type: none"><li>• <b>Implementation of the Strategy to combat trafficking in human beings, through the adoption and implementation of the action plan which includes the timeframe and sufficient human and financial resources</b></li></ul>
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The Government of the Republic of Serbia adopted the Strategy to combat trafficking in human beings (“The Official Gazette of the Republic of Serbia,” no. 111/2006) in December 2006, thus establishing the national mechanism for the coordination of activities and the creation of the policy of combating trafficking in human beings, which comprise two levels, the central (strategic) and the operational ones.

Central level: The Council for Combating Trafficking in Human Beings, Coordinator for Combating Trafficking in Human Beings, the Republic Team for Combating Trafficking in Human Beings.

Operational level: Judiciary bodies and the police, and the Division for the coordination of the protection of the victims of human trafficking. Significant support at the operational level is provided by specialised non-governmental and international organisations.

At the MI, special police teams for combating trafficking in human beings have been created within the Criminal Police Administration and the Border Police Administration.

Taking into account the standards for the protection of the victims of human trafficking, the MI of the Republic of Serbia passed in 2004 the Instruction on the conditions for approving temporary sojourn of foreign citizens - victims of human trafficking.

With the aim to provide direct assistance and protection for the victims of human trafficking, the Division for the coordination of the protection of the victims of human trafficking was established at the beginning of 2004 at the Institute for Upbringing Children and Youth, which is authorised to submit on behalf of the victim a request for the approval of the sojourn for humanitarian reasons. In this way, the Republic of Serbia has institutionalised the mechanism for protecting the victims of human trafficking where the key role is played by a special state body.

In order to have a better implementation of the Strategy it is necessary to **appoint new members of the Council for Combating Trafficking in Human Beings** (by the Government of the Republic of Serbia) as soon as possible, as well as the National Coordinator for combating trafficking in human beings. Also, it is necessary to **prepare the Action Plan for the implementation of the Strategy to Combat Trafficking in Human Beings**.

With the aim of aggravating punitive policy towards the offenders who have committed criminal act of trafficking in human beings thus aggrieving minors (up to 18 years of age), an amendment of Article 388 of the Penal Code of the Republic of Serbia has been initiated intended for increasing the legal minimum of the stipulated jail term of at least three years to the jail term of at least 5 years, as was sanctioned with the previously valid Article 111-6, same paragraph of the Penal Code of the Republic of Serbia.

In the draft of the new law on foreigners, which introduces the institute of temporary sojourn for the victims of trafficking in human beings that was earlier prescribed by a by-law, there is also prescribed material liability of a natural person – who grants the guarantee, and the legal person – company or transportation entity in the cases of illegal stay of foreigners or the foreigners who do not meet the conditions for entering onto the territory of the Republic of Serbia.

There is a plan to prepare a protocol on cooperation between governmental, non-governmental and international organisations on cooperation and acting in the protection of the victims of human trafficking.

It is essential to provide special accommodation centres for juvenile victims of human trafficking. The facility for these purposes would be provided through a change of purpose of some of the existing social protection facilities for the accommodation of children and youth.

It is necessary to provide legal regulations for the functioning of the accommodation centres for the victims of human trafficking (through establishing new institutions or



by delegating these tasks to the existing social protection institutions or NGOs), as well as to provide appropriate working conditions (space, equipment, accommodation costs).

In the forthcoming period there is an evident necessity for enhancing the conditions for performing the tasks connected with the coordination of the protection of the victims of trafficking, with the separation of the coordination activities tasks and the organisation of the protection, where the protection organisation tasks should be done by the existing social protection services (social work centres, with the provision of human resources and material conditions) at those local communities where the highest number of victims is discovered.

It is necessary to continue to train subjects for recognising the phenomenon and undertaking adequate measures, as well as to create the conditions for the social integration of the victims.

Through the activities of the competent services of the Republic of Serbia, in the previous period the following has been realised in the area of countering trafficking in human beings:

- \* Feasibility study was prepared on the transformation and reorganisation of the Division for the coordination of the protection of the victims of human trafficking;
- \* Action plan proposal was prepared relating to the scope of competences of the Ministry of Labour and Social Policy and was passed to the Ministry of Interior;
- \* Within the scope of the presidency of the Republic of Serbia over the Committee of Ministers of the Council of Europe, from May to November, 2007, October was declared the month of the fight against trafficking in human beings, during which time promotional campaigns, seminars and educational seminars dedicated to this topic were conducted. One of the activities was the organisation of an art tender entitled “Modern Slavery” and the best work was selected to be printed on a supplement post stamp. The Decree on the supplement post stamp “Fight against Human Trafficking” was enacted in December 2007 and was published in “The Official Gazette of the Republic of Serbia,” number 126/07 of 28th December, 2007. The decision on giving consent to the Programme of Activities of the Division for the coordination of the protection of the victims of human trafficking was published in “The Official Gazette of the Republic of Serbia,” number 18/08; Pursuant to the Decree of the Government of the Republic of Serbia, the supplement post stamp was sold during the period from 21st to 27th January, 2008, which created the revenue of around 60,000 euros.
- \* The Programme of Activities aimed at direct assistance to the victims is currently being implemented.

All of the stated activities are in line with the goals of the Strategy to Combat Trafficking in Human Beings in the Republic of Serbia.

During seven months of 2008, the competent services of the Ministry of Interior filed 19 criminal complaints for committing criminal act of trafficking in human beings against 46 offenders, among whom 44 were citizens of the Republic of Serbia (two from the Autonomous Province of Kosovo and Metohija) and two citizens of Bosnia and Herzegovina.

26 individuals were aggrieved through these criminal acts, out of which 7 children (four male and three female), 5 minors (female) and 14 adults. In terms of the type of exploitation, 15 individuals were victims of sexual exploitation (4 juvenile girls), three were victims of labour exploitation (one minor), two were victims of exploitation aimed at committing criminal acts, 5 were victims of exploitation aimed at begging (3 juvenile males and two juvenile girls), and one juvenile female person was the victim of exploitation aimed at forceful marriage. In terms of the citizenship of the aggrieved individuals, 19 of them were citizens of the Republic of Serbia, 5 of them of Bosnia and Herzegovina, and one each of Romania and Ukraine.

According to the data of the Ministry of Labour and Social Policy, 60 victims of human trafficking were identified on the territory of the Republic of Serbia during 2007. Out of the total number of identified victims, as much as 48 are the citizens of the Republic of Serbia which points towards a form of the so-called **internal trade**. They were traded with for the purpose of sexual exploitation 26, labour exploitation 9, begging 9, coercion for the committing criminal acts 1, forceful marriage 2, sale of newly born babies (false adoption) 2. The number of potential victims is 11.

According to the data of the Ministry of Labour and Social Policy, 24 victims of human trafficking were identified in our country in the first half of 2008, out of which as many as 11 were juvenile victims (or 45.8%). Out of the stated number, 23 are females (20 of these victims are citizens of Serbia). The stated number of victims were traded with for the purpose of sexual exploitation 12, labour exploitation 1, begging 1, forceful marriage 2, attempted adoption 1.

The notifications were sent to the Division for the coordination of the protection of the victims of human trafficking by: MI 15, IOM 1, NGO Astra 1, NGO Atina 3, OSCE 2, Accommodation Centre (at the Institute for Upbringing of Children and Youth) 2.

From the stated data, as well as according to the estimates of the Division for the coordination of the protection of the victims of human trafficking, it may be concluded that the trend of an increasing number of domestic female citizens in the total number of the identified victims continues. The fact which also worries is a high percentage of juvenile victims.

The Ministry of Interior has initiated the procedure for the ratification of the convention of the Council of Europe on combating trafficking in human beings, which the Republic of Serbia signed on 16th May, 2005. It is expected that the Law on the Ratification of the Convention would be adopted at the National Assembly by the end of 2008.

According to the data of the Ministry of Interior, 72 criminal complaints were submitted in 2006 for the criminal act of **trafficking in human beings** (Art. 388 of the PC of the Republic of Serbia); six complaints were rejected, 28 indictments were presented and 20 sentences were passed. In 2007, there were 78 criminal complaints, five complaints were rejected, 56 indictments were presented, and 12 sentences and three acquittals were passed. It may be said for this criminal act that the number of indictments is on a significant rise.

Within the scope of the **fight against organised crime**, for the criminal act of trafficking in human beings, there were 26 investigations, 22 individuals were indicted, and 21 sentences were passed – imprisonment, five decisions on the confiscation of the proceeds and one nonsuit. The trend of committing this criminal act of organised crime is on a decline, since in 2005 the sentences were passed for eight individuals, in 2007 for five of them, while in 2008 there are no data on committing this criminal act with the element of being organised.

For the criminal act of **trafficking in children for the purpose of adoption** (Art. 389 of the PC), in 2006, there were six criminal complaints, two indictments were presented and the proceedings are underway with regards to all of the indictments; in 2007, there were 25 criminal complaints, four complaints were rejected, 10 indictments were presented and 8 sentences were passed, while for the other indictments the proceedings are underway. For this criminal act there is a visible trend of the increase in the number of criminal offenders.

In the enclosure we are submitting a table with the statistical data on the punitive policy of the first-instance courts for the period 2006-2007 where the data may be seen both for the criminal act of trafficking in human beings (Art. 388 of the PC) and trafficking in children for the purpose of adoption (art. 389 of the PC).

- **Adoption and implementation of the national Strategy for the prevention of and fight against money laundering and the financing of terrorism; adoption and implementation of the Law on the Prevention of the Financing of Terrorism; implementation of the relevant legal regulations on the confiscation of assets of criminals (including the provisions that relate to the cross-border aspects)**

The project group established by the Administration for the Prevention of Money Laundering at the Ministry of Finance has prepared the Draft of the **National Strategy against Money Laundering and the Financing of Terrorism**. All the necessary opinions have been collected and the document is ready for the adoption. On the basis of the description and the analysis of the situation and the crime trends, as well as the analysis of the legislative, institutional and operational framework of the fight against money laundering and the financing of terrorism, the Strategy gives recommendations for the overcoming of the current problems and the enhancement of the existing system. The recommendations will be developed in more detail with the Action Plan that will stipulate the tasks for all competent bodies, set the deadlines for the execution of the obligations and estimate the necessary funds for their implementation. The Strategy promotes the need to have a coordinated and multi-disciplinary approach to the fight against money laundering and the financing of terrorism which are the requirements imposed by the existing experiences and practice in this area. In those terms, the basic goals of the strategy have been set, the categories of the subjects that are important in their roles as the participants in that fight have been defined with a special stress put on expert education, vocational training and additional professional training of the employees, both at state bodies and at banks,

financial institutions and other subjects in the private sector who have legal commitments in this area.

In the draft strategy, under item 3.2 there are “Recommendations concerning professional training” which, among other things, point out the importance of a comprehensive analysis of the needs and the preparation of expert programmes (compiled in programme units) from the area of the fight against money laundering and the financing of terrorism, financial investigations and confiscation of the proceeds. Such programmes should include human resources of the competent state and supervisory bodies, as well as obligors pursuant to the Law on the Prevention of Money Laundering and the Financing of Terrorism, in cooperation with the associations of obligors. The enactment of good quality plans would enable continuous, coordinated and institutionalised training of the necessary personnel, while the provision of technical and other conditions would enable faster and more efficient implementation of these goals defined by the Strategy. As far as the financial assets needed for the implementation of the Strategy are concerned, it is the estimate of the Project Group that no additional allocations are expected from the budget of the Republic of Serbia for its enforcement.

The disclosing and processing of criminal acts of money laundering and the financing of terrorism represent the most complex tasks in the fight against these phenomena.

The adoption of the National Strategy for Combating money laundering and the financing of terrorism represents a short-term priority (the expected deadline is December 2008).

The Government of the Republic of Serbia, at its session of 27th March, 2008, established the **Bill on the prevention of money laundering and the financing of terrorism**. However, the Bill has been withdrawn from the procedure, while the proceedings for its adoption have been reinitiated. Namely, the Ministry of Finance submitted the Draft law on the prevention of money laundering and the financing of terrorism to the competent bodies on 25.08.2008, with a request for them to provide official opinions in the shortest possible period of time, after which it is expected that the Bill will be set at the session of the Government. Its adoption is expected to take place by the end of 2008. The draft law defines the competencies of the Administration for the Prevention of Money Laundering, as well as the Financial Intelligence Service (FIS) of the Republic of Serbia and the area of international cooperation between the FISs of different countries, on the basis of the standards prescribed by the Council Decision no. 2000/64/JXA.

The draft law is fully aligned with the relevant conventions of the United Nations (UN) and the Council of Europe (CE), the recommendation of the Group of States against Corruption (GRECO) and other international standards in the area of money laundering and in connection with the fight against terrorism, as follows:

- International convention on countering the financing of terrorism enacted by the UN, which the Republic of Serbia ratified in July 2002. Along with establishing the obligation of the member countries to criminalise the financing of terrorism (which was done with the provision of Article 393 of the Penal Code that entered into force as of 1st January, 2006), this convention also prescribes the obligation of

- setting the legal framework for taking preventive measures aimed at precluding the financing of terrorism, as well as for ensuring an efficient international cooperation in this area;
- 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention);
  - 2000 UN Convention against Transnational Organized Crime (Palermo Convention);
  - 1990 CoE Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, ratified in 2002 (Strasbourg Convention);
  - 2005 CoE Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, signed in the same year (Warsaw Convention);
  - 2005 European Parliament and Council Directive 2005/60/EC on the Prevention of the Use of the Financial System for the Purpose of Money Laundering and Terrorist Financing
  - The Bill is fully aligned with 3rd EU Directive.

The draft Law on the Prevention of Money Laundering and the Financing of Terrorism is fully aligned with international standards in the area of the fight against money laundering and the financing of terrorism prescribed by international body FATF which has, within the scope of its competences, enacted a document entitled “FATF 40 recommendations against money laundering and 9 special recommendations against the financing of terrorism.” This document represents the basis on which MoneyVal is founded – a body of the Council of Europe dealing with the appraisal of the alignment between the national systems for the prevention of money laundering and the financing of terrorism of the Council of Europe’s member states and the international standards. The enforcement of the law on the prevention of money laundering and the financing of terrorism, and the establishment of the system of preventive actions and measures undertaken by obligors referred to in this law, competent state bodies and other subjects will help enhance the system for combating money laundering and other forms of financial crime, terrorism and crime at large. The adoption of the Law for the Protection of Money Laundering and the Financing of Terrorism is of extreme importance and represents a short-term priority.

For the criminal act of **money laundering** (Art. 231 of the PC) which is in the first instance processed by municipal and district courts – there were six criminal complaints in 2006, one complaint was rejected, five indictments were presented and five sentences were passed; in 2007, there were 20 criminal complaints, eight complaints were rejected, nine indictments were presented and eight sentences were passed. The number of perpetrators is on the rise. In the enclosure we are submitting a table with the statistical data on the punitive policy of the first-instance courts for the period 2006-2007 where the data may be seen for the criminal act of money laundering (Art. 231 of the PC). When it comes to money laundering within the scope of organised criminal activity, there were three investigations, two indictments were presented and one first-instance sentence was passed. All the investigations were initiated in 2008.

When it comes to the **fight against terrorism**, it must be stressed that the Republic of Serbia ratified the European Convention on Countering Terrorism on 15.05.2003, while the Conventions of the Council of Europe are currently undergoing the

procedure of ratification – the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (signed on 16.05.2005); Protocol with the 2003 European Convention on Countering Terrorism (signed on 15.05.2003) and the 2005 Council of Europe Convention on the Prevention of Terrorism (signed on 16.05.2005). The draft laws on the ratification of these conventions will be submitted to the Government for the adoption of the Bills by 1st December, 2008. We expect them to be adopted at the National Assembly by the end of 2008. For the criminal act of terrorism (Art. 312), there were five criminal complaints in 2006 and four criminal complaints in 2007. On the basis of one indictment, one individual was sentenced to jail term in 2006. With regards to the other criminal complaints, the proceedings are ongoing. In the enclosure we are submitting a table with the statistical data on the punitive policy of the first-instance courts for the period 2006-2007 where the data may be seen for the criminal act of terrorism (Art. 312 of the PC).

The Penal Code of the Republic of Serbia (“The Official Gazette of the Republic of Serbia,” no. 85/05, 88/05 и 107/05), in Articles 91-93, governs the institute of **confiscation of the proceeds**. Article 91 proclaims the basic rule that nobody may keep the proceeds generated through a criminal act. These proceeds are confiscated on the basis of a court decision which establishes the committing of a criminal act. Article 92 of the Code prescribes that money, valuable objects and any other proceeds which were generated through the committing of a criminal act will be confiscated from the perpetrator, and if this should not be possible, the perpetrator will be under obligation to pay a corresponding amount. Also, it is prescribed that the proceeds generated through a criminal act will also be confiscated from the person (legal or natural) to whom it has been transferred without any compensation or against a compensation that does not correspond to the real value. Article 93 stipulates a protection of the person aggrieved by the criminal act in the manner that the property and legal request of the aggrieved person has the priority in the settlement, whereas the court will pronounce the confiscation of the proceeds only if they exceed the amount of the awarded property and legal request of the aggrieved persons.

The procedure for the **confiscation of the proceeds** generated through a criminal offence is stipulated in Articles 513-520 of the Code on Criminal Prosecution (“The Official Gazette of the Federal Republic of Yugoslavia,” no. 70/01 and 68/02, and “The Official Gazette of the Republic of Serbia,” no. 58/04, 85/05, 115/05 and 49/07). Article 513 of the Code stipulates that the proceeds generated through a criminal offence are established in a criminal prosecution *ex officio*. The court and other bodies in front of which the case is prosecuted are under obligation in the course of the proceedings to collect evidence and check the circumstances which are of importance for establishing the proceeds. Article 514 stipulates that in the case when there is a possibility of confiscating proceeds generated through a criminal offence that have been transferred to another person, these persons are to be summoned for hearing. The summons will warn that person that the procedure will be carried out without his/her presence. Article 515 of the Code stipulates that the court in its free judgement may mete out the amount of the proceeds, if its establishment would cause disproportionate difficulties or significant filibustering. The court may also set temporary security measures for the proceeds for which there is a suspicion that they were generated through a criminal offence, under the provisions in force for the executive procedure.

The court may order a confiscation of the proceeds, pursuant to Article 117 of the Code, in a judgement by which the accused is declared guilty, in a decision on punishment without the full hearing, in a decision on judiciary note or in a decision on the enforcement of a corrective measure, as well as in a decision proclaiming security measures of mandatory psychiatric treatment.

The Ministry of Justice has prepared the **Draft Law on the Confiscation of Assets Generated through a Criminal Offence** that was submitted to the competent state bodies in order to get their opinions in line with the Government's Rules of Procedure. At the session of the Government held on 24.07.2008, the Government ascertained the text of the Bill on the Confiscation of Assets Generated through a Criminal Offence and submitted it to the National Assembly for its consideration and adoption. The expected deadline is 1st October, 2008.

This law stipulates the setting up of the Directorate for the Management of Confiscated Assets, as a body within the Ministry of Justice. The basic function of the Directorate will be the management of the confiscated assets generated through a criminal offence, the objects of criminal offence, the proceeds generated through a criminal offence and the assets given as a bail within the scope of a criminal procedure. The Directorate will also manage the proceeds generated through corporate offence or violation. These tasks will be done *ex officio* or upon the order of the public prosecutor and court. It has been envisaged that the Directorate for the Management of Confiscated Assets has the capacity of a legal person with the seat in Belgrade, while it may also set up separate organisational units outside its seat. The estimates of the members of the task force for the preparation of the Law say that the initial necessary number of employees at the Directorate will be 25. The Directorate will be managed by a director that will be appointed and removed from the office by the Government at the proposal of the Minister in charge of the judiciary.

For the employees at the Directorate it is necessary to provide an appropriate number of offices, funds necessary for covering material costs, as well as financial means needed for the purchase of appropriate technical and computer equipment, and the education of the employees in terms of the preparation and training for an efficient enforcement of the Law. There will also be a specific need to provide adequate conditions for storing and keeping the temporarily or permanently confiscated assets in terms of meeting appropriate requirements and standards related to their safekeeping, since the Law stipulates the obligation of the Directorate to manage the confiscated assets with due diligence. The setting up of the Directorate for the Management of Confiscated Assets will start immediately after the adoption of the Law at the National Assembly, while its full functioning is expected within the period of 12 months from the adoption of the Law.

**Confiscation of the assets generated through criminal offences by the first-instance courts during the period 2006-2007** – for the criminal act of misconduct in office in 2006 there were 30 decisions taken on the confiscation of the proceeds, while in 2007 there were 5 decisions on the confiscations of the proceeds. For the criminal act of receiving bribe, in 2006 there were 6 decisions on the confiscation of the proceeds, while in 2007 there were 2 decisions on the confiscation of the proceeds. For the criminal act of giving bribe, in 2006 2 decisions were passed on the confiscation of the proceeds.

- **Adoption and implementation of the national Strategy for the Fight against Drugs and the National Plan for the Fight against Drugs; preparation of the information on the seized quantities of drugs and the participants which will be available at the border crossings; further development of cooperation and exchange of information with the international bodies relevant in the field of drugs**

The activities related to the enactment of the National Strategy for the Fight against Drugs and the National Plan for the Fight against Drugs are ongoing. In July 2008, the Ministry of Health submitted to the line ministries for their opinion the proposal of the “Strategy for the Fight against Drugs in the Republic of Serbia for the Period from 2008 to 2012” and asked them to define the priority activities that would be included in the Action Plan for the implementation of this Strategy. After receiving the opinions and suggestions of the line ministries, the final text of the Strategy for the Fight against Drugs will be prepared and the strategy will be proposed for the adoption. The Strategy Proposal is the result of the inter-ministerial cooperation in the work of the Commission for the Prevention of Misuse of Psychoactive Substances (alcohol and drugs) set up by the Government of the Republic of Serbia in 2004. The procedure for the preparation included the following: taking a snap-shot of the current situation in the field of the misuse of psychoactive substances, an overview of similar strategic documents in the surrounding countries and the EU, defining of the priorities in line with the specificities of our country; public debates in four major cities and the collecting of opinions and suggestions from the state bodies-Ministries, non-governmental sector, local self-governments and expert bodies; alignment of the submitted suggestions with the recommendations of the EU Strategy and Action Plan for the Fight Against Drugs, and the preparation of the Strategy proposal. At the same time, activities have been taken aimed at creating a new **Commission for the Prevention of Drug Misuse, taking into account the new structure of the Government of the Republic of Serbia, at the level of the state secretary and his deputy – assistant minister**, that will be chaired, as has been the case so far, by the Minister of Health. It has been proposed that the Commission coordinates, supervises and monitors the implementation; proposes the priority activities of the state bodies in the field of countering misuse of drugs; coordinates the work of all the institutions and organisations taking part in the work of the Commission; gives the proposals for the implementation of the activities aimed at the prevention of the misuse of drugs in different areas; takes part in the monitoring of epidemiological data on the misuse of drugs; cooperates with the local self-government units, health and education institutions, social protection institutions, cultural and other institutions, religious communities, associations, international organisations and bodies, etc.

As for the activities aimed at discovering and processing criminal acts of unauthorised production, keeping and putting into circulation of narcotic drugs, processed at the first-instance level by municipal and district courts, according to the data of the Ministry of Justice –there were 5,097 criminal complaints in 2006, 227 were rejected, 4,870 indictments were presented and 3,789 sentences and 266 acquittals were passed; in 2007, there were 5,151 criminal complaints, 97 complaints were rejected, 4,770 indictments were presented and 3,999 sentences and 177 acquittals were passed. For this criminal offence, the statistical data show a decline in the number of accused individuals with a concurrent stricter punitive policy, particularly with regards to the



jail term sentences, as well as a significant decline in the number of suspended sentences. In the enclosure we are submitting a table with the statistical data on the punitive policy of the first-instance courts for the period 2006-2007 where the data may be seen both for the criminal act of unauthorised production, keeping and putting into circulation of narcotic drugs (Art. 246 of the PC).

On the grounds of the criminal act of unauthorised production, keeping and putting into circulation of narcotic drugs within organised crime, there were 115 investigations, 102 first-instance judgements were passed, 95 individuals were sentenced to jail terms, 40 decisions were taken on the confiscation of the proceeds, and five acquittals and two nonsuits were passed. For this criminal act, too, it may be said that we have a declining trend, thus, in 2005, 75 individuals were sentenced, while in 2006 only five individuals and in 2008 two individuals.

<ul style="list-style-type: none"><li>• <b>Implementation of the legal regulations on the prevention and fight against corruption, including also the creation of an independent anti-corruption agency</b></li></ul>
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The fight against corruption represents one of the priorities of the Government of the Republic of Serbia aimed at establishing the rule of the law.

The Government of the Republic of Serbia adopted the National Strategy for the Fight against Corruption in December 2005 and the Action Plan for the implementation of the National Strategy for the Fight against Corruption on 21st December 2006. The plan was prepared within the scope of a Twinning project, in which the partner of the Ministry of Justice was the Commission for the Prevention of Corruption of the Republic of Slovenia. Taking into account that the new Law on Ministries was adopted in July 2008, the Ministry of Justice will prepare the revision of the Action Plan in the forthcoming period.

In 2006, the Government created the Commission for the Implementation of the National Strategy for the Fight against Corruption and the recommendations of the Group of States against Corruption (GRECO), whose members are representatives of the relevant ministries, judiciary, National Assembly, Council for the Fight against Corruption, media and the non-governmental sector. The objective of the work of the Commission, as the Government's body, is to supervise the implementation of the National Strategy for the Fight against Corruption and further implementation of the recommendations of the Group of States against Corruption (GRECO). The Commission convenes periodically in order to monitor the work, efforts and measures undertaken by the Republic of Serbia in its fight against corruption.

In line with the Strategy and international recommendations, the Ministry of Justice has prepared the text of the Law on the Agency for the Fight against Corruption. The draft law has been submitted to the competent bodies in order to get their respective opinions, after which it will be forwarded to the Government for the adoption of the Bill. The deadline for conducting this activity is October 2008. The draft law on the Agency for the Fight against Corruption was prepared in line with the expertise of the Council of Europe. In compliance with Article 6 of the UN Convention against Corruption, the Agency is an autonomous and independent state body in charge,

among other things, of the supervision over the implementation of the National Strategy. Also, in order to strengthen the independence of the Agency, the Law stipulates that the Agency proposes its budget and disposes with it autonomously.

The estimate of the funds needed for the establishment of the Agency has been completed. For the implementation of this law it is necessary to allocate funds in the budget of the Republic of Serbia in the total amount of RSD 160,000,000. Out of this amount, for the beginning of the operations of the Agency (for equipping offices, providing IT equipment and software) it is necessary to provide RSD 39,000,000. For the salaries of the functionaries and employees of the Agency at the annual level, it is necessary to allocate RSD 108,000,000. For other expenses of the Agency it is necessary to provide RSD 13,000,000.

**The Bill on the 2009 budget will foresee the funds for the establishing and functional setting up of the Agency.**

Also, the application for the EU IPA funds for 2008 that would support the founding of the Agency for the Fight against Corruption is ongoing: a total amount of EUR 2,500,000 has been requested (if approved, the project would be co-financed by the Government of the Republic of Serbia).

Immediately after the adoption of the Law on the Agency for the Fight against Corruption, the steps will be taken in order to found the Agency, as well as to provide the conditions for its efficient functioning. The law stipulates that its enforcement will mean the end of the work of the Republic Board for Resolving Conflicts of Interest. The enforcement of the Law on the Agency for the Fight against Corruption will start as of 1st October, 2009.

In this regard, the proponents (President of the Republic, Government, Supreme Court of Appeals, Administrative Board of the National Assembly, Bar Association of Serbia, Socio-Economic Council, State Audit Institution, Commissioner and Ombudsman, through joint agreement and the associations of journalists through joint agreement) are under obligation to submit to the National Assembly within 30 days from the entering into force of this law the list of candidates for the members of the Agency Board. The Board will be considered constituted when the seventh member of the Board has been elected. The first session will be convened and chaired by the eldest member of the Agency Board within 15 days from the date of the election of the seventh member.

Within 30 days from the date of convening the first session, the Board will enact the Rules of Procedure, while within 60 days from the date of being constituted it will elect the direction and the deputy director.

Within 60 days from the election, the director will enact the Rulebook on the internal organisation of the Agency, and within 60 days from the date of the elections he/she will enact the by-laws stipulated by this law.

Also, the Law foresees that as of the date of the beginning of the enforcement of this law, the Law on the Prevention of Conflict of Interest in Discharge of Public Office will cease to be in force. The proceedings that have been initiated in front of the

Republic Board for Resolving Conflicts of Interest, in which no decision has been taken by the date of the beginning of the enforcement of this law, will be closed pursuant to the provisions of this law.

In order to maintain the continuity of the bodies fighting against corruption, the Law stipulates that as of the date of the beginning of the enforcement of the Law, the Agency will take over from the Republic Board for Resolving Conflicts of Interest the employees, as well as the rights, obligations, objects, equipment, assets and archives needed for executing the competences in the sphere of work of the Agency.

The codification of the criminal material legislation in the Republic of Serbia was done in 2005, when the new Penal Code was adopted which entered into force as of 1st January, 2006. Until then, two criminal codes had been in force in the Republic of Serbia: the Basic Criminal Code (this was the Criminal Code of the Federal Republic of Yugoslavia) and the Criminal Code of the Republic of Serbia. The types of criminal acts in the sphere of the fight against corruption in the old laws differ from the qualifications in the new Penal Code. For the stated reason, we are submitting the data for the “basic” criminal acts in the sphere of the fight against corruption from 2000 to 2005.

	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
<b>Complaints</b>						
<i>Criminal act:</i>						
Receiving bribe	69	108	146	111	75	82
Giving bribe	78	53	95	59	37	55
Misconduct in office	1795	2576	2957	3098	3140	2791
Illegal mediation	7	9	19	8	6	5
<b>Indictments</b>						
<i>Criminal act:</i>						
Receiving bribe	46	44	55	30	39	29
Giving bribe	34	48	45	31	39	36
Misconduct in office	681	666	735	724	867	947
Illegal mediation	6	6	9	8	4	5
<b>Judgements</b>						
<i>Criminal act:</i>						
Receiving bribe	31	38	47	22	26	23
Giving bribe	29	34	41	20	32	34
Misconduct in office	432	380	405	432	461	459
Illegal mediation	1	5	6	5	3	1

In the enclosure we are submitting a table with the statistical data on the punitive policy of the first-instance courts for the period 2006-2007 where the data may be seen for the criminal act linked with corruption: misconduct in office, receiving bribe and giving bribe.

The Ministry of Justice started with the preparation of the Law on Amendments and Supplements to the Penal Code in order to align the criminal part of the illegal mediation, giving and receiving bribe with the UN Convention against Corruption and

the Council of Europe Criminal Law Convention on Corruption. Also, for the purpose of the alignment with the Additional Protocol with the Criminal Law Convention of the Council of Europe, the notions of official person and foreign official person will be changed. At the same time, the Republic of Serbia follows the reports of the countries that have passed the Third Circle of Evaluation of the GRECO in order to ensure alignment of the domestic criminal legislation with the Criminal Law Convention of the CoE and the preparations for the Third Circle of Evaluation.

Within the scope of the fight against organised crime, in the period 2004 - 30.06.2008 one first-instance jail term sentence was passed for the criminal act of receiving bribe and one decision on the confiscation of the proceeds. In 2006, one person was also sentenced to jail term for this criminal offence. For the criminal act of giving bribe, there were six investigations, with four first-instance judgements and four jail term sentences. It may be said that the number of perpetrators is declining, thus in 2006 three persons were sentenced to jail term, while in 2008 one person received a jail term sentence. For the criminal act of misconduct in office, there were 20 investigations, 16 indictments were presented and there were 16 sentences – imprisonment. The highest number of perpetrators of this criminal act appeared in 2008 when there were 14 sentences passed, while in the earlier period 2006 and 2007 one person each was sentenced for committing this offence, thus it may be said that this type of criminal act is on the rise.

In the previous period, numerous proceedings were initiated, for instance: for the criminal act of receiving bribe a judge of the Supreme Court of Serbia received a final sentence to six years in jail; the President of the Commercial Court in Belgrade is detained for the criminal act of receiving bribe and the criminal act of organising a group for committing criminal offences; two deputies of the Republic Public Prosecutor were sentenced to jail term for the criminal act of misconduct in office; the criminal proceedings for the President of the Football Federation of Serbia, indicted for committing the criminal act of misconduct in office, is currently ongoing. Also, the proceedings have been initiated against a large number of people for criminal offences of corruption with the element of organised crime in the field of education, customs, and local self-government bodies.

In the forthcoming period, the work will continue on the opened cases that relate to the committing of criminal acts of receiving and giving bribe, misconduct in office, etc., in connection with the trade with petroleum and petroleum products, the so-called “petroleum mafia,” as well as on the monitoring of new cases.

Also, the work will continue on the cases that relate to receiving and giving bribe, misconduct in office, etc., in connection with frauds both at the domestic and foreign insurance companies, the so-called “traffic mafia.”

With the Programme of Operations for 2008, a separate department was created at the Republic Public Prosecution Office dealing with criminal acts of corruption, including also criminal acts linked with corruption, as the second-instance prosecution office. The department at the Republic Public Prosecution Office monitors the work of the district and municipal public prosecution offices, provides expert assistance to the first-instance prosecution offices, and if needed, it gets operationally involved in the

first-instance proceedings and coordinates the work of the municipal and other district public prosecution offices that do not have specialised departments.

A special activity of this department is the implementation of the Action Plan for the enforcement of the National Strategy for the Fight against Corruption. With the aim of preventing corruption in the work of the public prosecution office, there is a mandatory subsequent control of the prosecution office's decisions in the cases of not initiating or discontinuing the proceeding for criminal acts with elements of corruption or in the cases of procrastination of the criminal proceeding.

The department periodically analyses the operation reports, it ensures consistent enforcement of the regulations on the confiscation of the proceeds generated through corruption, it cooperates with financial experts and police, and it conducts international cooperation in the field of countering corruption.

During the period from 1.1.2008 to 13.5.2008, the Special Department processed 345 cases falling under the competence of the Republic Public Prosecution Office. Within the scope of monitoring the work of the district and municipal public prosecution offices and providing expert assistance to the first-instance prosecution offices, the department acted in 212 cases.

- **Implementation of the relevant United Nations (UN) and Council of Europe (CoE) convention, as well as the recommendations of the Group of States against Corruption (GRECO) and other international standards from the afore-mentioned areas, as well as in connection with the fight against terrorism**

So far the Republic of Serbia has adopted all international instruments in the area of the fight against corruption enacted by the international organisations whose member Serbia is:

- Law on the Ratification of the United Nations Convention against Corruption (“The Official Gazette of Serbia and Montenegro-International Agreements,” number 12/2005)
- Law on the Confirmation of the Civil Law Convention on Corruption (“The Official Gazette of the Republic of Serbia-International Agreements,” number 102/2007)
- Law on the Confirmation of the Criminal Law Convention on Corruption (“The Official Gazette of the Federal Republic of Yugoslavia-International Agreements,” number 2/2002) and (“The Official Gazette of Serbia and Montenegro-International Agreements,” number 18/2005), and
- Law on the Confirmation of the Additional Protocol with the Criminal Law Convention on Corruption (“The Official Gazette of the Republic of Serbia-International Agreements,” number 102/2007).

Within the Project for the fight against corporate crime in Serbia, the Ministry of Justice received the expertise of the Council of Europe with regards to the Penal Code and the Criminal Proceeding Code, in order to check their alignment with all international standards in the field of the fight against corruption.

The position of the experts is that the Penal Code is aligned with the OECD Convention on Combating Bribery of Foreign Public Officials.

In order to have the alignment with the UN Convention against Corruption and the Council of Europe Criminal Law Convention on Corruption, the Ministry of Justice started with the preparation of the Law on the Amendments and Supplements to the Penal Code, in order to align the criminal part of the illegal mediation, giving and receiving bribe with the said conventions. Also, in order to have alignment with the Additional Protocol with the Criminal Law Convention of the Council of Europe, the notions of official person and foreign official person will be changed. At the same time, the Republic of Serbia follows the reports of the countries that have passed the Third Circle of Evaluation of the GRECO in order to ensure alignment of the domestic criminal legislation with the Criminal Law Convention of the CoE and the preparations for the Third Circle of Evaluation.

It is envisaged that the Law on the Amendments and Supplements to the Penal Code will be adopted by the end of 2008.

At its session held on 24.07.2008, the Government confirmed the Bill on the Responsibility of Legal Persons for Criminal Offences, in line with the expertise of the Council of Europe. The text of the law has been aligned with the legal standards contained in the UN Convention against Corruption, UN Convention on Transnational Organised Crime and other international instruments. This law will be adopted at the National Assembly as a matter of urgency in the autumn of 2008.

At its session held on 24.07.2008, the Government confirmed the Bill on the Confiscation of Assets Generated through a Criminal Offence, in line with the expertise of the Council of Europe. The text of the law has been aligned with the legal standards contained in the UN Convention against Corruption and other international instruments. This law will be adopted at the National Assembly as a matter of urgency in the autumn of 2008.

The Ministry of Justice has also prepared the text of the Law on the Agency for the Fight against Corruption. The creation of the Agency for the Fight against Corruption is in line with Article 6 of the United Nations Convention against Corruption, which stipulates the setting up of an independent body for the prevention of corruption. This law will be adopted at the National Assembly as a matter of urgency in the autumn of 2008.

Also, the Republic of Serbia participates in the UN Pilot Project on the self-assessment of the enforcement of the UN Convention against Corruption.

As for the enforcement of the Civil Law Convention against Corruption, the domestic legislation will be aligned in the forthcoming period with the Civil Law Convention.

The High Public Official Council, as the body in charge of the enacting of the code for public servants from the public administration bodies, adopted in March 2008 the Code of Conduct for Public Servants. The programme of the training course "Open Discussions about Corruption" foresees the topic of Preventive Measures within which the Code of Conduct for Public Servants is covered. In cooperation with the

Konrad-Adenauer Foundation, 1000 copies of the Code have been published and they were distributed to the bodies of the public administration and the Government's services.

The Report on the Joint First and Second Circles of the Evaluation of the Republic of Serbia by the GRECO was adopted in June 2006 and it contains 25 binding recommendations. The Republic of Serbia is given one and a half years to fulfil the recommendations in connection with the independence, specialisation and funds at the disposal of the national bodies engaged at the prevention and combating of corruption, proceeds generated from corruption, public administration capacity building in the fight against corruption (training, Ombudsman, Commissioner for Information of Public Importance) and the accountability of legal persons for criminal acts of corruption.

At the 38th plenary session of the GRECO held from 9th to 13th June, 2008, the **Report of the Group of States against Corruption (GRECO)** on the alignment of the Republic of Serbia for the Joint First and Second Circles of Evaluation was adopted<sup>2</sup>. The GRECO positively assessed the efforts and work of the state bodies of the Republic of Serbia in the fight against corruption, particularly taking into account that activities have been undertaken by the Republic of Serbia with regards to each recommendation.

Out of 25 recommendations, the Republic of Serbia has fulfilled twelve recommendations that concern public procurements, length of the public prosecutor's mandate, setting up of special departments for the fight against corruption at public prosecution offices, cooperation between the police and public prosecution office, training programme for police officers and prosecutors, witness protection, confiscation of assets, Action Plan for the implementation of the National Strategy for the Fight against Corruption and the mechanism for the work related to its implementation, introduction of ombudsman at the central and local levels, availability of information of public importance, training of public servants on the fight against corruption and enactment of the code of conduct for public servants.

The Report states that Serbia has satisfactorily applied or has acted in a satisfactory manner with regards to half of the recommendations contained in the Report on the Joint First and Second Circles of Evaluation. It states that the authorities have started with a comprehensive reform of the judiciary with the aim to increase independence and impartiality of judges and prosecutors, as well as with the aim to increase the level of public trust in the judiciary institutions. Significant steps have been taken towards promoting specialising of bodies for the enforcement of the law in combating corruption (e.g., setting up of specialised prosecution office departments for the fight against corruption at the central and regional levels, targeted training, etc.). In the similar way, several initiatives have been set off with the aim to increase the transparency of the public administration (e.g., e-administration, numerous activities aimed at raising awareness and knowledge in order to promote the enforcement of the legislation on the access to information, etc.).

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<sup>2</sup> After the adoption of the report by the Government of the Republic of Serbia on 17th June, the confidentiality status was cleared and the publishing of this report was approved.

Thirteen recommendations have been partially fulfilled and the GRECO expects the Republic of Serbia to inform this body in the next year and a half on the measures which Serbia will take in order to have their complete fulfilment.

A part of the recommendations of the Republic of Serbia will be fulfilled through the adoption of certain laws such as the Law on the Agency for the Fight against Corruption, Judiciary laws (Law on Judges, Law on the High Judicial Council, Law on Public Prosecution Office, Law on the State Council of Prosecutors) and the Law on the Accountability of Legal Persons. All of the said laws have undergone the expertise of the Council of Europe.

In line with that, at its session held on 24.07.2008, the Government of the Republic of Serbia decided on the Bill on the Accountability of Legal Persons for Criminal Offences and the Bill on the Confiscation of the Assets Generated through Criminal Act, and submitted them to the National Assembly for further consideration and adoption.

In addition, the Administration for the Prevention of Money Laundering at the Ministry of Finance has undertaken activities in connection with the implementation of the GRECO recommendations, as follows:

- In line with the EU Directive and in line with the risks of money laundering and the financing of terrorism, the Administration has reconsidered the circle of obligors and has compiled a new list of obligors that is presented in Article 4 of the Bill on the Prevention of Money Laundering which was thus expanded in comparison to the previous list.

- In the first six months of 2008, the Administration proactively participated in terms of professional education and it organised several trainings and seminars for obligors, for instance, for banks and insurance organisations. Also, during the past period, training was organised for the NBS controllers, direct executors at the control body for the enforcement of the Law on the Prevention of Money Laundering, all of this with the aim to have a more effective enforcement of this law and to have the employees acquainted with their obligations in connection with the law. The representatives of the Administration take regular part at the seminars organised at the associations of some obligors as lecturers, as well as at the seminars organised by the Judiciary Centre of the Republic of Serbia, US Department of Justice/OPDAT and the OSCE Mission in the Republic of Serbia with the topics in connection with the fight against money laundering and the financing of terrorism. The basic training for the police is organised at the Police Academy, while the additional and advanced training in connection with financial investigations and corporate crime in the Republic of Serbia, and the training in combating organised crime of the Stability Pact for South-Eastern Europe are organised through difference project with the assistance of the international community. The Law on the Prevention of Money Laundering which is currently in force, as well as in the new bill, explicitly stipulate the obligation of each obligor to provide regular professional education and advanced training for all employees who perform the tasks referred to in that law.

- In the next six months it is planned to have training for leasing companies, insurance organisations and exchange offices, as well as a continuation of the training for the NBS controllers. A significant form of training is conducted through daily contacts of



the Administration with the authorised persons of the obligors (compliance officers), as well as through a possibility for the stakeholders to ask questions at the web page of the Administration.

- The Administration has prepared indicators for recognising suspicious transactions for banks, subjects operating in the securities market, exchange offices and insurance organisations, and they have been published at the Administration's website ([http://www.fcpml.org.yu/publikacije\\_en.htm](http://www.fcpml.org.yu/publikacije_en.htm)) in Serbian and English. There is a plan to prepare and publish indicators in the next six months for leasing companies and obligors that provide accounting services and for some other obligors.

## **Specialised bodies**

### Ministry of Interior

As has been mentioned earlier, within the scope of the Criminal Police Administration of the Ministry of Interior, there is the Division for Combating Organised Crime which has a separate Sector for Countering Corruption.

### Republic Public Prosecution Office

For the purpose of considering and implementing the National Strategy for the Fight against Corruption and the Action Plan for the implementation of the National Strategy for the Fight against Corruption, a Task Force was set up in January 2007 in order to provide Mandatory Instruction to the public prosecution offices with regards to handling and the manner of handling, subsequent control of the decisions of the prosecution in the cases of not initiating or discontinuing the proceeding for criminal acts with elements of corruption, as well as in the cases of procrastination of the criminal proceeding cases (enforcement of the measure stipulated under item 44 of the Action Plan), a group has been created at the Republic Public Prosecution Office for the monitoring and consultations with regards to the said cases, special records of the submitted reports have been established and the monitoring of the implementation of the mandatory instruction has been ensured.

The mandatory instruction was issued in January and was forwarded to all District Public Prosecution Offices.

The Programme of Operations for 2007 and 2008 foresees actions with regards to the complaints of the citizens with a special stress put on the monitoring of the complaints related to the work of the bearers of judiciary functions, in particular the complaints related to the work of the bearers of judiciary functions in corruption cases. A programme for professional advanced training of public prosecutors has been prepared.

In compliance with the Action Plan for the implementation of the National Strategy for the Fight against Corruption, on the basis of the recommendation from the GRECO and the UN Convention against Corruption, through the Programme of Operations of the Republic Public Prosecution Office for 2008, a special department was set up which deals with criminal acts of corruption, including also criminal acts

of corporate crime linked with corruption. A department was also set up at the district prosecution office in Belgrade, and the setting up of these special departments in Novi Sad, Kragujevac and Nis is currently going on. It is expected that these departments will be operational by the end of 2008.

In compliance with Art. 46 of the Criminal Proceeding Code, in connection with the recommendations of the GRECO, joint task forces have been set up consisting of the Deputy Republic Public Prosecutors who are delegated to the Special Department for the Fight against Corruption and the Ministry of Interior offices of the Republic of Serbia.

The Republic Public Prosecutor and three Deputy Republic Public Prosecutors have been engaged in the implementation of the tasks set by the Programme of Operations at the Republic Public Prosecution Office and they have been delegated to the Special Department through this programme. The head of the department has been appointed, as well as the secretary who has the title of the Advisor at the Republic Public Prosecution Office.

Locally competent prosecution offices will be excluded in order to avoid the pressure of the local social structures, conflict of interest in the area of the locally competent prosecution offices and the transfer of competences through devolution and substitution.

The department deals with the cases of criminal acts of corruption and criminal acts of corporate crime that are linked with the corruption involving state officials, persons appointed by the assemblies, as well as designated and nominated persons, cases which are of interest of the general public, as well as the cases that require closer cooperation with the relevant ministries and careful coordination with other state bodies.

The criminal offences covered by these cases are the abuse of power in the economic sector referred to in Art. 238 of the PC, misconduct in office referred to in Art. 359 of the PC, violation of the law by judges and public prosecutor and his/her deputy referred to in Art. 306 of the PC, illegal mediation referred to in Art. 366 of the PC, receiving bribe referred to in Art. 367 of the PC, giving bribe referred to in Art. 368 of the PC, disclosing official secret referred to in Art. 369 of the PC, disclosing business secret referred to in Art. 240 of the PC, as well as other criminal acts with corruption elements.

The RPPO department monitors the work of the district and municipal public prosecution offices, it provides professional assistance to the first-instance prosecution offices, and if needed, it gets operationally involved in the first-instance proceedings and coordinates the work of the municipal and other district public prosecution offices that do not have specialised departments.

A special activity of this department is the implementation of the Action Plan for the enforcement of the National Strategy for the Fight against Corruption. With the aim of preventing corruption in the work of the public prosecution office, there is a mandatory subsequent control of the prosecution office's decisions in the cases of not

initiating or discontinuing the proceeding for criminal acts with elements of corruption or in the cases of procrastination of the criminal proceeding.

The department periodically analyses the operation reports, it ensures consistent enforcement of the regulations on the confiscation of the proceeds generated through corruption, it cooperates with financial experts and police, and it conducts international cooperation in the field of countering corruption.

During the period from 1.1.2008 to 13.5.2008, the Special Department processed 345 cases falling under the competence of the Republic Public Prosecution Office. Within the scope of monitoring the work of the district and municipal public prosecution offices and providing expert assistance to the first-instance prosecution offices, the department acted in 212 cases.

There is a plan to appoint deputy district public prosecutors at the other District and Municipal Public Prosecution Offices in the Republic of Serbia where the creation of Special Departments for the fight against corruption has not been envisaged with the joint task forces of the prosecution office and police for the fight against corruption and their mutual connection with the Special Departments for the fight against corruption at the Republic Public Prosecution Office and the District Public Prosecution Offices where they have been created or where the creation of the special departments is currently going on.

The RPPO plans to further strengthen the Special Department at the Republic Public Prosecution Office and the District Public Prosecution Office in Belgrade with human resources, and, after they are created, also the District Public Prosecution Offices in Novi Sad, Kragujevac and Nis, through the election of a sufficient number of public prosecutors, deputy public prosecutors and their advisors, along with engaging a higher number of top experts in different fields of expertise in order to achieve the set goals of discovering and successfully processing criminal acts with corruption elements.

#### Commissioner for the Information of Public Importance

In the period from December 2007 to May 2008, the Commissioner continued the activities related to the training of public servants and informing the public on the exercising of the right to accessibility of the information of public importance. Thus the Commissioner and the representatives of his service participated during this period in the organisation of 20 more seminars and debates dedicated to the transparency and civic control of the governmental bodies and the fight against corruption in the context of the enforcement of the Law on Free Access to the Information of Public Importance, organised in cooperation with the OSCE, Belgrade Centre for Human Rights, Open Society Fund, then with the Belgrade Open School and the Republic Institute for IT and Internet on the subject of Internet and public sphere in Serbia, and with the chambers of commerce in Serbia on the subject of education of authorised persons for acting upon the requests for the access to the information of public importance at utility, tourist and other public enterprises and organisations at the city and local levels.

The promotion of the right to free access to the information of public importance was also done through active participation in several debates and round tables organised by other state bodies and organisations, as well as through the participation of the Commissioner in several television programmes.

The Ministry for Public Administration and Local Self-Government has accepted the initiative of the Commissioner to include the issues of transparency of work of the state bodies and the enforcement of the Law on Free Access to Information of Public Importance in a systematic and continuous training of the human resources through a programme of subjects for professional examination.

The Programme for the general professional additional training of the public servants at public administration bodies and Governmental services for 2008, adopted by the Government of Serbia in February 2008, also includes the topic of transparency of work of the bodies and the free access to the information of public importance, at the initiative of the Commissioner submitted to the Human Resources Management Division, as the proponent of the Programme. Further continuation of the cooperation related to the implementation of the Programme has been agreed with the representatives of the Division.

With regards to the training of public servants, it is expected that the Ministry for Public Administration and Local Self-Government will begin to implement the Capacity Building Project related to the implementation of the Law on Free Access to the Information of Public Importance from the 2008 NIP. This project was proposed by “Transparency of Serbia” organisation and the Ministry was allocated RSD 6 million (around EUR 72,000) for the implementation of this project.

### Ombudsman

The Secretariat of the Ombudsman started its work on 24th December, 2007. At the moment, at the Secretariat of the Ombudsman, there are 20 public servants with university level education and 2 public servants with high school level education with indefinite employment, while 5 public servants with university level education and 3 with high school level education have definite employment (which makes a total of 30 employees).

From the moment of his official entering on duty on 24th July, 2007, through 31st December, 2007, the Ombudsman received a total of 406 complaints, 217 of which related to different areas of the violations of the rights of the citizens that fall under the competence of the Ombudsman. At the same time, from the beginning of 2008 to 16th May, 2008, the Ombudsman received 465 complaints, 144 of which were rejected on account of not falling under his competence, while 321 of them relate to different areas of the violations of the rights of the citizens that do fall under his competence.

The Ombudsman has a continuous cooperation concerning the protection and enhancement of human and minority rights with the Province Ombudsman of the Autonomous Province of Vojvodina and the City Ombudsman of the city of Belgrade.

In order to establish informal network of ombudsman and a more efficient protection and enhancement of human and minority rights at all national levels of government, at the end of October 2007, the Ombudsman organised a meeting with the participation of the province ombudsman with the deputies, local ombudsmen and the director of the National Office of the President of the Republic. The agreement was reached on a continuous cooperation with the view to have as efficient protection of the rights of the citizens and the accessibility of institutions as possible. Ombudsmen are independent institutions and there is no hierarchical relation among them. The Ombudsman and the local ombudsmen are in daily touch.

In his daily work, the Ombudsman makes the efforts and undertakes measures aimed at establishing the institution of ombudsman at the local level. In addition, the Ombudsman has on several occasions so far, during public appearances or when participating at expert conferences and congresses, provided unambiguous support for the establishment of the institution of ombudsman at the local level.

The ombudsmen have also been established at some types of public service, such as primary health care centres and hospitals (“protector of the rights of patients”), faculties, etc.

#### State Audit Institution

The State Audit Institution is an autonomous and independent state body. The Council of the State Audit Institution was appointed on 24th September, 2007.

Taking into account the recent founding of the State Audit Institution, all the activities of the Council’s members are aimed at the creation of material suppositions for the work of the Institution, as well as at performing the tasks stipulated by the law in connection with the beginning of the operations.

The Rules of Procedure of the Institution have been adopted and submitted to the National Assembly for further adoption on its part, as well as the Initial Programme of Operations and the Document on the Organisation and Systematisation of Job Positions.

The selection of 2 out of 6 supreme state auditors has been made, and the secretary of the Institution has been appointed.

The Institution should start with effective work by the end of 2008, after the adaptation of adequate premises.

The State Audit Institutions has been actively participating in the seminars and trainings in connection with the fight against corruption, transparency of the work of the state bodies, as well as the audit.

#### Republic Board for Resolving Conflicts of Interest

Three and a half years have passed since the entering into force of the Law on the Prevention of Conflict of Interest in Discharge of Public Office, and less than three

years have passed since the foundation and the beginning of the operations of the Republic Board for Resolving Conflicts of Interest.

In the first half of its mandate, the Republic Board has initiated around 1,300 proceedings, has delivered closed to 400 non-public and 140 public measures, passed several hundred opinions and several dozens of legal positions, while its Secretariat recording around 13,000 public functionaries, listed over 19,000 and processed 17,000 reports on the assets and income.

## **Training**

### Human Resources Management Division and the High Public Official Council

In the field of the fight against corruption, and in compliance with the adopted Programme of the general professional additional training of public servants within which a module entitled “Transparency and Corruption” has been planned, the Human Resources Management Division has organised four trainings entitled “Openly about Corruption.” The trainings took place on 21st April, 12th, 22nd and 29th May, 2008, and were intended for the public servants who prepare the reports on the activities implemented by the state body in the field of the fight against corruption. The training was attended by 80 public servants. Yet another “Openly about Corruption” training is planned for the end of November, intended for all public servants, with the aim to have them acquainted with the contents of the strategic documents in the field of the fight against corruption, causes and consequences of corruption, as well as the preventive measures of acting. The programme of the “Openly about Corruption” training foresees the acquainting of the public servants with the Code of Contact for public servants.

Among the planned activities, there are also trainings entitled “Free Access to the Information of Public Importance,” that will take place on 10th, 11th and 12th September. The lecturers are Rodoljub Sabic, the Commissioner, and Stanojla Mandic, Deputy Commissioner. The training is intended for the public servants who are authorised persons for providing information of public importance and will cover all the bodies of the public administration and the Government’s services.

Within the scope of the planned activities for 2009, it is envisaged to organise cooperation between the Human Resources Management Division and the “Konrad Adenauer” Foundation aimed at providing support in the organisation of the “Transparency and Corruption” training courses.

The High Public Official Council, as the body in charge of enacting the code for the public servants from the bodies of the public administration, adopted at its 26th session held on 29th February, 2008, the Code of Conduct for Public Servants. The Code was published in the “Official Gazette of the Republic of Serbia,” number 29/08, of 21st March, 2008, and it entered into force as of the eighth day from its publication.

The Human Resources Management Division, with the support of the “Konrad Adenauer” Foundation, printed as a publication 1000 copies of the Code of Conduct for Public Servants, and at the moment it is being distributed to all the bodies of the

public administration and the Government's services in order for the employees to get acquainted with its contents in this manner as well.

### Judiciary Centre

In view of the fight against corruption and according to the Annual Programme of Operations of the Judiciary Centre, there is a plan to cover the following topics related to corruption by the end of 2008:

1. Special investigation actions and the use of evidence. 5 one-day seminars will be organised on this subject. The foreseen participants are judges and prosecutors.
2. Measures in the fight against corruption. Seminars for the judges and prosecutors of the district and municipal courts. 8 seminars will be organised.
3. Challenges and successful examples in the fight against corruption. The seminar will be organised for investigative judges, prosecutors and police officers. Four three-day seminars will be organised in cooperation with the US Embassy.
4. Organised crime, money laundering and corruption. The seminars are organised for the judges of the district courts, prosecutors, administration for the fight against organised crime, and money laundering administration. Three two-day seminars will be organised.

The programme of the Judiciary Centre for 2009 is currently being prepared. In line with the decision of the Management Board of the Judiciary Centre, the trend of intensive training of judges and prosecutors on the subjects related to the fight against corruption will be kept in the 2009 programme, too. Also, the Judiciary Centre will continue with the practice, which proved to be excellent, to include in the training courses the representatives of the MI, administration for the fight against organised crime and the administration for the prevention of money laundering.

## **2. JUDICIAL COOPERATION IN CRIMINAL MATTERS**

### **Implementation of the international conventions concerning judicial cooperation in criminal matters (more precisely - CE Conventions)**

In the Republic of Serbia, judicial cooperation with other countries in criminal matters is governed by national legislation and international treaties and conventions signed or acceded to by the Republic of Serbia.

As far as the national legislation is concerned, it is first of all the Code on Criminal Proceedings, enacted in 2001, which in its chapters on the international legal

assistance and enforcement of the international treaties, as well as extradition of the indicted and convicted persons, regulates all the issues within the international legal assistance, as follows:

- a) General forms of the international legal assistance in criminal matters;
- b) Assignment and take over of cases of criminal prosecution;
- c) Enforcement of foreign criminal judgments;
- d) Extradition of indicted and convicted persons.

The general forms of international legal assistance under the Penal Code imply, in particular, the performance of individual process actions, such as hearing of the indicted, witnesses and experts, investigation, search of premises and persons, seizure of objects, and the delivery of documents, written material and other object related to the preliminary and main criminal proceedings in the country rogatory. The Code stipulated, as examples, only some general forms of the international legal assistance that is to say the Code allows for other forms of the international legal assistance (Article 531).

Discussing the assignment of criminal prosecution, under the Code of Criminal Proceedings (Article 536), if a criminal act had been perpetrated in the territory of the Republic of Serbia by a non-resident domiciled in a foreign country, then all the criminal files may be assigned to such a state for criminal prosecution and trial, provided the foreign country concedes. Assignment may be approved for criminal acts entailing prison term of up to 10 years, and the criminal acts of threat to public traffic, irrespective of the amount of sentence. In practice, we are confronted with increasing number of cases when the indicted and the victim are the nationals of one and the same state, while the indicted is located in his country which allows for assignment of criminal prosecution irrespective of the mentioned provisions. If the victim is the national of the Republic of Serbia, the assignment shall not be permitted if he stands against, unless security provided for his property and legal claim. If the indicted is detainee the Code provides that the state should make a declaration within 15 days whether it will take over the criminal prosecution.

Prior to the decision on investigation, the decision on the assignment of criminal prosecution shall be taken by the competent public prosecutor, in the course of investigation that decision is taken at the proposal of the public prosecutor's by the investigating judge and pending the beginning of the main trial by the court chamber.

The Code (Article 537) stipulates also the possibility that a foreign state may request the Republic of Serbia to take over the prosecution of the national of the Republic of Serbia or the person domiciled in the Republic of Serbia, for a crime perpetrated abroad. The decision of taking the criminal prosecution is to be rendered by the public prosecutor responsible according to the place of domicile of the indicted person in the territory of the Republic of Serbia. The requesting foreign state shall be informed of denial to take criminal prosecution and of the final decision taken in the criminal proceedings.

Discussing the execution of foreign criminal judgments, the Code (Article 534) provides that the national court shall enforce the foreign final judgment of a sanction if so stipulated in the international treaty or under reciprocity and also if the sanction



is declared by the national court under the criminal legislation of the Republic of Serbia. Hence, foreign criminal judgments cannot be directly enforced in the Republic of Serbia; it is necessary that the national court aligns such a judgment to the national legislation and declare criminal sanction to a person in compliance with such legislation which then becomes enforceable. Public prosecutor and defence counsel are notified of the chamber sitting when such a judgment is rendered, and the verdict of the judgment shall contain the full verdict and name of the court stated in the foreign judgment. Such a ruling is contestable before the public prosecutor by the sentenced and his counsel, as well as other person who are entitled or not to file complaint to a judgment further to the provisions of the Code of Criminal Proceedings.

The Code set out the possibility that a non-resident sentenced by a domestic court or a person authorized under a contract can file an application with the first instance court to serve the declared sentence in his country, in which case the first instance court shall act according to the international treaty or on the basis of reciprocity..

The letters rogatory of the domestic court and public prosecutors for mutual assistance in preliminary and main criminal proceedings shall be delivered to foreign authorities via Ministry of Justice of the Republic of Serbia. In the same vein the domestic courts are served the letters rogatory received from foreign authorities for legal assistance. In emergency, provided reciprocity, the letter rogatory for legal assistance may be served by mediation of the Ministry of the Interior (International Crime Police Organization - INTERPOL) - Article 532 of the Code.

Permissibility and manner of execution of letter rogatory for legal assistance shall be judged by the competent court under the domestic legislation (Article 533 of the Code), that is the competent public prosecutor's in the case of request for criminal prosecution (Article 537).

The Code, in a separate chapter, regulates the extradition of the indicted and convicted (Article 539 to 555 of the Code). The Code provides for the assumptions for surrender of the indicted and convicted, and for the very procedure of determination of such assumptions. Hence, the Code set as assumptions for surrender of persons from the Republic of Serbia that they are no nationals of the Republic of Serbia; that the act for which the surrender is requested was not perpetrated in the territory of the Republic of Serbia, against it or its national, that the act for which the extradition is requested constitutes a criminal act under the domestic law and under the law of the state of perpetration; that no statute of limitation applies to criminal prosecution or statute of limitation of execution of sentence or that the criminal act is no subject to amnesty; that the non resident whose extradition is requested had not already been sentenced by the domestic court, or finally acquitted for the same act by the domestic court, unless the circumstances accrued for renewal of the criminal proceedings under the Code, or that the non resident is subjected in the Republic of Serbia for the same act perpetrated against the Republic of Serbia to criminal proceedings, but if it is because of the act against the national of the Republic of Serbia, that security was pledged for the settlement of property and legal claim of the victim; that the identity of the person whose extradition is requested was established; that evidence suffice for the grounded suspicion that the non resident whose extradition is requested perpetrated the criminal act or there exists final judgment (Article 540).

The Code provides for an exception to the rule prohibiting the extradition of a national of the Republic of Serbia. Accordingly, the extradition of a non resident or resident of the Republic of Serbia to an international court recognized under the confirmed international treaties, provided however that the act for which extradition is requested is a criminal act also under the domestic legislation and under the law of the state in which it was perpetrated; that no statute of limitation applies under the domestic law for criminal prosecution or that the criminal act is not covered by amnesty; that the identity of the person whose extradition is requested was determined; that the same person had not already been sentenced for the same criminal act by the domestic court (Article 540).

The procedure for extradition of the indicted and convicted person is initiated by filing the application of the state with the Ministry of Justice of the Republic of Serbia (Article 541 of the Code).

The application is processed with the district court in the territory of stay of the non resident or his/her capture. The decision of the district court is contestable by the person wanted with the Supreme Court of the Republic of Serbia. If the court finds that the assumptions for extradition are met, it shall deliver its decision to the Ministry of Justice which shall render the final decision of surrender (Articles 546 and 547).

If the court finds the assumptions for extradition unfulfilled, it shall resolve the matter on the merit of the case, that is take the decision refusing the foreign letter rogatory and in such a case, the Ministry of Justice is bound by such a decision (Article 545).

The Ministry of Justice shall not approve the extradition of non resident who enjoys the right to asylum in the Republic of Serbia, if political or military crime is concerned, if life or freedom of a non resident are at stake due to race, religion, ethnicity, social status or political affiliations, if it is reasonably believed that the non resident will be exposed in the state requesting extradition of a non resident to inhuman treatment or torture, or if he/she was not accorded a defence counsellor in the processes preceding the extradition. The Ministry of Justice may deny the extradition in case of criminal acts punishable under the domestic law up to three years or if the foreign court adjudged the prison punishment up to one year (Article 548 of the Code).

According to the Code the letter rogatory of a foreign state for extradition of resident must be delivered within two months at the latest from the date of detention of non resident, with the possibility to extend it at the request of a foreign state for maximum another month (Article 543 of the Code).

In the process for extradition, the investigating judge may pronounce detention of a nonresident under the conditions governing detention terms, unless the letter rogatory made it clear that there is no room for extradition. The detention can last no longer than the execution of a decision on extradition, but no more than a year from the date of detention. In the extradition process, the investigating judge is obliged to inform the nonresident that he/she may hire a lawyer of own choice or will be appointed ex officio, if defence is compulsory under the Code, and in the same vein the non resident must be promptly notified why and on which evidence his/her extradition is

requested and invite him/her to state what he has in his defense (Article 542 of the Code).

The Code specifies the obligation to respect the principle of the so called specialty, whereby the extradited person cannot be prosecuted for another criminal act perpetrated before extradition, that no punishment can be enforced for another perpetrated criminal act before extradition, that no more severe punishment can be applied than the one he had been adjudicated, or death penalty, and that he/she cannot be extradited to a third country for prosecution for a criminal act perpetrated prior to the permitted extradition.

The Code of Criminal Proceedings provided for no conditioning of international legal assistance on the existence of the international treaties, except in the case of enforcement of foreign criminal judgment, but even in such a situation, that is when no international treaty is in existence, it is possible to pursue this type of legal assistance on the basis of reciprocity.

Certain provisions on international legal assistance are contained in the part of the Code of Criminal Proceedings governing the conduct of the judicial authorities in the cases of suppression of organized crime; it provides in the case of such crime, both the procedure and administration of international assistance in tracing and criminal prosecution of perpetrators of criminal acts of organized crimes. That part of the Code regulates also the issue of cooperation with other states concerning controlled deliveries in compliance with the UN Convention against illicit trafficking of narcotics and psychotropic substances, then the issues of temporary seizure of objects and benefits, request for data from other state authorities, banks and other financial organizations relating to the control of operations of certain person, and freezing of suspicious money, securities or objects further to the Convention on laundering, tracing, seizure and confiscation of revenues earned in criminal activities, control of business and personal accounts of a suspect, the issue of undercover investigations (undercover inspector, surveillance and taping of telephone and other conversation or communication via technical devices and optical face shots, etc.).

Certain matters, namely certain forms of the international legal cooperation are stipulated in two special laws enacted in the Republic of Serbia, as follows: the Law on organization and competence of state authorities in combating the organized crime and the Law on organization and competence of state authorities in the proceedings for war crimes. Within those two Laws there are specific provisions, as a form of international legal assistance, on the hearing of witnesses and victims and the very Laws set out the hearing of such persons via video conference telephone session.

As to the treatment of the international treaties in the domestic legislation, the Code of Criminal Proceedings accords express primacy to the international treaties. Namely, according to the Code, the international legal assistance in criminal matters, including the extraditions, proceeds further to the international treaties. Only if there is no international treaty or if certain issue is unregulated thereby, the provisions of the domestic legislation become applicable. Such a solution arises from the provisions of the Constitution of the Republic of Serbia, which stipulate that the generally accepted rules of the international law and confirmed international treaties are integral part of the legal order of the Republic of Serbia and are directly applicable. Hence, the

international treaties, namely conventions by the Republic of Serbia, have a force of law in formal and legal terms in a hierarchy of legal acts, even prevail over the laws. Hence, the transposition of international treaties in the domestic legislation has been resolved.

Currently, the Republic of Serbia has 36 treaties on international legal assistance in criminal matters with 28 states. Some regulate all the forms of international legal assistance in criminal matters, while others only some, for instance extradition and enforcement of the foreign criminal judgments.

The Republic of Serbia ratified 18 Conventions of the Council of Europe, containing the provisions of the international legal cooperation in criminal matters. They are as follows:

1. European Convention on Mutual Legal Assistance in Criminal Matters of 1959.
2. Additional Protocol to the European Convention on Legal Assistance in Criminal Matters of 1978.
3. The Second Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters of 2001.
4. European Convention on Extradition of 1957.
5. Additional Protocol to the European Convention on Extradition of 1975.
6. The Second Additional Protocol to the European Convention on Extradition of 1978.
7. European Convention on Transfer of Convicted Persons of 1983.
8. Additional Protocol to the Convention on Transfer of Convicted Persons of 1997.
9. European Convention on the Surveillance of Probationers or Paroled of 1964.
10. European Convention on the International Validity of Criminal Judgments of 1970.
11. European Convention on the Transfer of Process in Criminal Matters of 1972.
12. Additional Protocol to the European Convention on Information about Foreign Law of 1978.
13. Criminal Law Convention on Corruption of 1999.
14. Additional Protocol to the Criminal Law Convention on Corruption
15. Civil Law Convention on Corruption.
16. Convention on Laundering, Tracing, Seizure and Confiscation of Income Acquired in Criminal Activities of 1990.
17. European Convention on Combating Terrorism of 1977.
18. European Convention against Violence and Indecent Conduct of Visitors of Sports Events, especially of Football Matches of 1985.

The Republic of Serbia has signed, but not yet ratified, the following CE Conventions:

1. Convention on Cyber Crime of 2001.
2. Additional Protocol to the Convention on Cyber Crime relative to the incrimination of acts of racist and xenophobic nature perpetrated via PC systems of 2003.

3. Convention of the Council of Europe on Trafficking in Human Beings of 2005.
4. Convention of the Council of Europe on laundering, search, seizure and confiscation of revenues acquired by crime and on financing terrorism of 2005.
5. Protocol Changing and Supplementing the European Convention on Combating Terrorism of 2003.
6. Convention of the Council of Europe on Combating Prevention of Terrorism of 2005.

The legislation on the confirmation of the Convention on Cyber Crime, and the Additional Protocol to the Convention have been drafted and will be delivered to the Government for review and approval of the Bills in September 2008. The National Parliament should enact the same by the end October 2008.

Draft legislation on ratification of four Conventions will be delivered to the Government for review before 1 December 2008. The approval in the National Parliament is expected by the end of 2008.

In addition to the mentioned Conventions of the Council of Europe, the Republic of Serbia acceded many conventions of the United Nations and its agencies, primarily relating to the legal assistance in criminal matters between states, with respect to concrete criminal acts, namely concrete forms of the international criminal-legal assistance.

The accession to the mentioned Conventions of the Council of Europe and United Nations and their agencies created the obligation for the Republic of Serbia to transpose into its domestic legislation new criminal acts, which was done by means of the Criminal Code of the Republic of Serbia of 2006, which contains some novel criminal acts, as war of aggression, harassment and torture, financing of terrorism, etc. Also, the criminal legislation of the Republic of Serbia transposed some new forms, methods and means of the international legal cooperation with the view to better differentiated, faster and more efficient development of such cooperation, namely surveillance, and taping of telephone and other conversation, controlled deliveries, requisition of profit, control of business and personal accounts, covert investigations (undercover inspector), freezing of financial means, etc.

• **Measures conducive to enhancement of judicial cooperation between judges and prosecutors in criminal matters with EU member states and countries in the region**

Legal cooperation in criminal matters between the Republic of Serbia and other states is extremely voluminous, in terms of all the forms of the international legal assistance. According to the data of the Ministry of Justice currently some 20,000 letters rogatory for international legal assistance in criminal matters are on file, both those delivered by the judicial authorities of the Republic of Serbia to foreign judicial authorities, or by the foreign judicial authorities to those of the Republic of Serbia. Thus, the Ministry of Justice registered between 1 August 2007 and 1 August 2008, 9,738 applications for international legal assistance in criminal matters, and both the ones received from the foreign judicial authorities and from abroad. The number of letters

rogatory requesting an active international legal assistance exceeds those for passive international legal assistance. As to inter governmental cooperation, it is most intense with the neighbouring countries, but considerable cooperation is ongoing with other European countries, while it is less intense with non European countries.

The most intense cooperation within the international legal assistance, which consists of activities further to letters rogatory, relates all the forms of international legal assistance (two thirds). The modern aspects of the international legal assistance are ever more present, as surveillance and taping of telephone and other conversation, property confiscation, controlled deliveries, hearing via video conference link, and setting up of joint investigating teams.

The international legal assistance concerning the assignment and takeover of criminal prosecution is also a big workload (currently several hundred of letters rogatory) relating the assignment of and taking over the criminal prosecution requested either by foreign judicial authorities from the Republic of Serbia, or vice versa.

Concerning the enforcement of foreign criminal judgments, namely transfer of convicted persons, it is rather dominant (currently 200 requests), and increasingly applied, particularly since the accession of the Republic of Serbia to the European Convention on Transfer of Convicted Persons.

As to the extradition, a special form of the international legal cooperation in criminal matters, it is worth mentioning that this form of legal cooperation in the last 2-3 years picked up considerably, either requested by foreign countries from the Republic of Serbia or by the Republic of Serbia from foreign states. The Republic of Serbia submitted some 100 application for extradition of indicted persons and convicted persons arrested abroad, further to the international warrants, and received about 70 to 80 applications from abroad.

In the course of 2007, 13 persons were extradited from the Republic of Serbia to other states, while 42 from other states to the Republic of Serbia. In the course of 2008, till 1 August, the Republic of Serbia extradited 12 while 15 persons were extradited to the Republic of Serbia.

With the view to more comprehensive regulation, faster and expeditious processing of the entire international legal assistance in criminal matters, particularly in the situation when there is neither multilateral convention or bilateral agreement, a special law is under preparation in the Ministry of Justice on the international legal assistance in criminal matters, which will be aligned to modern standards, in compliance with the international regulations, specifically with the Second Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters. The deadline for completion of the job is October 2008.

The international regulations are ever richer, versatile but also more complex, both on a wider but also on the regional and bilateral levels. It calls for strengthening of institutional and human resource capacities at the national level, to develop and enhance the international legal cooperation. Therefore, special attention will be devoted to timely updating of the domestic judicial authorities with the abounding international legal legislation providing for cooperation between states in criminal

matters. To that end, measures will be taken to ensure good knowledge of domestic judges, prosecutors and the competent authorities about the legislation on the legal cooperation in the criminal matters, to be better equipped to confront in expeditious manner the criminal activities.

Capacity building in technical and human resource areas is ongoing in the Department for international legal assistance of the Ministry of Justice of the Republic of Serbia, which is the focal point for this type of legal cooperation in the Republic of Serbia for faster, more efficient and better quality performance. To that end technical equipment was procured for this Department from the donation of the Kingdom of Spain, to be started up by September 2008. In cooperation with the Kingdom of Netherlands, software was provided to enable efficient international legal assistance. The deadline for introduction of software is 31 December 2008. For further capacity building the direct communications will be established and meetings with the representatives from other countries held.

In the same vein, redesign of web page of the Ministry of Justice is under way, which will contain the texts of all the international instruments acceded to by the Republic of Serbia, reservations and declaration that other countries made to those international legal instruments, data on the central authorities for the application of the conventions and protocols, etc. Redesigned web page of the Ministry of Justice will be completed by 1 October 2008.

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| <ul style="list-style-type: none"><li>• <b>Development of relations with Eurojust via contact person of Eurojust</b></li></ul> |
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Activities completed:

- Contact person was appointed in 2003 of the Republic of Serbia for cooperation with EUROJUST (deputy of the Republic Prosecutor),
  - Participation in the coordinating meetings in the Headquarters of EUROJUST 22nd March 2006 and 2 October 2007.
  - During the Conference of the Consultative Committee of European Prosecutors (CCEP) in St. Petersburg, 3 July, talks were held with the new Chairman of the EUROJUST Senior Staff, Mr. Hose Luis Lopes da Mato (Portugal), who expressed readiness to conclude the Cooperation contract between EUROJUST and the Ministry of Justice of the Republic of Serbia;
  - During the 8th Regional Conference of the International Prosecutors' Association 14 March 2008, while visiting the Headquarters of EUROJUST the deputy Chairman of EUROJUST Senior Staff Mrs. Michel Conings (Belgium) praised the cooperativeness of the Public Prosecutor's of the Republic of Serbia as a model for relations with the countries not yet members of EUROJUST.
- Regular operative work proceeds via contacts of the Republic Prosecutor's and national representatives and liaison magistrates in EUROJUST in the form of data exchange, mutual direct legal assistance and consulting. The relations with EUROJUST are characterized by daily activities concerning different

requests of contact prosecutors from different countries, predominantly EU members, but also representatives of states having agreements on cooperation with EUROJUST (Norway, Switzerland, Japan, Russia and other) or permanent designated contacts prosecutors (Montenegro, Bosnia and Herzegovina and others).

Forthcoming activities in the period to 1 January 2009:

- Addressing the Chairman of the Senior Staff of EUROJUST with a view to opening the negotiations with EUROJUST,
- Preparations for signing Cooperation Agreement,
- Conclusion of Cooperation Agreement with EUROJUST,
- Preparation for opening the Office for cooperation with EUROJUST,
- Designation of the national contact person from the ranks of prosecutors,
- Participation in the international meetings, seminars and conferences

### **Advisory group of prosecutors of the South East European countries – SEEPAG**

Regular operative work of the Advisory Group of the prosecutors of the countries of South Eastern Europe (SEEPAG) coordinates the cooperation among the representatives of the prosecutors' of Albania, Bosnia and Herzegovina, Croatia, Bulgaria, Greece, Hungary, FYROM, Moldova, Romania, Serbia, Montenegro, Slovenia and Turkey, further to the main guidelines and recommendations for setting up the mechanism of contact persons, signed 12 December 2005, at the Conference in Belgrade.

Activities completed:

- The Department for international cooperation and legal assistance was set up in the Republic Prosecutor's Office, and contact person is the deputy Republic Prosecutor;
- The representative of the Republic of Serbia at the 11th SEEPAG Conference in Istanbul (Turkey), voted on 21 March 2008 as the representative in SEEPAG in favor of the proposal of the Secretary of the European Judicial Network (EJN) that SEEPAG network for cooperation join the EJN and become component part of the European Judicial Network;
- The participation at 12th SECI Center Conference for suppression of cross border crime and the State Prosecutor of Albania in Drač, 26 – 27 June 2008 on the topic of case studies of joint investigations, exchange of information and enhancement of mutual cooperation.

Forthcoming activities till 1 January 2009:

- Increase of institutional capacities of the Department for international cooperation and legal assistance of the Republic Prosecutors' Office;
- Presentation of the functioning of EJN network and adjustment of the process to the methodology for cooperation via EJN;
- Participation in the meetings and conferences in SECI Center for suppression of cross border crime;
- Consultations with regional coordinators with SECI Center (USDOJ, EC, UNODC).



## **Training planned in 2008-2009**

In the context of needs of the Republic Prosecutors' it should be said that the international cooperation imposes specialization and team work and permanent education. With the view to creating conditions for efficient international cooperation, the following needs were identified in the Republic Prosecutors' Office:

- Training for analysis of the principles and standards of treatment accorded by the international conventions,
- Education about the instrument and trends in the international cooperation;
- Designation of the national model of education in each form of crime,
- Enhancement of institutional capacities – improvement in performance of the Department for international cooperation and legal assistance within the Republic Prosecutors'
- Improvement of treatment by the Department combating organized crime;
- Language courses;
- Recruitment and training of professional staff;
- PC literacy courses and uniformity of hardware.

## **LAW ENFORCEMENT COOPERATION**

- **Undertake necessary steps to ensure cooperation within law enforcement among relevant national agencies - particularly border guard, police, customs officers and cooperation with judicial authorities**

Mechanisms were set up for the needed level of cooperation between police and the prosecutors. To begin with, the policemen are obliged to promptly notify the competent prosecutor of all the steps taken within preliminary criminal proceedings. Within a series of projects joint trainings were organized to further spur up regular contacts between the policemen and prosecutors concerning key steps to be taken after the preliminary investigation actions. The new Code on Criminal Proceedings, the application of which starts on 31 December 2008, covers the provisions on how the police and prosecutors should cooperate. It set out primarily the leading role of the prosecutors and determines the obligation of the policemen to promptly notify the prosecutors of any action carried out in the stage of preliminary investigation, namely within 24 hours of the threatened sanction for the perpetrated criminal act is prison term of minimum five years, or within 48 hours in other cases.

For the sake of promotion of team work of police and judicial authorities, the establishment of work in teams was initiated in Novi Sad at the meeting of 18 March 2008 within the police and prosecutors with all district prosecutors' offices that belong to that region. Work teams are made up of policemen and prosecutors. The work teams started activities, in addition to Novi Sad, also in regions of Kraljevo and Belgrade. By September 2008 such teams should be set up in Nis and Kragujevac.

The role of the Judiciary Training Centre is very important with its programs for the basic, specialized and permanent training and professional advancement primarily of the holders of judicial positions and the staff in the judiciary in Serbia.

During 2007, the Judicial Training Centre held 21 seminars within the preparations for the application of the new Code of Criminal Proceedings for the prosecutors and police. Last year 17 seminars were organized for investigating judges, prosecutors and the police about prevention of money laundering. In addition, 28 seminars were held, training the policemen in the treatment of the minor perpetrators of criminal offences and treatment of children victims of the perpetrated criminal act.

The Judiciary Training Centre together with the Office of the permanent representative of the Justice Department of USA with the US Embassy in Belgrade held 7 seminars on combating organized crime and corruption till July 2008. They were attended by prosecutors, investigating judges and policemen. The Judiciary centre organized 5 training courses with the same partner for prosecutors, investigating judges and policemen on the prevention of money laundering and terrorism financing. Another cycle of education of the personnel of the Ministry of the Interior on the treatment of minor perpetrators of criminal acts included 15 seminars held by the mid 2008. In the period between January to July this year, 6 seminars were held on the organized crime and special investigation measures, attended by prosecutors, investigating judges and police.

The Judicial Training Centre shall, in compliance with its role, in the forthcoming period continue to implement the training program, enhancement and advanced training of state administration staff for more efficient implementation of legislation in the Republic of Serbia.

**• Improvement of information sharing between national agencies via adequate coordination mechanisms**

With the view to further enhancement of cooperation between the police and judicial authorities and better sharing of information and coordination between the state authorities, a Coordinating body of the Government shall be set for justice and the interior to deal with the matters in the domain of justice and interior. It will consist of representatives of the competent state authorities for justice and the interior, and other state authorities on invitation. The time frame for completion of this activity is December 2008.

**• Consolidation of regional cooperation among the law enforcement agencies and implementation of agreements on bilateral and multilateral operative cooperation, including timely sharing of relevant information with the competent authorities for law enforcement of EU member states**

The international policing cooperation of the Ministry of the Interior is being carried out on a bilateral level, regional and multinational, through cooperation within a series of programs and projects organized in the area of South Eastern Europe and coordinated by the international organizations (OSCE, UN, Stability Pact of South Eastern Europe, SECI, IOM, Council of Europe and others). A considerable scope of these activities goes through NCB INTERPOL Belgrade, but also via bilateral contacts and cooperation of the competent lines of the Ministry with corresponding police services of a number of countries in the region.

In this context and as mentioned before, the Convention of Policing Cooperation in South Eastern Europe, signed by the Minister of the Interior at the Ministerial Conference in Vienna, May 2006, was confirmed by the National Parliament under the Law confirming the policing cooperation in South Eastern Europe (Official Gazette of RS-International Treaties 70/07).

The Convention on the Policing Cooperation in South Eastern Europe regulates the areas of cooperation and exchange of policing information on crimes and perpetrators, appointment and exchange of liaison officers, witness protection, common training, entry to the foreign territory during the pursuit of crime perpetrators, cross border surveillance, controlled delivery and data sharing. That document governs the cooperation in the area of set up of joint border patrols, joint investigating teams and cooperation in joint centres.

### **Signed Agreements and Cooperation Protocols:**

1. The Agreement on cooperation in suppressing the international organized crime, international illicit drug trafficking and international terrorism between the Ministry of the Interior of the Republic of Serbia and the Federal Ministry of the Interior of the Republic of Austria, signed in Vienna, 11 November 2004.

2. Protocol on cooperation of border police through pilot Contact Bureau between the Ministry of the Interior of the Republic of Serbia, Border Police Administration and Ministry of Administration and the Interior Affairs of the Republic of Romania, Inspectorate General of the Border Police, was signed in February 2006.

3. The Agreement on Cooperation in Suppressing the Organized Crime, international illicit drug trafficking and international terrorism between the Government of Romania and the Government of the Republic of Serbia, signed 5 July 2007 in Bucharest.

4. Agreement on Cooperation in Suppression of Crime between the Government of the Slovak republic and the Government of the Republic of Serbia, signed 16 November 2007 in Bratislava, Slovakia. Simultaneously was signed the Protocol Implementing the Agreement.

5. The Agreement between the Government of the Republic of Bulgaria and the Government of the Republic of Serbia on cooperation of border authorities. The Agreement was signed on 12 November 2007 in Belgrade.

Memorandum on cooperation in suppressing terrorism, organized crime, illicit trafficking of narcotics, psychotropic substances and precursors, illegal migrations and other crimes between the government of the Republic of Bulgaria and the government of the Republic of Serbia signed 26.09.2003.

6. Memorandum of interest to cooperate in the area of prevention of natural disasters, techno accidents and elimination of their consequences between the government of the Republic of Serbia and the Ministry of Russian Federation for civil defence, emergencies and alleviation of consequences of natural disasters, signed 21 Jun 2007.

7. Memorandum of understanding and cooperation in the area of protection and support to witnesses and other participants in the criminal proceedings between the Units for Witnesses Protection in the Ministry of the Interior of the Republic of Serbia, State Agency for Investigation and Protection (SIPA) of Bosnia and Herzegovina and Police Headquarters of the Republic of Montenegro. The Agreement was signed 20 July 2006, in Washington, USA during the First international symposium on witness protection. The said Agreement was confirmed by the conclusion of the Government of 30 August 2007.

8. Agreement between the governments of participating states in BSEC (Organization for Black sea economic cooperation on cooperation in the area of crimes, particularly its organized forms, "Additional Protocol to the Agreement between the governments participating in BSEC on cooperation in suppression of terrorism relating to the Agreement between participating Governments in the Black Sea Economic Cooperation in combating crime, particularly its organized forms" was signed by Police Director at BESC Meeting in Kiev, 17 April 2008.

9. Protocol between the Ministry of the Interior of the Republic of Serbia and the Ministry of the Interior and Public Administration in organizing and holding regular sessions of representatives of Border Police at the central, regional and local levels, and Protocol between the Ministry of the Interior of the Republic of Serbia and the Ministry of the Interior of the Republic of Macedonia in organizing and holding regular meetings between the representatives of Border Police in the central, regional, and local levels.

The Protocols were signed 22 February, 2008.

- **Improvement of operative and special investigation capacities of the department for law enforcement for "tightening grip" on the cross border crime**

#### **CARDS twinning project SDR05JH0 " Capacity Building and Strengthening in the Ministry of the Interior "**

The end of 2007 marked successful completion of **"Twinning" project, SDR05JH0 "Building and strengthening capacities of the Ministry of the Interior "** In the area of improvement the system of special investigating measures for the needs of crime police, particularly for combating all forms of organized crime. The Project was realized between the Police Administration of the Ministry of the Interior of Serbia and the Federal Crime Police of FR Germany (BKA).

The Project was financed via European Agency for Reconstruction The project was worth 4 million EUR, of which 1.5 million was allocated for training and 2.5 million for procurement of equipment.

The Project was conceived and carried out through five components:

- Component 1 - Assessment of the current Serbian legislation, analysis of comparative legal regulations and practice in EU, drafting new and amending

- old regulations following the models of the best EU standards, with the view to improvement the grounds for action in organized crimes investigations;
- Component 2 - Training of operatives / investigators on the investigation of organized crimes and efficient use of SIM in the investigations;
  - Component 3 - Training of senior staff in investigation management in organized crime and efficient use of available resources, primarily SIM;
  - Component 4 and Component 5 - technical components for a specialized Department for SIM application..

Throughout the duration of the project 71 activities were realized for some 100 personnel of the Ministry of the Interior of Serbia.

Within the projects CARDS 2003 and CARDS 2005 so far the following equipment was delivered to the Ministry of the Interior of Serbia:

1. Motor vehicles - contracting party is Verano Motors, contract value 121,662.00 EUR.
2. Procurement of equipment and software - contracting party is SAGA, contract value 258,800.00 EUR
3. Procurement of IT equipment - contracting party is SAGA, contract value 489,150.00 EUR.
4. Procurement of mobile systems for telecommunications surveillance - the supply of mobile system for telecommunications surveillance was procured. The contracting party and manufacturers was ROHDE&SCHWARZ. The delivery was completed and value of the contract was 1,761,980.00 EUR.
5. Procurement of measurement instruments - delivery is expected in early March 2008. The planned funds were about 150,000 EUR.
6. The procurement of the Integrated surveillance system of telecommunications - delivery completed. Contracting party was SAGA-Syborg. Value of contract was 1,498,000.00 EUR.
7. Procurement of equipment for command-surveillance centre - the supply was made by the contracting party SAGA. The contract value was 184,960.00 EUR.
8. Procurement of computer equipment - deadline for supply of computer equipment was 26.03.2007. The delivery was completed. The contracting party was Informatika. Value of contract was 101,668 .00 EUR.
9. Procurement of equipment for video and audio surveillance - contracting party was DAT-CON. The supply was completed. The value of contract was 239,830.00 EUR.

### **CARDS 2003 project**

CARDS 2003 project "Development of reliable and functional policing system and strengthening of police cooperation "was concluded with a meeting held in Strasbourg 19-20 April 2007. In addition to the said donations, survey of the status was made within the project in the area of organized crime. In Serbia, in the focus of "Strengthening police capacity for combating serious criminal acts" the manual was prepared "Financial investigations and requisition of property acquired in criminal activity" for police personnel and judiciary. Apart from the manual, the staff of

SBPOK held trainings for personnel in Novi Sad and Nis, on 27-28.02.2007, and 26-27.06.2007, on financial investigations and use of such manual.

***Project "Organized Crime Training Network - OCTN"***

During 2007 the realization of the OCTN project continued and the following seminars were held attended by the SBPOK personnel:

Module 4 - Organized crime and extreme violence - Seminar 4.2 "*Organized crime and extreme violence* ": Kishinev, Republic of Moldova - **04-09.02.2007**; Seminar 4.3 "*Organized crime and terrorism* ": Stubicke Toplice, Croatia - **04-09.03.2007**.

Module 5 - Organized crime investigation - seminar 5.1: Sarajevo, B&N - **06-11.05.2007**, seminar 5.2: Milocer, Montenegro - **24-29.06.2007**, and seminar 5.3: Ohrid, Macedonia - **02-07.09.2007**.

At the end of 2007, started the realization of Module 6 - Organized crime in motor vehicles, when a seminar was run in Belgrade, Serbia, **12-16.11.2007**. Within Module 6 another seminar was planned in the period 03-08.02.2008, in Stubicke Toplice, Republic of Croatia.

**Projects planned for 2008**

During 2008 the realization of the following projects was planned for the personnel of SBPOK:

**Project: "Organized Crime Training Network - OCTN"** - implementation of the seminar 6.2 Standard training on the topic of smuggling motor vehicles, and seminar for medium and senior personnel in crime police in the organization, legislation and procedures in EU.

**Project XCES50 - "Operative capacity building for investigation and halting human trafficking in the Western Balkans "** - project financed by UNODC; participating countries: Albania, Bosnia and Herzegovina, Croatia, Former Yugoslav Republic of Macedonia, Montenegro, Serbia, (including Kosovo further to UNSC Resolution 1244), over 12 months, that is till the end of 2008. The overall budget of the project is 548,300 US\$ for all the countries including 13% for the cost of project realization.

The general aim of the project is enhancing capacity for law enforcement in the countries of the Eastern Balkans for suppression of human trafficking in the region, destined for Western Europe, through expansion of regional cooperation. The general aim shall be achieved through the establishment of the specialized training plan in favor of personnel involved in the human trafficking investigations, wider use of technical equipment enabling efficient police operations and development of regional policing operations, including the investigation based on intelligence and leading to the core of the organizations engaged in human trafficking.

The activities will be carried out in the form of study visits, training and seminars. One staff member of SBPOK was designated as the so called operating point of contact for further project implementation.

The component of two projects means the realization of donation worth some 22,000 US Dollars.

*Specification of equipment needed was sent by UKP-SBPOK, Section of Human Trafficking and Smuggling, Operative analytics and Border Police Administration.*

The participation in the mentioned project was approved and signed. The training devoted to the struggle against trafficking in human beings and training for the trainers was completed by one policeman of UKP and one police officer of UGP.

**Project LexPro** - financed by UNODC, participating countries: Albania, Croatia, Montenegro, B&H, Serbia and Turkey, and observers were the representatives of Kosovo and Egypt. The aim of the project is strengthening of capacities of institutions for law enforcement in the countries of the Western Balkans in the Mediterranean region in the area of narcotic trade suppression. Over 12 months, the project shall be carried out in the form of thematic workshops, study visits of appointed participants in the EU countries and exchange of information about methodology and sharing of information. One staff member of SBPOK was designated for the so called operating contact point for further project realization.

With the view to improvement of operating and special investigating capacities of **Customs Administration**, within the Sector for enforcement control of customs regulations dealing with prevention of all the forms of cross border crime, it was planned to purchase modern technique and technology to facilitate the higher efficiency and better quality. The budget allocated the procurement of four mobile X ray devices of the latest generation, and special devices for checking narcotic traces, fiber optic devices for the control of inaccessible hollow places in vehicles and booster devices for control of specific density of material.

The authorized customs officers remained unrecognized in the Code of Criminal proceedings as official persons competent for investigative work, therefore no special investigation technique has been used, because smuggling and seizure of the crime object, the same is handed over to the Ministry of Interior.

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| <ul style="list-style-type: none"><li>• <b>The steps necessary for preparing signing of the agreement on operative cooperation with Europol with special stress on the provisions concerning data protection.</b></li></ul> |
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The text of the Agreement was revized when the delegation of the Republic of Serbia negotiated the Agreement on strategic cooperation with Europol in the Hague, in the period 09-10 April 2008.

The final version of the text of the Agreement on Strategic Cooperation with Europol was circulated to all member states of Europol for apporval. Following the implementation of that Procedure and the procedure in the government of the Republic of Serbia the Agreement on strategic cooperation will be signed on 18 September in Belgrade.

The next step in establishing full cooperation with Europol will be conclusion of the Agreement on operative cooperation. The condition for signing the Agreement is the enactment of corresponding legal regulations about the personal data protection by the Government of the Republic of Serbia.

In the Crime police Administration of the Ministry of the Interior of the Republic of Serbia, the Department for international police cooperation – NCB Interpol, Belgrade a Section for cooperation with Europol has been formed.

## **PERSONAL DATA PROTECTION**

- **Enactment of appropriate legal regulations on the protection of personal data and implementation of regulations, including setting up of independent supervisory board for data protection**

Article 42 of the Constitution of Serbia guarantees the personal data protection. Data gathering, maintenance, processing and use are to be legally regulated. In addition, prohibited and punishable shall be any use of personal data beyond the purpose of gathering the same, in compliance with the law, except for criminal processing or protection of security of the Republic of Serbia, in the manner stipulated in the law. In the same vein, anyone is entitled to the information about the data collected about him/her, further to the law.

Currently the applicable legislation in the Republic of Serbia is the Law on the protection of personal data of 1998 (Official Gazette of FRY, 24/98 and 26/98 and Official Gazette of S&M, 1/2003), promulgated at the time of the Federal Republic of Yugoslavia, and taken over as legislation of the Republic of Serbia. However, this Law failed to stipulate a series of requirements from Directive 95/46 of the European Parliament and Council for protection of individuals concerning the processing of personal data and free flow of such information, European standards in that field, and primarily the highest possible transparency in the processing of data and efficient oversight of processing.

The Republic of Serbia signed and ratified the Convention of the Council of Europe No. 108, on the protection of persons in automatic personal data processing in September 2005, which came into effect in the Republic of Serbia on 1 January 2006.

The Ministry of Justice in 2007 set up a working group to draft the new Law on the protection of personal data, which in January 2008 prepared the mentioned Draft. The working group, at the time of elaboration of the Draft law on the protection of personal data, accommodated the Draft with the Convention of the Council of Europe on the protection of persons in the automatic data processing and the Additional Protocol to the Convention and Directive 95/46 of the European Parliament.

The government of the Republic of Serbia approved on 31 December the Proposal of the Law on the personal data protection. The Proposal was withdrawn from the parliamentary procedure on 8 July 2008, because of the election of new Government. The mentioned law was resubmitted in the same text to the Parliament for reading and enactment on 18 July 2008. It is expected to be promulgated in October 2008.



That law stipulates in detail the protection of personal data, processing and use of such data, rights of the citizens to inspect their personal data and the authority vested with supervision and protection of the rights of citizens to privacy, further to the law.

The job of personal data protection shall be vested to the current Commissioner of information of public interest, who shall become competent, further to the law, also for the protection of personal data whose title will be Commissioner for information of public interest and protection of personal data. The Commissioner is an independent state authority within its competences. According to the current manpower plan the office of the Commissioner shall have 21 employees. In view of the competences anticipated in the law, the future set up of the Office should have no less than 60 employees provided however the staffing would be gradual and rational. As to the needed budgetary funds for the implementation of this law and compared to the proposed budget of the Commissioner for 2008, of some RSD 34 million, additional 70 million would be needed for expansion.

- **Signing, ratification and implementation of the relevant international convention, such as the Additional protocol to the CE Convention on the protection of privacy in the automatic data processing**

Since one of the requirements for liberalization of visa regime is to sign and ratify the Additional Protocol to the Convention of the Council of Europe on protection of privacy in the automatic personal data processing, we are pointing out that the Republic of Serbia signed the mentioned Additional Protocol on 2 July 2008, and that the government of the Republic of Serbia delivered the proposal of the Law to the National parliament 25 July 2008, for confirmation of the said Protocol and approval. The Proposal of the law should be approved in the National parliament in the course of September 2008.

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

### **FREEDOM OF MOVEMENT OF THE SERBIAN CITIZENS**

- **Guarantees that freedom of movement of Serbian citizens is not subject to unjustified restrictions, including measures of discriminatory nature, based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation**

In the Republic of Serbia, freedom of movement is guaranteed by the Constitution of the Republic of Serbia (Constitution of the Republic of Serbia, Official Gazette of the Republic of Serbia, 98/2006) which in its Article 39 reads „everyone has the right to free movement and residence in the Republic of Serbia, as well as the right to leave and return.

Freedom of movement and residence, as well as the right to leave the Republic of Serbia may be restricted by the law, if necessary, 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.

Entry and stay of foreign nationals in the Republic of Serbia is regulated by the law. A foreign national may be expelled only under decision of the competent body, in a procedure stipulated by the law and if time to appeal has been provided for him and only when there is no threat of persecution based on his race, sex, religion, national origin, citizenship, association with a social group, political opinions, or when there is no threat of serious violation of rights guaranteed by this Constitution“.

In addition to that, the Law on movement and residence of foreigners (Official Gazette of SFR of Yugoslavia, 56/80, 53/85, 30/89, 26/90 and 53/91) provides that during their residence in our country, the foreigners may move, reside, organise in associations, use their personal name, procure, keep and bear arms under the conditions prescribed by this Law, unless otherwise stipulated by the international agreement. During their residence in our country, foreigners shall comply with the domestic legislation based on the Constitution, law and obligations from the international agreements.

Foreigners may be forbidden to enter the Republic of Serbia or their movement may be restricted or not permitted in certain area; or their permanent residence may be forbidden in certain places on the grounds of safety of the social system or state defence or any reason arising from the international relations.

According to the Law on Crossing the State Border and Movement in the Border Zone (Official Gazette of FRY, 34/79, 56/80 and 53/85) movement and staying at the border crossing is allowed only upon prior approval issued by the authority in the Republic or Autonomous Province responsible for state border crossing unless otherwise is regulated by the relevant international agreement.

## **CONDITIONS AND THE PROCEDURE FOR THE ISSUE OF THE IDENTITY DOCUMENTS**

- Ensure full and effective access to travel and identity documents for all citizens of Serbia, including women, children, people with disabilities , people belonging to minorities and other vulnerable groups**

The Law on identification card and the Law on travel documents of the Republic of Serbia regulate the manner and conditions for issuance of these documents without any discrimination on the grounds of gender, race, religion, etc. These documents can be issued to the people with disabilities despite their inability to submit the application to the organisational unit of the Ministry of the Interior personally, and the details about the people belonging to the minorities can be entered into the identification card in the languages of the national minorities, in accordance with the Law on the Official Use of Languages and Scripts.

Ministry of the Interior is included in the "Decade of Roma Inclusion 2005-2015" for the purpose of solving status issues for the people belonging to the Roma population and issuance of personal documents.

Ministry of Foreign Affairs has been preparing adaptation of the premises in the diplomatic-consular missions of the Republic of Serbia abroad in order to provide conditions for collection of the acquisition data for personalization of the travel documents and identification cards of the Republic of Serbia's citizens residing abroad. Legislation of the Republic of Serbia related to issuing of the travel documents and ID cards provides equal conditions for access to these personal identification documents for all citizens of the Republic of Serbia, both in the country or residing abroad, including women, children, people with disabilities, people belonging to minorities and other vulnerable groups. Since the acquisition of data for biometric travel documents and identification cards necessitates personal presence in the relevant diplomatic-consular missions of the Republic of Serbia residing abroad, which has not been the case in the past, during adaptation of the premises and the procedure of collecting the biometric data, special attention will be paid to the reception and provision of services to the people with disabilities, pregnant women, mothers with small children, and people belonging to other vulnerable groups.

As regards the obligations of the Ministry of Foreign Affairs in connection with the issuing of the identity documents to the persons returned under the Readmission Agreement, the Ministry has already been involved in providing the wide range of documents and certificates issued abroad for the requirements of such persons.

<ul style="list-style-type: none"><li>• <b>Ensure full and effective access to identity documents for the internally displaced persons and refugees</b></li></ul>
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Pursuant to the Law on refugees (Official Gazette of RS, 18/92 and 45/02), ID cards for refugees and expelled persons are issued by the organisational unit of this Ministry subject to the decision or certificate of the Commissariat for Refugees by which the status of the refugee or the expelled is acknowledged. From the review in 2005 to date, all police administrations in the territory of the Republic of Serbia issued about 79.000 ID cards for refugees or the expelled persons. At the same time, from 2005 to date, the Ministry of the Interior has received 9.763 appeals to the decisions issued by the Commissariat for Refugees of the Republic of Serbia by which the refugee or the expelled status is abolished to after review, of which 9.747 appeals are resolved. This Ministry has issued 637 decisions on enforcement of the judgements of the Supreme Court of Serbia.

According to Article 1 of the Law on refugees from 1992, (Official Gazette of RS, 18/92, 45/02) refugee status can be approved only to persons coming from the territory of the ex-Yugoslav republics, who were forced to leave their place of habitual residence in these republics and flee to the territory of the Republic of Serbia under the pressure of the Croatian or other republics' authorities, due to the threats of genocide, persecution or discrimination on the grounds of the religious or national affiliation or political opinion.

Right to the refugee status is also granted to minors whose one or both parents are with the refugee status in the Republic of Serbia and without the citizenship of the Republic of Serbia. Refugee status in the Republic of Serbia is also granted to persons who have earlier been justifiably prevented to apply to the Commissariat for Refugees, including prisoners of war / prisoners released from prison after the time served in Croatia or Bosnia-Herzegovina.

Approval or refusal of the refugee status is decided by the Commissariat for Refugees by individual or collective decision pursuant to Article 13 of the Law on refugees.

According to Article 14 of the Law on refugees, the Ministry of the Interior issues refugee's IDs subject to the decision on the recognised refugee status, after prior checking whether such applicants has already been registered in some other municipality.

Refugee identity card is a public document serving as evidence of identity and the instrument to exercise refugee rights. It contains data prescribed by the regulations on personal identification cards and other details set by special regulation. Issuance, keeping and replacement of the refugee ID cards are subject to the personal ID cards regulation.

97.354 refugees are located in the Republic of Serbia, 74% from Croatia and 26% Bosnia-Herzegovina.

In 2008, refugee status was given to 32 people, 7 of whom are children under age, and out of other 25 people, 12 have been in Neuropsychiatry Hospital Kovin for many years, some of them since 1993, and five applications for the refugee status were rejected on the grounds of incompliance with the legal requirements.

Internally displaced persons from Kosovo and Metohia, being the citizens of the Republic of Serbia, have the equal rights as the other Serbian citizens. It includes freedom of movement, social and economic protection (all kinds of social and health insurance, pensions, education, work, employment, etc.)

Identity documents of the Republic of Serbia (ID cards and passports) are issued to the internally displaced persons from Kosovo and Metohija by the relevant police administrations or police stations.

The Commissariat for Refugees keeps the record of the persons who had to leave their place of residence in the territory of Kosovo and Metohija and issues the identity cards to confirm that such persons are recorded.

Since 2004, the Commissariat for Refugees has been issuing the identity cards to the internally displaced persons.

In Serbia, Kosovo and Metohija excluded, there are 209.722 internally displaced persons from Kosovo and Metohija recorded by the Commissariat for Refugees.

In 2008, 260 new and 365 duplicate identity cards of the internally displaced persons have been issued. 86 cards have been replaced (change in details in the existing card or worn cards).

In the same period, 60 applications have been rejected on the following grounds

- Residence not registered in Kosovo and Metohija
- Applicants already recorded as the internally displaced persons
- Inaccurate data given by the applicant, thus misleading the state authority

- Registered as the internally displaced person in the Republic of Montenegro. After dissolution of the state union of Serbia and Montenegro, about 18.000 internally displaced persons from Kosovo and Metohija remained in the Republic of Montenegro. Their status in the Republic of Serbia has not been properly regulated.

It should be noted that 15.000 to 20.000 internally displaced persons are in Kosovo and Metohija who are not recorded by the Commissariat for Refugees.

## **CIVIL RIGHTS, INCLUDING THE MINORITY RIGHTS**

<ul style="list-style-type: none"><li>• <b>Adopt and enforce legislation to ensure protection against discrimination</b></li></ul>
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### **Overview of current legislation**

The Republic of Serbia is a member of the International Covenant on Economic, Social and Cultural Rights, the International Convention on Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Framework Convention for the Protection of National Minorities, and the European Charter for Regional or Minority Languages.

The substantive and procedural guarantees that are now in effect in the Republic of Serbia are in compliance with the international and European standards for protection of national minority rights. According to the provisions of Article 49 of the Constitution of the Republic of Serbia, it is forbidden and punishable to cause or encourage racial, national, religious or other inequalities, hatred or intolerance. Moreover, in accordance with Article 50 paragraph 3 of the Constitution of the Republic of Serbia, censorship shall not be applied in the Republic of Serbia but the competent court may prevent the dissemination of information through means of public informing only when this is necessary in a democratic society to prevent inciting to violent overthrow of the system established by the Constitution or to prevent the violation of territorial integrity of the Republic of Serbia, to prevent propagation of war or instigation to direct violence, or to prevent advocacy of racial, ethnic or religious hatred enticing the discrimination, hostility or violence. According to the provisions of Article 55 paragraph 4, the Constitutional Court may ban only such associations the activity of which is aimed at violent overthrow of constitutional order, violation of guaranteed human or minority rights, or inciting of racial, national and religious hatred.

In accordance with provisions of Article 22 of the Constitution of the Republic of Serbia, everyone shall have the right to judicial protection when any of their human or minority rights guaranteed by the Constitution have been violated or denied, they shall also have the right to elimination of consequences arising from the violation. The citizens shall have the right to address international institutions in order to protect their freedoms and rights guaranteed by the Constitution.

The Constitution of the Republic of Serbia defines in Article 170 that a constitutional appeal may be lodged against individual general acts or actions performed by public authorities or organisations exercising delegated public powers which violate or deny

human or minority rights and freedoms guaranteed by the Constitution, if other legal remedies for their protection have already been applied or not specified.

In the Republic of Serbia's legal system, there is not a specific law that regulates the field of discrimination in a general manner, but discrimination is criminally sanctioned and forbidden in different legal acts.

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

According to Article 317 of the Criminal Code, whoever instigates or exacerbates national, racial or religious hatred or intolerance among the peoples and ethnic communities living in Serbia, shall be punished by imprisonment of six months to five years. If this offence is committed by coercion, maltreatment, compromising security, exposure to derision of national, ethnic or religious symbols, damage to other persons, goods, desecration of monuments, memorials or graves, the offender shall be punished by imprisonment of one to eight years. In the case the offence is committed by abuse of position or authority, or if these offences result in riots, violence or other grave consequences to co-existence of peoples, national minorities or ethnic groups living in Serbia, the imprisonment is envisioned for the period of eight years, namely the imprisonment of two to ten years.

Provisions of Article 387 of the Criminal Code lay down that whoever on the grounds of a difference in race, colour, nationality, ethnic origin or other personal characteristic violates fundamental human rights and freedoms guaranteed by universally accepted rules of international law and ratified international treaties shall be punished by imprisonment of six months to five years. The same penalty shall be imposed on whoever persecutes organisations or individuals due to their commitment for equality of people. Whoever propagates ideas of superiority of one race over another or propagates racial intolerance or instigates racial discrimination shall be punished by imprisonment of three months to three years.

Article 370 of the Criminal Code lays down that whoever with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such, orders killing or causing serious bodily or mental harm to members of the group, or deliberately inflicts on the group conditions of life calculated to bring about its physical destruction in whole or in part, or imposes measures intended to prevent births within the group, or forcibly transfers children of the group to another group, or who with same intent commits one of the aforementioned acts, shall be punished by minimum five years imprisonment or thirty to forty years' imprisonment.

Article 174 of the same Law provides that whoever exposes to public derision a nation, national or ethnic group living in SaM shall be punished with a fine or imprisonment up to three months.

The Criminal Code also incriminates the criminal offences of infringing the right to use the language and alphabet – Article 129, infringement of the freedom to express national or ethnic affiliation – Article 130, and infringement of the freedom of religion or practising a religion - Article 131. Article 129 provides that whoever, contrary to the regulations governing the use of language and alphabet of peoples or members of national and ethnic groups living in SaM, denies or restricts to citizens the use of their tongue or alphabet when exercising their rights or addressing authorities or organisations, shall be punished with fine or imprisonment up to one year. Article 130 provides that whoever prevents another to express his national or ethnic affiliation or culture shall be punished with fine or imprisonment up to one year. The penalty shall be applied also to whoever coerces another to declare his national or ethnic affiliation. If this is done by an official in discharge of duty, such person shall be punished with imprisonment up to three years. Article 131 provides that whoever prevents or restricts another's freedom of religion or practising a religion shall be punished with imprisonment up to one year. The same penalty shall also be imposed on whoever prevents or hinders another in performing religious services. Whoever coerces another to express his religious conviction shall be punished with fine or imprisonment up to one year, and an official who commits this offence shall be punished with imprisonment up to three years.

The Law on the Basis of the System of Education and Upbringing forbids in Article 46 any activity that threatens or denigrates groups or individuals on the grounds of their racial, national, linguistic, or religious affiliation, as well as the provocation of such activities. This Law provides the fines for persons who threaten or denigrate groups or individuals based on their racial, national, linguistic, religious or gender affiliation.

The Law on Labour forbids in Article 18 any direct or indirect discrimination against the persons seeking employment, as well as the employed persons, with regard to their gender, birth, language, race, colour of skin, age, pregnancy, medical condition or disability, national affiliation, religion, marital status, family obligations, sexual orientation, political or other persuasion, social background, financial status, membership in political organisations or trade unions, or other personal characteristic. In accordance with Article 20 of this Law, discrimination is forbidden in view of: requirements for employment and recruitment for performance of specific tasks, work conditions and any rights arising from the employment, education, learning new or additional skills, promotion, and cancellation of contracts on employment. Any provisions of the contract on employment which define the discrimination on any of the above grounds are null and void.

The Law on Civil Servants, in accordance with Article 7, forbids any preferential treatment or deprivation of public employees with regard to their rights or duties, particularly because of their racial, religious, sexual, national or political affiliation or any other personal characteristic.

The Broadcast Law provides in its Article 3 item 6 that regulation of the relations in the area of broadcast should be based, inter alia, on the principles of objectivity, prohibition of discrimination, and transparency of the broadcast licensing procedure. The prohibition of discrimination is regulated in more detail by a number of other provisions of this Law. In accordance with Article 38 paragraph 2 thereof, the license to broadcast radio and TV programs shall be granted in a non-discriminatory manner. Provisions of Article 77 paragraph 3 of the Law specify that exercise of public interest in the area of public broadcast service will be ensured in such a way that the programmes produced and broadcasted within the public broadcast service shall provide the versatility and consistency of the contents supporting the democratic values of modern society, and particularly the respect of human rights and cultural, national, ethnic or political pluralism.

Provisions of Article 78 paragraph 1 item 2 of the Law on Broadcast lay down that those in charge of the public broadcast service shall be under obligation, inter alia, to produce and broadcast the programmes intended for all segments of the society, without discrimination, particularly taking account of specific social groups such as children or young people, minority and ethnic groups, persons with disabilities, socially and medically vulnerable, deaf and mute (with the obligation to simultaneously broadcast the written text that describes the audio segment of the action and the dialogue).

The Law on Public Information lays down in Article 16 the prohibition of discrimination in the distribution of public media, namely it is laid down that any person involved in the distribution of public media shall not refuse to distribute anybody's public media without a justified commercial reason, or to, for the distribution of public media, set the conditions that are contrary to market principles.

The Law on Health Protection in Article 20 provides for the principle of fairness in healthcare that is implemented through the prohibition of discrimination in provision of healthcare, inter alia, on the grounds of race, national affiliation, religion, culture and language.

The Law on Free Access to Information of Public Interest lays down in Article 6 that everybody is on equal terms entitled to the rights arising from this Law, regardless of their citizenship, permanent or temporary residence or seat of business, or a personal characteristic such as race, faith, national and ethnic affiliation, gender, and similar.

The Law on Churches and Religious Communities, in Article 2 paragraph 2 lays down that no one shall be disturbed, discriminated or privileged due to his/her religious convictions, affiliation or non-affiliation to a religious community, or due to participation or non-participation in religious services or due to practicing or not practicing all guaranteed religious freedoms and rights.

The Law on Prevention of Discrimination against Persons with Disabilities regulates in Article 1 the general system of forbidding the discrimination on the grounds of disability, specific cases of the discrimination of persons with disabilities, the procedure for protection of the persons exposed to discrimination, and measures that are taken to promote the equality and social inclusion of persons with disabilities.



## **Measures to ensure equality**

The Constitution of the Republic of Serbia lays down in its Article 21 paragraph 4 that discrimination shall not be deemed to include the special measures which the Republic of Serbia may introduce to achieve full equality of individuals or group of individuals in a substantially unequal position compared to other citizens. A similar arrangement, with regard to the members of national minorities, is incorporated in the provision of Article 76 paragraph 3 according to which the discrimination shall not be deemed to include the regulations and provisional measures which the Republic of Serbia may introduce in economic, social, cultural and political life for the purpose of achieving full equality among members of a national minority and citizens who belong to the majority, if they are aimed at eliminating extremely unfavourable living conditions which particularly affect them.

The Law on Election of National Deputies lays down in Article 40a that for every four candidates on the electoral list (first group of four places, second group of four places and so on until the end of the list), there shall be one candidate of the gender less represented on the list, and the number of candidates of the gender less represented on the list shall be at least 30% of the total number. If an electoral list should not meet the above requirements, it shall be deemed incomplete for proclamation, and the submitter of the list shall be called to remedy the deficiencies of the list, in accordance with the Law. If the submitter of the list should not remedy the deficiencies, the Republic Electoral Commission shall refuse to proclaim the electoral list.

The Law on Local Elections lays down in Article 20 paragraph 3 that the total number of the less represented gender in the list may not be smaller than 30%.

The Law on Employment and Insurance for the Case of Unemployment provides in Article 31 that the Government, or the competent authority of territorial autonomy or local self-government, may adopt a programme of active employment policy to regulate the priorities, measures, means and responsibility for their implementation, and particularly the employment of particular categories of the unemployed, employment of refugees and displaced persons, employment of the members of national minorities in which the employment rates are higher. Provisions of Article 34 of this Law lay down that the employer who establishes employment with the persons seeking first employment, the persons seeking employment for a prolonged period, the persons with more than 50 years of age, with refugees or displaced persons, the members of national minorities in which the employment rates are higher, the persons with disabilities and persons with decreased working capability, may be granted a subsidy in respect of the contributions for pension and disability insurance, health insurance and insurance for the case of unemployment that will be implemented through the National Employment Service.

The Law on the Prevention of Discrimination against Persons with Disabilities provides in its Article 8 paragraph 1 that the infringement of the principle of equal rights and obligations or the discrimination shall not be deemed to include the provisions of laws, regulations, or decisions or specific measures adopted with the aim to improve the status of persons with disabilities, members of their families and associations of persons with disabilities which are provided special support that is necessary to enable them to enjoy and exercise their rights on the terms that are equal

to those on which others enjoy and exercise them. In accordance with Article 32 paragraph 2 of this Law, discrimination in employment is not deemed to include the taking of incentive measures for faster employment of persons with disabilities in accordance with the law that governs employment of persons with disabilities.

### **Overview of the application of existing legislation in the area of protection against discrimination**

In the Republic of Serbia, the institutional mechanisms for gender equality (protection against sexual discrimination) include: the National Assembly of Serbia Board for Gender Equality, which addresses the above issues, particularly in view of improving and enhancing the status of women (discrimination in recruitment for employment and discrimination against the women who are already employed – most frequently mobbing, etc), the Government of the Republic of Serbia Council for Gender Equality, the Protector of Citizens, the AP Vojvodina Assembly Board for Gender Equality, the Province Secretariat for Labour, Employment and Gender Equality of Vojvodina, the Province Gender Equality Office, the Province Ombudsman, and the local commission for gender equality.

The Constitution of the Republic of Serbia provides in Article 15 that the State shall guarantee the equality of women and men and develop equal opportunities policy. According to Article 21 paragraph 4 of the Constitution, special measures which the Republic of Serbia may introduce to achieve full equality of individuals or group of individuals in a substantially unequal position compared to other citizens shall not be deemed discrimination. Likewise, Article 65 paragraph 1 of the Constitution provides that parents shall have the right and duty to support and provide upbringing and education to their children, in which they shall be equal.

In our country there are many laws that regulate particular aspects of the social status of women, such as the Labour Law, Family Law, Law on Health Protection. The specific measures intended to ensure faster accomplishment of gender equality in the area of political rights were first introduced by the Law on Local Elections which provided that every party that submits an electoral list at local elections is under obligation to include on such a list a certain number of women candidates, according to the rules and criteria that were elaborated in detail in this Law. At the national level, specific measures were introduced in 2004 by the amendments to the Law on Election of National Deputies which provided that each party that submits an electoral list must include on such list at least 30% of the candidates of a less represented gender. The identical rule was introduced in 2004 by the Decision on Election of Deputies to the Assembly of AP Vojvodina. (Electoral quotas of 30% for the members of less represented gender demonstrate that in the 2007 elections the representation of women among the deputies increased to 20,4%, and after local elections were held, the representation of women in the assemblies of municipalities and towns was increased to 21,3%).

In the beginning of March 2007, the Government of the Republic of Serbia adopted a document entitled „National Millennium Development Goals in the Republic of Serbia“ which was, among other, devoted to the goals on one hand, and to the concrete measures and activities to be taken to ensure full gender equality in Serbia on the other hand. Earlier adopted governmental strategies have also envisioned specific

measures for improvement of different aspects of the status of women in our society and defined the indicators based on which it is possible to monitor the implementation of the measures envisioned. To this effect, the important strategic documents include: the Poverty Reduction Strategy and National Employment Strategy.

The Constitution of the Republic of Serbia, in Articles 14, 47, and 75, protects and guarantees the rights of the members of national minorities, and in Articles 76-80 it guarantees the prohibition of the discrimination against members of national minorities, namely guarantees the equality in administering the public affairs, the right to preservation of specificity, and the right to association and cooperation with compatriots, as well as the prohibition of forcible assimilation. Article 81 of the Constitution lays down that, in the area of education, culture and information, Serbia encourages the spirit of tolerance and intercultural dialogue and efficient measures for enhancement of mutual respect, understanding and cooperation between all who live in its territory, regardless of their ethnic, cultural, linguistic or religious identity. In the Republic of Serbia the status of national minorities is regulated by the Law on Protection of the Freedoms and Rights of National Minorities. The same Law introduced the national councils of national minorities into our legal system as a form of cultural self-governance of national minorities and functional decentralisation.

The Roma constitute one of the most vulnerable groups in our country and that is why measures are taken that are necessary to reinforce the status of the members of Roma national minority. To this effect, the Republic of Serbia joined a regional programme for enhancement of the status of Roma in Central and South-Eastern Europe called „Decade of Roma Inclusion 2005-2015“. The National Council of the Roma National Minority adopted the Strategy for Enhancement and Granting of New Powers to the Roma that contains descriptions of problems, existing initiatives and recommendations for further actions in different areas: education, housing, employment, social welfare and healthcare, culture, information, etc. Derived from this Strategy were action plans in the areas in which the Roma are most vulnerable: education, housing, healthcare and employment, and proposals were drawn up of action plans for other areas of social life (antidiscrimination, culture, social welfare, enhancement of the status of women, media and information, internally displaced persons, and readmission).

In 2005 the Republic of Serbia adopted national action plans for enhancement of the status of Roma in the area of education, employment, housing and healthcare. To date the most important results were achieved in the area of the education of Roma (the Project entitled „Extension of the Approach to Preschool Education of Roma Children“ in cooperation with the Ministry of Education and the National Council of the Roma National Minority, the Project entitled „Functional Elementary Education“ in cooperation with the above Ministry and the Institute for Pedagogy and Andragogy, in cooperation with the OSCE Mission in Serbia and support of EAR, the Ministry of Education implements the project for introduction of the assistants to support the education of Roma in preschool institutions and elementary schools, and this Ministry has also adopted the Criteria for Enrolment of the Students of Roma Nationality in Secondary Schools, as well as for enrolment into the universities founded by the Republic of Serbia, on the basis of which 188 students were enrolled in secondary schools and 98 students were enrolled into colleges and universities in Serbia in the school year 2007/2008).

The measures of affirmative action were also envisioned in the bylaws adopted at different levels of government. The Conclusion adopted by the Government of the Republic of Serbia on the measures to increase the participation of persons belonging to national minorities in the public administration authorities, specifies that public administration authorities in which it is envisioned that more than 1/3 of the total number of systemised members of staff work in the regional units that are founded for the territory in which, in accordance with the decisions of the competent local self-government authorities, the language of one or more national minorities is officially used, measures should be taken to, in the Rules on Internal Structure and Systematisation of Work Posts, envisage a certain number of work posts for which the requirements for performance of the tasks to be performed at the work post for certain members of staff would include the knowledge of at least one language and alphabet of a national minority which is in the official use in the territory for which a local self-government unit from that territory was founded. Also, it is envisaged that, when composing a list for election and electing the candidates pursuant to an open competition that was held, the relevant commission, namely the head of public administration authority shall, inter alia, take care that members of national minorities are represented in the total employee structure of such authority. In some units of local self-government, the statutes that were adopted contain the provisions which lay down that municipal management and public enterprises founded by municipality shall take care of the national composition, namely they shall specify, in their acts on systematisation, a minimum number of the members of staff that should come from the ranks of national minorities.

The office for the Roma inclusion was founded by the Decision of the AP Vojvodina Assembly in 2006 with the aim to ensure the implementation of action plans for integration of Roma, and for the development and implementation of the programme for the enhancement of the status of Roma, as well as for the development and implementation of the programme for enhancement of the status of Roma in the areas of education, healthcare, employment, housing, human rights, etc.

In March 2008 the Government of the Republic of Serbia set up the Council for Enhancement of the Status of the Roma that consists of 22 members including the representatives of the Ministries of Finance, Healthcare, Education, Public Administration and Local Self-Government, the Ministry of the Interior and other ministries which could influence the improvement of the status of Roma minority in our country.

The Constitution of the Republic of Serbia defines in its Article 64, inter alia, that the children born outside marriage have equal rights to the children born in marriage. The Government of Serbia Council for the Rights of the Child was founded in 2002 and it addresses the issues of the protection of the rights of the child. The National Action Plan for the Children was adopted by the Government of the Republic of Serbia in 2004 as a strategic document that defines general policy of the country with regard to the children and that was drafted in compliance with four basic principles of the Convention on the Rights of the Child: non-discrimination, best interest of the child, right to life, survival and development, and participation of children.

The Law on the Prevention of Discrimination against Persons with disabilities envisaged in its Article 8 paragraph 1 that the infringement of the principle of equal rights and obligations or the discrimination shall not be deemed to include the provisions of laws, regulations, or the decisions or specific measures adopted with the aim to enhance the status of persons with disabilities by which special support is being provided that is necessary for the exercise of their rights on the terms equal to those enjoyed and exercised by others. Moreover, in accordance with Article 32 paragraph 2 of this Law, discrimination in employment shall not be deemed to include taking of incentive measures for faster employment of persons with disabilities in accordance with the law that governs the employment of persons with disabilities.

The Government of the Republic of Serbia adopted a number of strategic documents that either directly or indirectly address the issues of protection against discrimination: the Strategy of Adults Education in the Republic of Serbia, the Strategy of Occupational Education Development of in the Republic of Serbia, the Strategy of the Enhancement of Persons with Disabilities in the Republic of Serbia, the Strategy of Social Protection Development, the National Strategy of Aging, the National Employment Strategy for the Period 2005-2010, and the Poverty Reduction Strategy.

### **Overview of planned legislation**

1. Adopt the law on prohibition of discrimination (Recommendation of the UN Human Rights Committee, Conclusive Remarks, CCPR/CO/81/SEMO and UN Committee on Economic, Social, and Cultural Rights, Conclusive Remarks, E/C.12/1/Add.108)
2. Adopt the law on gender equality (Recommendation of the UN Committee on the Elimination of Discrimination against Women, Conclusive Remarks CEDAW/C/SCG/CO/1/CPR.
3. Adopt the law on prevention of domestic violence (Recommendation of the UN Committee on the Elimination of Discrimination against Women, Conclusive Remarks, CEDAW/C/SCG/CO/1/CPR. 1)
4. Adopt the national strategy for improvement of the status of women and enhancement of gender equality (Recommendation of the UN Committee on the Elimination of Discrimination against Women, Conclusive Remarks, CEDAW/C/SCG/CO/1/CPR. 1)
5. Reinforce the role and weight of the Gender Equality Council (Recommendation of the UN Committee on the Elimination of Discrimination against Women, Conclusive Remarks, CEDAW/C/SCG/CO/1/CPR.
6. Ratify the **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families** (Recommendation of the UN Committee on the Elimination of Discrimination against Women, Conclusive Remarks, CEDAW/C/SCG/CO/1/CPR.

- **Precise definition of requirements and conditions for acquirement of Serbian citizenship**

The requirements for acquirement and cessation of the citizenship of the Republic of Serbia are regulated by the Law on Citizenship of the Republic of Serbia (Official Gazette of RS, 135/04) and the Law on Amendments to the Law on Citizenship of the Republic of Serbia (Official Gazette of RS, 90/07).

The Law on Citizenship of the Republic of Serbia provides that the citizenship shall be acquired: by origin, by birth in the territory of the Republic of Serbia, by acceptance, and under international treaties (applied in the territory of the Republic of Serbia is the Treaty on Dual Citizenship between the Federal Republic of Yugoslavia and Bosnia & Herzegovina), and it shall cease: through discharge, through renunciation, and under international treaties. The Law lays down specific requirements for each of the above ways in which the citizenship is acquired or ceased.

The applications for acquirement and cessation of citizenship are to be filed with a police station according to the applicant's place of permanent or temporary residence or through a competent diplomatic-consular office of the Republic of Serbia abroad, and these entities implement the previous procedure the duration of which depends on the legal grounds for acquirement of citizenship. If, for example, citizenship is acquired pursuant to Article 52 of the above Law (order for entry), the procedure is quite simple and the citizenship is acquired on the day when a person declares that he/she considers the Republic of Serbia to be his/her state and on that same date the entry is made in the register of citizens.

Since the problem of citizenship in this territory became more accentuated after the disintegration of SFRY and, later, after the joint state Serbia and Montenegro ceased to exist, provisions of the Law on the Republic of Serbia Citizenship allowed a wide opportunity for the citizenship of the Republic of Serbia to be acquired on different legal grounds (refugees, displaced persons, persons with permanent residence in the territory of the Republic of Serbia, persons born in the territory of the Republic of Serbia, reacquirement by the persons whose citizenship in the Republic of Serbia was ceased through discharge, and other). In addition to dual citizenship, the Law allows that multiple citizenship may be acquired.

Provision of Article 23 of the Law on the Citizenship of the Republic of Serbia provides that the citizenship of the Republic of Serbia may be acquired by a person belonging to the Serbian nation, or other nation or ethnic community from the territory of the Republic of Serbia, who has no permanent residence in the territory of the Republic of Serbia, or a refugee, expellee or displaced person residing in the territory of the Republic of Serbia, or a person who took refuge abroad, provided such person applies for the citizenship of the Republic of Serbia and files a written statement that he or she considers the Republic of Serbia to be his/her own state.

The Law on Amendments to the Law on the Citizenship of the Republic of Serbia regulates the acquirement of the Republic of Serbia citizenship by Montenegrin citizens. Namely, Article 52 paragraph 2 of this Law lays down that deemed to be a citizen of the Republic of Serbia shall be a Montenegrin citizen who on the 3<sup>rd</sup> day of June 2006 had a registered place of residence in the territory of the Republic of Serbia, provided such person files a written statement that he/she considers himself/herself a citizen of the Republic of Serbia and applies to be entered in the register of citizens of the Republic of Serbia. On the day of giving the statement that he/she considers the Republic of Serbia to be his/her state, a Montenegrin citizen shall acquire the citizenship of the Republic of Serbia pursuant to this Article and the entry in the register of citizens will be made on that same date.

Based on the above mentioned, taking into account that citizenship is one of basic human rights, the national legislation of the Republic of Serbia, respecting the general principles of international law when adopting the regulations to govern the area of citizenship, particularly pay attention to the principles whose goal is to prevent and reduce the statelessness, allowing for the possibility to acquire citizenship on different legal grounds.

Provisions of the Law on the Republic of Serbia Citizenship are in compliance with the general standards of international law and, above all, with the provisions of the European Convention on Citizenship, the Convention on the Citizenship of Married Woman, and the Convention on the Legal Status of Persons without Citizenship.

This Law envisages equal rights of all citizens with regard to the acquirement of the status of a citizen without discrimination on any grounds whatsoever, such as the gender, race, colour of skin, language, religion, national origin or social status, material status or other status.

<ul style="list-style-type: none"><li>• <b>Ensure investigation of ethnically motivated incidents in the area of the freedom of movement, including cases targeting members of minorities</b></li></ul>
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According to the Constitution of the Republic of Serbia, the freedom of movement and residence is guaranteed for all citizens, but these rights may be restricted by the law if this is necessary for the conduct of criminal procedure, protection of public order and peace, prevention of the spread of infectious diseases, or defence of the Republic of Serbia (Article 39). The violation of this right is incriminated by the Criminal Code of the Republic of Serbia in its Chapter XIV „Criminal Offences against Freedoms and Rights of Man and Citizen“, by the criminal acts: unlawful depriving of liberty, violation of freedom of movement and residence, and abduction.

In the past period no ethnically motivated incidents were reported in the area of the freedom of movement. However, it should be noted that in 2004 this Ministry ordered stronger measures and activities to suppress more serious criminal offences and misdemeanours between the persons of different ethnic affiliation and to protect personal security of the members of national minorities and the security of their property against all forms of harm. To this end, the operational activities were intensified and a closer cooperation was established between all the lines of work on the collection of information about possible forms of harming the minorities, with concomitant reinforced preventive action of the members of police through their street patrol, operative, and other forms of activities. This practically means that, in all the cases when there occurs an episode or incident that is motivated by the aggrieved party's ethnic affiliation, the measures are taken as a priority to have it clarified fully and soonest possible, **according to the specific plan** which is made for each individual case. The members of criminal police and the uniformed police forces are jointly participating in its implementation with the ultimate goal to identify and find the offenders and take against them the measures prescribed by law. This practically means that the members of police, in accordance with the Law on Criminal Procedure, Law on Police, and other laws, at the order of public prosecutors and by the implementation of police authorisations, take, within the pre-criminal procedure, the

measures to elucidate the incidents and to find, apprehend, and report the suspects to the competent prosecutor's office.

**• Ensure that constitutional provisions on protection of minorities are observed**

*Existing provisions*

The Constitution of the Republic of Serbia in its Article 14 protects the rights of national minorities. The government grants special protection to national minorities so as to ensure full equality and protect their identity. Article 47 specifies that national affiliation may be expressed freely and that no person shall be obliged to declare his national affiliation.

Provisions of Article 75 paragraphs 1 and 3 of the Constitution of the Republic of Serbia specify that members of national minorities shall be guaranteed special individual or collective rights in addition to the rights guaranteed to all citizens by the Constitution. Individual rights shall be exercised individually and collective rights in community with others, in accordance with the Constitution, law and international treaties. Members of national minorities may elect their national councils in order to exercise the right to self-governance in the areas of culture, education, information and official use of their language and alphabet, in accordance with the law.

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

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

The Constitution of the Republic of Serbia in Article 100 paragraph 2 specifies that equality and representation of different genders and members of national minorities shall be provided in the National Assembly, in accordance with law. According to Article 180 paragraph 4 of the Constitution of the Republic of Serbia, in those autonomous provinces and local self-government units with the population of mixed nationalities, a proportional representation of national minorities in assemblies shall be provided for, in accordance with the Law.

The Law on Protection of Rights and Freedoms of National Minorities regulates the status of national minorities. This Law, in Article 2 paragraph 1 gives a definition of national minorities, reading: “A national minority is any group of citizens numerically sufficiently representative and, although representing a minority in the territory of the country, belonging to a group of residents having a long term and firm bond with the territory of the country and possessing characteristics such as language, culture,



national or ethnic affiliation, origin or confession, differentiating them from the majority of the population and whose members are distinguished by care to collectively nurture their common identity, including their culture, tradition, language or religion". In accordance with Article 3 paragraph 1 of this Law, any form of discrimination on national, ethnic, racial, or linguistic basis against persons belonging to national minorities shall be prohibited.

According to Article 19 paragraphs 1, 2 and 7 of the Law on Protection of the Rights and Freedoms of National Minorities, the persons belonging to national minorities may elect national councils with the purpose of exercising rights of self-government regarding the use of language and alphabet, education, information and culture. A national council of the national minority shall be a legal person and it shall represent the national minority in respect of official use of language, education, information in the language of the minority, culture, and participate in decision-making or decide on issues in these areas, as well as establish institutions in these areas.

### **Measures to ensure equality of the members of national minority**

The Law on Protection of the Rights and Freedoms of National Minorities lays down in Article 4 that the state authorities may, in accordance with the Constitution and law, pass legal acts and undertake measures aimed at ensuring full and effective equality between members of national minorities and members of the majority population. The state authorities shall pass the above legal acts and take the above measures with the aim of improving the position of persons of the Roma national minority. The above regulations, individual acts and measures cannot be deemed to be the act of discrimination. According to Article 13 paragraph 1 thereof, the persons belonging to national minorities shall have the right to education in their own language in the institutions of preschool education, elementary and secondary school education. In accordance with Article 14 paragraphs 1 and 4 of the Law on Protection of the Rights and Freedoms of National Minority, for the purpose of education in the language of national minorities, the departments and faculties shall be established as a part of the higher education where in the languages of national minorities or bilingually, preschool teachers, elementary and junior school teachers of the national minority languages may be educated. The state shall improve the international cooperation, aiming at enabling the persons belonging to national minorities to study abroad in their mother tongue and recognition of such diplomas in accordance with the law. According to provisions of Article 17 of the Law, persons belonging to national minorities shall be entitled to the complete and impartial information in their own language, including the right of expression, receipt, sending and exchange of information and ideas via press and other mass media. The state shall provide information, cultural and educational content in the language of national minorities in programmes of the public service TV and radio, and may also establish special radio and TV stations to broadcast programmes in the language of national minorities. The persons belonging to national minorities shall have the right to establish and maintain media in their own language.

The Law on Elementary School lays down in Article 5 paragraphs 1 and 2 that the members of national minorities shall implement the curriculum in their mother tongue, provided at least 15 students enrol in the first grade. A school may implement the curriculum in a language of national minority, namely bilingually, even for less

than 15 students enrolled in the first grade, with the consent of the minister of education.

The Law on Secondary School lays down in Article 5 paragraph 2 that a school shall implement the curriculum in the language of national minority, namely bilingually, provided at least 15 students in the first grade declare themselves for it.

The Law on Employment and Insurance for the Case of Unemployment provides in its Article 31 that the Government, namely the competent authority of the territorial autonomy, may adopt a programme of active employment policy to regulate the priorities, measures, means and responsibilities for their implementation, and in particular employment of certain categories of the unemployed, employment of refugees and displaced persons, employment of members of the national minorities with higher unemployment rates. Article 34 of this Law provides that the employer establishing employment with persons who seek employment for the first time, persons who seek employment for longer time, persons with more than 50 years of age, refugees and displaced persons, members of the national minorities with higher unemployment rates, persons with disabilities and persons with reduced working capability, etc, may obtain a subsidy with regard to the contributions for pension and disability insurance, health insurance, and insurance for the case of unemployment that is obtained through the National Employment Service.

The Law on Selection of National Deputies lays down in Article 81 paragraphs 1, 2 and 3 that only those electoral lists which have obtained at least 5% votes of the total number of the votes of voters that have voted in an electoral unit may take part in the mandates allocation. Political parties of national minorities and coalitions of political parties of national minorities take part in the allocation of mandates even when they had less than 5% of the votes out of the total number of voters who have voted. Political parties of national minorities are all those parties whose main goal is to represent and speak for the interests of national minority and improve the rights of members of national minorities, in accordance with the standards under the international law.

The Conclusion of the Government of the Republic of Serbia about the measures to increase the participation of the members of national minorities in public administration bodies envisages in item 9 that public administration authorities in which it is envisaged that more than 1/3 of the total number of systematised members of staff works in regional units that are founded for the territory in which, in accordance with the decisions of competent authorities of local self-government, a language of one or more national minorities are officially used, measures should be taken to envisage in the Rules on Internal Structure and Systematisation of Work Posts a certain number of work posts for which the requirements for performance of the tasks to be performed at the work post for certain members of staff include the knowledge of at least one language and alphabet of a national minority which is in the official use in the territory for which a local self-government unit from that territory was founded. Item 10 of the Conclusion provides that, when the electoral procedure pursuant to an open competition for filling the vacancy in the territorial units referred to in item 9 thereof is to include testing the occupational proficiency, skills and knowledge of the candidates in writing, the candidates will be made available the tests and other forms of written verification in a suitable language of national minority.

Item 11 of the Conclusion provides that, when composing a list for election and election of candidates pursuant to an open competition that was held, the relevant commission, namely the head of public administration authority, is under obligation to, within the application of the principle of professionalization, which implies occupational proficiency, skills and knowledge of the candidates for performance of the public administration authorities tasks, as a main criterion for selection between equal candidates take special care about the representation of the members of national minorities in the total structure of the staff of such authority.

The Ministry of the Interior adopted the Instructions for Performance of Tasks in a manner that will contribute to easier exercise of the rights of members of national minorities (March 2003) which provide that the police, in performance of the tasks falling within the scope of their activities, respect human and minority rights and apply them directly, namely ensure and protect them in accordance with the Constitution, Charter of Human and Minority Rights and Civil Liberties, laws and other regulations of the Republic of Serbia, which ensure highest standards in this area. The above Instructions order in Article 5 that the police ensures that members of national minority in the administrative procedure use their language and that in this procedure they are informed about facts in their mother tongue; Article 6 provides that the citizens are not under obligation to declare themselves about their national affiliation in any procedure in which the police is legally authorised to collect the personal data. Items 8 and 9 of the Instructions provide for the use of the language of national minority in the administrative procedure and legal circulation and the obligation of the police to ensure, inter alia: to, when admitting persons to the employment that involves communication with clients, take care about the representations of persons who know appropriate languages of national minorities, and to provide language training to the members of staff.

The Ministry of the Interior perform the tasks from within the tasks of their scope of activities in the manner which for every man and citizen ensures equal protection and exercise of their constitutionally granted freedoms and rights, which excludes any discrimination in conduct which would be defined by a national, racial, religious or any other affiliation or orientation of a citizen. The Police Code of Ethics suggest this since it provides that members of the Ministry follow the principle of impartiality in the enforcement of law, regardless of the national or ethnic origin, race, language and social status of a person against whom the law is to be enforced, on their political, religious and philosophical beliefs, or their age, marital status, sex, or any physical or mental flaw). Also, Item 6 thereof specifies that the police ensures objective and fair police investigations, considerate and adequate to the specific needs of certain persons, such as children and other minors, women and members of minority groups, including national minorities and vulnerable persons.

The Republic of Serbia is a successor of the following bilateral agreements on the protection of national minorities:

1. Agreement between Serbia and Montenegro and the Republic of Macedonia about protection of Serbian and Montenegrin national minority in the Republic of Macedonia and Macedonian national minority in Serbia and Montenegro
2. Agreement between Serbia and Montenegro and the Republic of Hungary about protection of the rights of Hungarian national minority in Serbia and Montenegro and Serbian national minority living in the Republic of Hungary

3. Agreement between the Federal Government of the Republic of Yugoslavia and the Government of Romania about the cooperation in the area of protection of national minorities
4. Agreement between Serbia and Montenegro and the Republic of Croatia about protection of the rights of Serbian and Montenegrin minority in the Republic of Croatia and Croatian minority in Serbia and Montenegro

The Republic of Serbia is the successor to the bilateral agreements on cooperation in the areas of culture and education relevant for national minorities, or official use of minority languages:

1. Agreement on Cooperation in the Areas of Education, Culture and Sports between the Federal Government of FR Yugoslavia and the Government of Ukraine
2. Agreement on Cooperation in the Areas of Education, Culture and Sports between the Federal Government of FR Yugoslavia and the Government of Slovak Republic
3. Agreement between the Federal Government of FR Yugoslavia and the Government of the Republic of Macedonia on Cooperation in the Areas of Education, Culture and Sports
4. Agreement between the Federal Government of FR Yugoslavia and the Government of the Republic of Croatia on Cooperation in the Areas of Culture and Education

### **Participation of the members of minorities in the judicial system**

In the areas populated with national minorities, judges are appointed from among the representatives of those national minorities, provided they meet due requirements.

For instance, in the territory of the County Court in Subotica, representatives of national minorities – the percent of judges and judicial staff, is as follows:

- County Court in Subotica - 40% of judges are Hungarians, as well as 21 members of staff,
- Municipal Court in Ada - 100% of judges are Hungarians, as well as 17 members of staff,
- Municipal Court in Bačka Topola-50 % of judges are Hungarians, as well as 21 members of staff,
- Municipal Court in Kanjiža - 90% of judges are Hungarians, as well as 10 members of staff,
- Municipal Court in Senta - 80 % of judges are Hungarians, as well as 10 members of staff,
- Municipal Court in Subotica - 16% of judges are Hungarians, as well as 29 members of staff.

With regard to judges and judicial staff speaking a language of national minority, the information is as follows:

The territory of the County Court in Pančevo:

- Municipal Court Alibunar employs two judges who speak Romani, one judge who speaks Slovak, and one who speaks the Romani language, as well as 11 members of staff who speak Romanian or Slovak.

- In the Municipal Court in Kovačica, all judges speak Romanian or Slovak, as well as 20 members of staff.

- In the Municipal Court in Pančevo, two judges speak Romanian, two speak Slovak, and one speaks the Hungarian language, and nine members of staff speak either Hungarian or Romanian.

The territory of the County Court in Novi Sad:

- In the County Court in Novi Sad, one judge speaks Hungarian, and 30% members of staff as well.

- In the Municipal Court Novi Sad, 43 members of staff speak Hungarian.

- In the Municipal Court Bačka Palanka, one judge speaks Hungarian, three members of staff speak Slovak, and two members of staff speak the Hungarian language.

- Municipal Court Bečej - one judge and 30% members of staff speak Hungarian.

- Municipal Court Temerin - one judge and members of staff speak Hungarian

- Municipal Court Titel - one judge and one members of staff speak Hungarian

- Municipal Court in Vrbas – all speak Hungarian.

Territory of the County Court in Vranje:

- In the Municipal Court Bosilegrad – all judges and judicial staff speak Bulgarian

- In the Municipal Court Bujanovac - one judge speaks Albanian, as well as eight members of staff

- In the Municipal Court in Preševo - 3 judges speak Albanian, as well as 14 members of staff

- In the Municipal Court in Surdulica - 2 judges speak Bulgarian, one members of staff speaks Romanian, and one speaks the Bulgarian language.

Number of court procedures conducted in languages of national minorities:

In the territory of the County Court in Pančevo, in the Municipal Court Bela Crkva, two criminal procedures are being conducted in the Romanian language.

In the territory of County Court in Novi Sad, the following procedures are conducted in the languages of national minorities:

- Municipal Court Novi Sad – 20 procedures a year are on average conducted in a language of national minority

- Municipal Court in Bečej - 6 criminal procedures in the Hungarian language are now in progress

- Municipal Court in Temerin – 8 criminal procedures and about 15% litigation procedures are conducted in the Hungarian language

In the territory of the County Court u Vranje, in the Municipal Court in Bosilegrad, 10 procedures are being conducted in Bulgarian and other courts in this territory did not receive any requests to conduct a procedure in a language of national minority.

In the territory of County Court in Subotica:

- In the Municipal Court u Subotica, 326 procedures are conducted in the Hungarian language

- In the Municipal Court in Kanjiža, 251 procedures are conducted in the Hungarian language

- In the Municipal Court Senta, 368 procedures are conducted in the Hungarian language
- In the Municipal Court Ada, 48 procedures are conducted in the Hungarian language
- In the County Court in Subotica, 29 procedures are conducted in the Hungarian language.

With regard to court interpreters, in the territories whose population includes national minorities, this primarily being AP Vojvodina where the Hungarians account for 3.9% of the population, court interpreters are appointed to participate in court procedures and other procedures conducted by state authorities. Advertising and appointment of court interpreters is performed by the **Secretariat for Regulations, Administration and National Minorities** as its delegated tasks.

Now in progress is the drafting of the Memorandum of Cooperation between the Ministry of Justice and OSCE in view of the implementation of a project entitled "Training for Permanent Court Interpreters for the Romani Language".

The High Judicial Council appoints lay judges from the ranks of national minorities in the territories the population of which includes national minorities.

### **Proposal of planned activities to be undertaken with the aim of enhancing the rights of national minorities**

1. Reinforce the role and significance of the Republic of Serbia Council for National Minorities
2. Adopt the law on elections and authorisation of the national councils of national minorities
3. Provide financial support to the councils of national minorities

<p><b>• Implementation of relevant policy towards Roma</b></p>
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The Republic of Serbia joined the initiative „Decade of Roma Inclusion 2005-2015“ in February 2005. The goal of the instigation of this regional initiative was to reduce the unacceptable differences between Roma and the remaining part of the society through the implementation of national action plans in the areas of education, housing, employment, and healthcare, with inclusion of some other priority areas such as antidiscrimination, gender equality and poverty reduction. The main principle of the "Decade of Roma Inclusion 2005-2015" is to include the representatives of Roma community in the process of planning and implementation of all measures.

The Government of the Republic of Serbia in January 2005 already adopted, based on the Draft Strategy for Roma Integration, national action plans for the enhancement of Roma status in the areas of education, employment, housing, and healthcare.

Drafting of the Action Plan for Enhancement of Roma Education was coordinated by the Secretariat for the Roma National Strategy of the Department for Human and Minority Rights, and taking part in it were the representatives from all departments of

the Ministry of Education, the National Council of the Roma National Minority (which, by virtue of the Law on Protection of the Rights and Freedoms of National Minorities, is the main actor in the cultural self-governance of the Roma national minority), associations of citizens, and international organisations involved in the enhancement of the status of Roma, as well as an expert for education from the Faculty of Philosophy.

*Implementation of the Action Plan for Enhancement of Roma Education is carried out through the following activities:*

- Include as many Roma as possible into the educational system (preschool, elementary, secondary, and university education),
- Provide a quality education program,
- Implement the programmes promoting the respect for differences,
- Implement the programmes promoting the multicultural values,

Nurture the cultural identity of Roma through electoral and facultative activities in the institutions.

*Concretisation of the Action Plan activities implies the implementation of the following measures:*

- Provide the legislation for inclusion and as-long-as-possible schooling of Roma (by applying affirmative action),
  - Develop the sensitivity of professional circles and wider community for educational requirements of Roma,
  - Prepare educational institutions for inclusion of Roma in the education system, with the support of the Ministry of Education and local community,
  - Provide professional training for the staff working with Roma children,
- Develop a friendly environment in the educational institution, based on the respect for differences and multiculturalism,
- Develop the curriculum and extra-curriculum activities in accordance with the educational requirements of Roma children and adolescents,
  - Develop a school subject: the Romani language with elements of national culture (with the status of facultative subject).

In the period 2005 - 2008, the following measures/programmes/projects, envisioned in the Action Plan for Enhancement of Roma Education, were implemented:

In 16 municipalities of the Republic of Serbia, now implemented are the projects with the aim to ensure that Roma children are fully covered by the pre-school programme. These projects are carried out by the pre-school institutions, local self-governments, and associations of the citizens of Roma nationality. Main elements of these projects include the establishment of cooperation between all institutions at the local level. It is envisaged that these projects provide support to Roma parents and community in order to have them assume a more active role with regard to the education of their children and to restore in them the trust in the educational system. It is also envisaged to work with the parents from the majority population (with regard to the issues concerning the Roma education, alleviation of discrimination and prejudices). The projects support the enrolment and regular participation of Roma children in the six-month preparatory preschool programme. Children are enrolled in the inclusive groups. Further, Roma coordinators make effort to include the parents and, through

intermediation between the preschool/school institutions and the families, they make continuous efforts throughout the duration of the projects.

The school subject entitled „The Romani Language with the Elements of National Culture“ is taught in 42 schools in Vojvodina to 1,266 children. The programme for the first four grades of elementary school was developed in cooperation with the National Council of the Roma National Minority and the Ministry of Education.

In the Republic of Serbia, the members of Roma national minority are subject to the measures of affirmative action for enrolment of students in the secondary schools, colleges and universities founded by the Republic of Serbia.

The enrolment of the students of Roma nationality in secondary schools for the school years 2006/07 and 2007/2008 was carried out in accordance with the Rules for Enrolment of Students in Secondary Schools and the Competition for Enrolment of Student in Secondary Schools. A student of Roma nationality was allocated to a suitable educational profile if his total scores achieved in all the areas relevant for enrolment in secondary school is not more than 30 points below the average value of scores for a particular educational profile in a desired school. One educational profile, in one school, may be allocated only one student of Roma nationality who is enrolled through the measures of affirmative action. When more than one student of Roma nationality entered the competition for enrolment in the same educational profile in the same school, the priority in allocation was given to the student who achieved higher total scores. By the application of affirmative action, 185 students were enrolled in secondary schools in the school year 2007/2008.

Criteria for enrolment into the university included the successfully passed entrance examinations, namely attainment of the minimum level of knowledge, and that the candidate is for the first time enrolling into the first year of graduate studies. In the school year 2007/ 2008, 107 students were enrolled in this manner and the costs of their studies are fully covered from the state budget. In the past years, the numbers of enrolled students were as follows: in 2005, 68 students were enrolled in secondary schools; in 2006, 89 students were enrolled in secondary schools and 95 in colleges or university.

Numbers of boys and girls enrolled by the application of the measures of affirmative action, in all years and at both levels of education, were approximately the same.

In 2007, the Ministry of Education, in cooperation with the OSCE Mission, implemented a project to introduce the assistants to support the education of Roma. Out of 167 applicants, 54 persons were selected and underwent ten-day training. After the final decision, 28 persons that were selected began working in the schools. The OSCE project covered the costs of the training programme development and the training of assistants, experts involved in the implementation of the project, as well as a media campaign, and the Ministry of Education was supposed to remunerate the assistants.

Moreover, through the cooperation with OSCE, the Ministry of Education implemented a project for development of the school administrations' capacity to implement local action plans for the enhancement of Roma education, 16 teachers



from 16 school administrations were trained to monitor the projects for the enhancement of Roma education.

Besides the mentioned above, the Ministry of Education has provided donation funds for the intervention actions within the working groups for acceptance of returnees, supported the programs of further professional education (active learning/ methods of teaching adapted to children with special needs), and linked its programme activities with local self-governments through local Roma agents.

Within the project Functional Basic Education for Adult Roma, a special approach was developed to working with adult Roma which was not focused solely on gaining literacy but also on gaining some vital intellectual skills, basics of entrepreneurship, and acquiring some qualifications. The project covered 275 Roma between 15-35 years of age in 11 experimental groups in eight towns.

In the Romology School of the University in Novi Sad, co-organised with the Women Studies and two Roma student associations, a project entitled „Building the Roma Intellectual Elite in the University in Novi Sad“ was established in 2007. The goals of this project included the following: raise Roma students’ motivation to study by the method of mentorship; explore employment opportunities for graduated Roma students; develop the curriculum for the forthcoming academic studies at the Faculty of Philosophy within a special educational unit.

The course named: Introduction to the Romology remained on the list of facultative subject in the year 2007-2008 at the Faculty of Philosophy, Department for Journalism, and it is now a part of the system on the University in Novi Sad. In the school year 2007-2008, the funds are still partly provided by the Fund for Open Society, but they come from the AP Vojvodina Secretariat for Education too.

Main goals of the Action Plan, in the area of housing, are the following:

- Innovation of legislation in the area of housing, from the aspect of granting more opportunities to Roma and executive authorities at all three levels of government in the Republic of Serbia
- Comprehensive and sustainable renewal and enhancement of living conditions in the settlements
- Regulation of property and legal status
- Remedy of urgent situations and slams relocation
- Meeting the housing needs of the Roma internally displaced from K&M
- Meeting the housing needs of the Roma by colonising the deserted villages in the Republic of Serbia
- Action on building the residents’ of Roma settlements capacity for inclusion in the work of local decision-making bodies and setting up the regional self-governance bodies in the regions with the Roma settlements with 1000 to 5000 residents of Roma nationality
- Integration of the residents of settlements into their surroundings

Main goals of the Action Plan, in the area of employment, are the following:

- Enhancement of entrepreneurship in Roma

- Preparation of Roma for the transition and post-transition period and new market requirements
- Increase of the Roma employment rates
- Inclusion of the Roma employees in the public works programme
- Increase the motivation of Roma to actively look for a job
- Reduce the difference between the participation of Roma in the total population and their representation in local and national institutions
- Integration of Roma in the existing labour market
- Inclusion of Roma employment issues into the general employment policy in the country
- Equal access/accessibility of employment for Roma
- Reinforcement of the Roma workers' identity and raising their awareness
- Access to employment information and information on the existing economic empowerment opportunities for the Roma

Main goals of the Action Plan, in the area of healthcare, are the following:

- Medical research, with the aim to define the death and birth rates, as well as a basic database on the Roma population's medical condition
- Upgrading of current legislation, with the aim to enable easier inclusion of Roma in the healthcare system, particularly for vulnerable groups
- Improvement of healthcare for the overall Roma population
- Living environment in Roma community

### **Proposal of the planned activities to be undertaken with the aim to improve the status of Roma**

1. The Republic of Serbia's presidency of the „Decade of Inclusion of Roma 2005-2015“
2. Adopt the Strategy for Roma Integration
3. Adopt the action plans in the areas of social welfare, culture, media and information, antidiscrimination, enhancement of the status of women, accessibility of personal documents, enhancement of the status of IDPs and returnees on the basis of readmission agreements, as well as in the area of political participation.

Within the scope of its responsibilities, the **Ministry of the Interior** has taken the following steps: within the community policing development, the activities were and are undertaken to establish and maintain the communication and trust between the police and the community, to educate the police, representatives of the community, citizens and specific categories of the population, to establish and develop partnership between the police and the community, and to develop a problem-oriented work to resolve security issues.

A particularly significant element of the development of police work in a community is to bring the police work closer to and adapt it to the security requirements of the members of marginalised, minority, and socially vulnerable groups, so as to ensure efficacious protection of their security.

The representatives of above groups are included in the work of different bodies, at the level of local communities, which are involved in finding solutions for security problems, particularly through the work of community police.

The members of police are daily directly visiting and making contacts with the representatives of above groups. They also take other measures and actions to ensure the protection of their security and property. In this regard, reinforced measures were ordered in 2005 to protect the Roma and their property in the territory covered by the City of Belgrade Police Administration, considering that it is there that the concentration of the members of this national minority is the greatest.

With regard to this, in the past two years this Ministry has been systematically undertaking the activities within the initiative „**Police Work with Minority, Marginalised, and Socially Vulnerable Groups**“ to enhance the communication and cooperation between the police and members of the above groups, and the members of police have been taking active part at the „round tables“ on the security requirements and implementation of the protection of their security.

- Thirteen „round tables“ were held at which the representatives of minority, marginalised and socially vulnerable groups have, among other things, highlighted the large progress made in the cooperation with the police.
- Three study trips were made to the police in Kent, England, to learn the experience of foreign police in the work with above groups and to implement it in Serbia.
- In the regional police administrations, the members of police were appointed to enhance the communication and cooperation with the minority, marginalised and socially vulnerable groups.
- In October 2007, the UP representatives and the lecturers from the Kent Police College held a five-day training for 40 members of police-trainers from the Ministry's regional and line administrations involved in the enhancement of the communication and cooperation with the representatives and members of minority, marginalised, and socially vulnerable groups and training of the members of police with regard to the issues of differences and prevention and suppression of all acts of discrimination.
- Included in the Programme for further professional education of the members of police for the year 2008 was a two-hour lesson named „Work of the police with the minority, marginalised, and socially vulnerable groups“ and, in accordance with the andragogical principles of learning, a plan of lessons was made and manuals for trainers prepared based on which, in all regional police administrations, the training in this teaching subject is implemented for the members of police.

Also, the activities were taken to develop the communication between the police and the deaf and hearing impaired persons through the implementation of the „School of Sign Language“ for the members of police. In the past three years, in two cycles, the total of 47 members of police has learnt the basic skills of sign language and the plan is to continue their training as well as to increase the number of the members of police trained to communicate with deaf and mute persons.

Besides, the activities are taken to implement the project „Safety for All“ which will create the conditions to overcome the barriers and problems in the communication between the members of police and the persons with special needs.

When announcing the competition for acceptance into the Centre for Basic Police Training and Work in the Police, the affirmative approach is taken towards all members of national minorities, e.g. representative and members of national minorities are contacted and, in their respective languages, informed about the terms of competition and encouraged to apply.

To ensure greater representation of the persons belonging to the Albanian national minority in the police, a number of courses were organised and they were successfully completed by more than 400 members of police – Albanians, after which they were allocated to the police stations in the municipalities of Bujanovac, Preševo, and Medveđa.

**Representatives of Roma national minority are largely involved** in all the **activities mentioned above**, in particular through the participation at round tables, exchange of opinions on the work of police, enhancement of cooperation with the members of police, and the work of local security bodies on achievement of better protection of Roma security.

Moreover, they are included in the training of the members of police that addresses the issues of preventing the acts of discrimination and developing the communication and cooperation with the minority communities, in order to gain better knowledge of local Roma communities and their customs which are relevant for the police work and implementation of security protection.

**PENAL POLICY OF THE FIRST INSTANCE COURTS 2006 - 2007**

Denomination of criminal offence	Number of criminal complaints		Number of dismissals		Number of charges		Prison		Fine sentence		Suspended sentence		Admonition		Acquittal	
	2006.	2007.	2006.	2007.	2006.	2007.	2006.	2007.	2006.	2007.	2006.	2007.	2006.	2007.	2006.	2007.
Art. 113. murder	278	256	32	56	175	213	164	186			2	5			8	18
Art. 114. aggravated murder	105	136	13	3	56	107	40	53				1			1	5
Art. 204. theft – grand larceny	13858	13663	2054	1998	8531	8132	2422	3075	427	418	3116	2822	24	14	247	285
Art. 206. robbery and banditry	1917	1445	109	103	1090	982	694	783	9	7	70	114			54	49
Art. 223. money forgery	399	345	42	30	219	186	58	49	15	21	58	78		1	3	12
Art. 231. money laundering	6	20	1	8	5	9			4	1	1	7				
Art. 246. unauthorized production, holding and circulation of narcotic drugs	5097	5151	227	97	4870	4770	1068	1392	1252	1409	1465	1196	4	2	266	177
Art. 312. terrorism	5	4			1		1									
Art. 359. misconduct in office	5526	4763	2160	1797	1344	1365	151	198	17	38	585	586		1	154	252
Art. 367. bribe taking	117	168	39	33	54	69	26	25			20	9			2	5
Art. 368. bribe giving	62	108	35	17	25	53	8	12			13	16			3	2
Art. 388. trafficking in humans	72	78	6	5	28	56	18	9	1		1	3				3
Art. 389. trafficking in children for adoption	6	25		4	2	10		8								

