

Chapter 24: Justice, freedom and security

EU policies aim to maintain and further develop the Union as an area of freedom, security and justice. On issues such as border control, visas, external migration, asylum, police cooperation, the fight against organised crime and against terrorism, cooperation in the field of drugs, customs cooperation and judicial cooperation in criminal and civil matters, Member States need to be properly equipped to adequately implement the growing framework of common rules. Above all, this requires a strong and well-integrated administrative capacity within the law enforcement agencies and other relevant bodies, which must attain the necessary standards. A professional, reliable and efficient police organisation is of paramount importance. The most detailed part of the EU's policies on justice, freedom and security is the Schengen acquis, which entails the lifting of internal border controls in the EU. However, for the new Member States substantial parts of the Schengen acquis are implemented following a separate Council Decision to be taken after accession.

Migration

1. Please provide information on general immigration policy, as well as legislation or other rules governing migration in your country.

Migration policy in the Republic of Serbia is defined in accordance with the achievements of international law in the domain of human protection, proclaimed by agreements between the UN Member States (ratified by our country), such as: Convention on the Status of Stateless Persons (1959), Vienna Convention on Consular Relations (1963), Convention on the Status of Refugees (1963), International Convention on the Elimination of All Forms of Racial Discrimination (1965), International Covenant on Civil and Political Rights (1971), International Covenant on Economic, Social and Cultural Rights (1971) and other conventions.

The commitment of Serbia is to harmonize the management of migration flows with standards for regulating problems of foreigners in the European Union and with new trends, applied in developed democratic systems. Accordingly, the latest legal solutions adopted in the field of migration policy, shall take the account of the Schengen Agreement provisions and the provisions of the Convention on Implementing the Schengen Agreement.

The values underlying migration management are the following: security of state borders and citizens, respect for human rights of all migrants, facilitating the integration of vulnerable groups of migrants into society, international cooperation developed both with countries in the region and wider, non-discrimination, facilitating family reunification and respect for the needs of all parties concerned.

Immigration policy of the Republic of Serbia is defined by the specific situation which occurred on the territory of former SFRY and by disintegration of the state and the creation of new countries, as well as by the inflow of huge number of refugees which the Republic of Serbia accepted during this period, thus changing from predominantly migratory country with a numerous Diaspora abroad to immigration country.

Republic of Serbia adopted a series of strategies that provide a framework for further migration policy-making:

- Strategy for Migration Management (*Official Gazette of RS* No. 59/09);
- National Plan for Integration of the Republic of Serbia into the European Union;
- Strategy on Integrated Border Management in the Republic of Serbia (*Official Gazette of RS* No. 11/06);
- National Employment Strategy 2005-2010 (Conclusion of the Serbian government No. 05: 11-2291/2005 of 14 April 2005);
- National Youth Strategy (*Official Gazette of RS* No. 55/08);
- Strategy on Fighting Human Trafficking in the Republic of Serbia (*Official Gazette of RS* No. 111/2006);
- Strategy on Combating Illegal Migration in the Republic of Serbia 2009-2014 (*Official Gazette of RS* No. 25/09);
- National Strategy on Resolving the Problems of Refugees and Internally Displaced Persons (Conclusion of the Government of the Republic of Serbia 05 No: 02-7778/2002-01 of 30 May 2002);
- Strategy on Reintegration of Returnees on the basis of Readmission Agreement (*Official Gazette of RS* No. 15/09);

- Strategy on Improvement of the Status of Roma in the Republic of Serbia (*Official Gazette RS* No. 27/09);
- Strategy on Development of Official Statistics in the Republic of Serbia 2009-2012 (*Official Gazette of RS* No. 7/09).

Coordinating body for migration, monitoring and management was established by the Decision of the Government of the Republic of Serbia (*Official Gazette of RS* No13/09), comprising the Ministers of the ministries in charge of certain migration areas. The task of the Coordinating body is to direct the work of ministries and special organizations to define goals and priorities of migration policy and migration monitoring and management.

Status, rights and obligations of migrants are regulated by the following laws and acts:

- **The Law on Foreigners** (*Official Gazette of RS* No. 97/08, which entered into force on 4 November 2008, and became operational on 1 April 2009) and the sub-legal acts:
 1. Rulebook on more specific conditions and procedure of issuing visas at border crossing points (*Official Gazette of RS* No 59/09);
 2. Rulebook on fulfilment of conditions for granting temporary residence to a foreigner for family reunification (*Official Gazette of RS* No 59/09);
 3. Rulebook on fulfilment of conditions for granting temporary residence to a foreigner in terms of health insurance (*Official Gazette of RS* No 59/09);
 4. Rulebook on the layout of form and content of the travel document for foreigner (*Official Gazette of RS* No 59/09);
 5. Rulebook on the form, content and modality of entry of temporary residence permit into the foreign travel document (*Official Gazette of RS* No 59/09);
 6. Rulebook on method of keeping data register and the content of registry of foreigners in the Ministry of Interior (*Official Gazette of RS* No 59/09);
 7. Rulebook on more specific conditions on the procedure of extending visa validity and the application form (*Official Gazette of RS* No 59/09);
 8. Rulebook on meeting the requirements for granting temporary residence to a foreigner for education, studying or specialisation, scientific research, practical training, participating in international exchange programmes for pupils or students, or other scientific and educational activities (*Official Gazette of RS* No 59/09);
 9. Rulebook on more specific conditions for granting permanent residence and on the form, contents and the modality of entry of permanent residence permit into the foreign travel document and identity card and on the form of the statement on renunciation of the right to permanent residence (*Official Gazette of RS* No 59/09);
 10. Rulebook on more specific conditions on registration of foreigners' place of temporary and permanent residence, change of address and termination of permanent residence (*Official Gazette of RS* No 59/09);
 11. Rulebook on modality of recording termination of residence and prohibition of entry into the country, in the foreign travel document (*Official Gazette of RS* No 59/09);

12. Rulebook on the modality of entry of mandatory stay into the foreign travel document and on the layout of the temporary identity card (*Official Gazette of RS* No 66/09);
 13. Rulebook on layout of the form, its content and the modality of issuing identity card for a foreigner (*Official Gazette of RS* No 66/09);
 14. Regulation on more specific conditions for rejecting the foreigner's entry into the Republic of Serbia (*Official Gazette of RS* No. 75/09);
- Decision on the countries whose citizens may enter the Republic of Serbia with a valid identity card (OG of RS No. 38/10).
 - **The Law on Asylum** (*Official Gazette of RS* No. 109/07) and regulations:
 1. Rulebook on the House Rules of the Asylum Centre (*Official Gazette of RS* No. 31/08) and
 2. Rulebook on the method of keeping data register and the contents of registry of persons accommodated at the Asylum Centre (*Official Gazette of RS* No. 31/08);
 3. Regulation on social assistance for persons seeking or granted asylum - (*Official Gazette of RS* No. 44/08);
 4. Rulebook on the contents and the layout form of the asylum application and the documents issued to asylum seekers and to persons granted asylum or temporary protection (*Official Gazette of RS* No. 53/08);
 5. Rulebook on housing conditions and the provision of basic living conditions in the Asylum Centre - (*Official Gazette of RS* No. 31/08);
 6. Rulebook on medical examinations of persons seeking asylum upon arrival to the Asylum Centre (*Official Gazette of RS* No. 93/08);
 - Decision on determining the list of safe countries of origin and safe third countries - the Government (*Official Gazette of RS* No 67/09).
 - **The Law on Refugees** (*Official Gazette of RS* No. 18/92, 45/02 – SUS (Federal Constitutional Court)) and regulations:
 - **The Law on State Border Protection** (*Official Gazette of RS* No. 97/08)
 - Regulation on the control of crossing the administrative boundary line towards Kosovo and Metohija (*Official Journal of FRY* No. 41/2002). 41/2002)
 - **The Law on Citizenship** (*Official Gazette of RS* No. 135/04 and 90/07)
 - **The Law on Identity Card** (*Official Gazette of RS* No. 62/06); 62/06);
 - **The Law on Travel Documents** (*Official Gazette of RS* No. 90/07, 116/08, 104/09 and 76/10);
 - **The Law on Civil Registers** (*Official Gazette of RS* No. 20/09);
 - **Law on Ratification of Agreement between the Republic of Serbia and the European Community on the Readmission of Persons Residing Without Authorisation**(*Official Gazette of RS - International Treaties* No. 103/07);
 - **Implementing protocols for the implementation of the Agreement between the Republic of Serbia and the European Community on the readmission of persons residing without permission**, were signed with: The Republic of Italy on 13 November 2009 in Rome, the Republic of Slovenia on 8 June 2009 in Ljubljana, the Republic of France on 18 November 2009 in Paris, the Republic of Hungary on 19 December 2009 at the GP (border crossing) of Horgos-Reske, with the United Kingdom on 18 March 2010 in London, with Austria on 25 June 2010 in Belgrade and with the Republic of Malta on 2 July 2010.

- The Republic of Serbia implements the following bilateral agreements on readmission: **BH** (*OJ of Serbia and Montenegro* No. 22/04), **the Kingdom of Denmark** (*OJ of FRY* No.12/02), **Canada** (*OJ of Serbia and Montenegro* No. 03/06), **the Kingdom of Norway** (*OG of RS* No. 19/10), **the Republic of Croatia** (*OG of RS* No. 19/10), **the Swiss Confederation** (*OG* No. 19/10), **the Republic of Macedonia** (signed on 4 October 2010 in Belgrade, not ratified yet).

In addition to the provisions regulating the above mentioned, a set of laws regulating the scope of work and the rights resulting from it, as well as social protection and other social and economic rights of migrants is also important:

- The Labour Law (*Official Gazette of RS* No. 24/05, 61/05 and 54/09);
- The Law on Employment and Insurance in Case of Unemployment (*Official Gazette of RS* No. 36/09);
- The Law on the Protection of Citizens of the Federal Republic of Yugoslavia Employed Abroad (*Official Journal of FRY* No. 24/98 and *Official Gazette of RS* No.) 101/05 and 36/09);
- The Law on the Conditions for the Employment of Foreign Citizens (*Official Journal of SFRY* No. 11/78, 64/89, *Official Journal of FRY* No. 42/92, 24/94 and 28/96 and *Official Gazette of RS* No. 101/05);
- The Law on Social Protection and Providing Security of Citizens (the basic regulation in the field of social protection) (*Official Gazette of RS* No. 36/91, 79/91, 33/93, 53/93, 67/93, 46/94, 48/94, 52/96, 29/01, 84/04, 101/05 and 115/05);
- The Law on Financial Support for Families with Children, which contributes to the overall measures of social care for children and refers to the improvement of conditions to meet the basic needs of children (*Official Gazette of RS* No. 16/02, 115/05 и 107/09);
- The Family Law (*Official Gazette of RS* No.18/05); 18/05);
- The Health Care Law (*Official Gazette of RS* No. 107/05 and 72/09);
- The Law on the Fundamentals of the Educational System (*Official Gazette of RS* No. 72/09); 72/09);
- The Law on Primary School (*Official Gazette of RS* No. 50/92, 53/93, 67/93, 48/94, 66/94, 22/02, 62/03, 101/05 and 72/09);
- The Law on Secondary School (*Official Gazette of RS* No. 50/92, 53/93, 67/93, 48/94, 24/96, 23/02, 25/02, 62/03, 64/03, 101/05 and 72/09);
- The Law on Higher Education (*Official Gazette of RS* No. 76/05, 100/07, 97/08 and 44/10);

Regulations under which the obligations are assumed under various international conventions and agreements:

- The Law on Ratification of the United Nations Convention on the Rights of the Child (*Official Journal of SFRY – International Treaties* No. 15/90 and *Official Journal of FRY – International Treaties* No. 4/96 and 2/97);
- Law on Ratification of the Optional Protocol on the sale of children, child prostitution and child pornography to the Convention on the Rights of the Child (*Official Journal of FRY - International Treaties* No. 7/02);
- The Law on Ratification of the Convention on the Elimination of All Forms of Discrimination against Women (*Official Journal of SFRY-International Treaties*, No. 11/81);

- Law on Ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (*Official Journal of FRY - International Treaties* No. 13/02);
- The Law on Ratification of the Optional Protocol amending the Convention for the Suppression of Trafficking in Women and Children and Convention for the Suppression of Trafficking in Adult Women (*Official Journal of FPRY-International Treaties*, No. 41/50);
- The Law on Ratification of the United Nations Convention against Transnational Organized Crime and supplementary protocols: The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (*Official Journal of FRY - International Treaties* No. 6 /01);
- The Law on Ratification of the Convention on the Suppression and Elimination of Trafficking in Persons and Exploitation of Others (*Official Journal of FPRY* No. 2/51);
- The Law on Ratification of the Council of Europe Convention on Action against Trafficking in Human Beings (*Official Gazette of RS* No. 19/09);
- The Law on Ratification of the Convention on the Civil Aspects of International Child Abduction (*Official Journal of SFRY – International Treaties* No. 7/91);
- The Law on Ratification of the Convention of International Labour Organization, No. 143, concerning Migrations in Abusive Conditions and Promotion of Equal Opportunities and Treatment of Migrant Workers (*Official Journal of SFRY-International Treaties* No. 12/80);
- The Law on Ratification of ILO Convention No.182 on the Worst Forms of Child Labour and ILO Recommendations No.190 concerning the Prohibition and Immediate Action for Elimination of the Worst Forms of Child Labour (*Official Journal of FRY - International Treatments* No. 2/03);
- The Regulation on the Ratification of the Convention on the Status of Refugees, with a Final Act of the United Nations Conference of Plenipotentiaries on the Status of Refugees (*Official Journal of FPRY-International Treaties* No. 7/60);
- The Regulation on the Ratification of the Protocol on the Status of Refugees (*Official Journal of SFRY - International Treaties and Other Agreements* No. 15/67);
- The Regulation on the Ratification of Convention on Alimony Claims Abroad (*Official Journal of FPRY-International Treaties* No. 2/60);
- The Regulation on Ratification of the Convention on Employment Policy of the International Labour Organization No. 122 (*Official Journal of SFRY – International Treaties* No. 34/71);
- The Regulation on Ratification of the Convention of International Labour Organization No. 111 concerning discrimination in employment and occupation (*Official Journal of FPRY-International Treaties* No.3/61);
- The Regulation on Ratification of the International Labour Organization Convention No. 97 on Migration for Employment (*Official Journal of SFRY-International Treaties* No. 5/68);

- The Regulation on the Ratification of the International Labour Organization Convention No.88 on the Service for Labour Mediation (*Official Journal of FPRY-International Treaties* No. 9/58);
- The Law on Ratification of the Convention on Police Cooperation in Southeast Europe (*Official Gazette of RS* No. 70/07);
- The Law on Ratification of the Stabilization and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Serbia, of the other part (*Official Gazette of RS* No. 83/08);
- The Law on Ratification of the Agreement on Succession Issues (*Official Journal of FRY - International Treaties* No. 6/02).

In addition to the above mentioned, it is necessary to mention the Constitution of the Republic of Serbia (*Official Gazette of RS* No. 98/06), as the highest legal act of the Republic of Serbia, as well as the Criminal Code (*Official Gazette of RS* No. 85/05, 88/05, 107/05, 72/09 and 111/09).

2. Please describe your procedures for obtaining a residence permit, reasons for refusal, renewal or withdrawal of permits, and appeal procedures.

The residence of foreigners - the type of residence, applying for a temporary residence, the conditions for permit approval, as well as termination of residence, are regulated by the Law on Foreigners (by the chapters relating to residence of foreigners, Articles 24 to 36).

Pursuant to the Law, the types of residence of foreigners shall be: a stay of up to 90 days, temporary residence and permanent residence.

The stay of up to 90 days shall be considered as the foreigner's entry into the Republic of Serbia with the document prescribed for crossing the state border without or with a visa, without applying for temporary residence in the Republic of Serbia.

Temporary residence in the Republic of Serbia may be permitted to a foreigner whose intention is to stay in the Republic of Serbia longer than 90 days, for the following reasons:

- work, employment, performance of economic or other professional activities;
- school attendance, studying or specialization, scientific research, etc.;
- family reunification;
- other justifiable reasons.

A foreigner shall submit request for a temporary residence permit to the competent authority in the place of residence, with the requirement that he must attach a proof that he has got sufficient financial means to sustain himself, that he has got health insurance, as well as evidence of the justification of the requirement for temporary residence. Temporary residence shall be granted by entering the label form of the approved temporary residence into the foreigner's travel document.

Regional police directorate shall adopt the decision on the refusal of application for temporary residence against which the appeal may be filed to the border police directorate within the Ministry of Interior, within 15 (fifteen) days from the date of receipt of the decision. Against the decision of the border police department on the appeal refusal, the administrative dispute may be initiated before the competent judicial authority.

Temporary residence may be approved to a foreigner for up to one year and may be extended for the same period.

The competent authority may cancel the residence to a foreigner who is granted a stay of 90 days as well as to a foreigner who is granted temporary residence, in case of impediments prescribed by the provisions of the Law on Foreigners, relating to the refusal of entry into the Republic of Serbia. The decision on cancellation of residence and prohibition on entry into the Republic of Serbia shall be adopted by the regional police directorate. This decision may be appealed also to the border police department within the Ministry of Interior (MoI) of the Republic of Serbia, within 15 (fifteen) days from the date of receipt of the decision. Against the decision of the border police department on the appeal refusal, the administrative dispute may be initiated before the competent judicial authority.

Entry into the Republic of Serbia shall be refused to a foreigner if:

- he/she does not have a valid travel document, or a visa if required;
- he/she does not have sufficient financial means to sustain him/herself;
- he/she is in transit, but does not meet the requirements to enter the third country;
- the protective measure of removal or the security measure of expulsion is in effect;
- he/she does not have the certificate of vaccination, when arriving from area affected by an epidemic;
- required so by reasons related to protection of the public order or the safety of the Republic of Serbia;
- he/she is registered in international records as an international felon.

More detailed conditions for refusal of entry of foreigners into the Republic of Serbia are provided for in the Serbian Government Regulation on more specific conditions for the rejection of the foreigner's entry into the Republic of Serbia.

Foreigner's residence in the Republic of Serbia shall be terminated:

- after expiry of the permit term of validity;
- by cancellation of the residence;
- if the protective measure of removal or the security measure of expulsion is imposed on him/her.

Request for approval of permanent residence shall be submitted in person, to the organizational unit of the Ministry of Interior in charge of foreign affairs by place of residence of the foreigner. Request for approval of permanent residence to a minor shall be submitted by one of the parents, adoptive parent or guardian.

Article 37 of the Law on Foreigners prescribes the conditions that must be fulfilled in order to grant the permanent residence in the Republic of Serbia to a foreigner:

1. who has stayed with no interruptions in the Republic of Serbia for more than five years on account of the permission for temporary residence, up to the date of applying for permanent residence permit;
2. who has been married to a citizen of the Republic of Serbia, or a foreigner with permanent residence, for at least three years;
3. who is a minor in temporary residence in the Republic of Serbia if one of his/her parents is a citizen of the Republic of Serbia or a foreigner with permanent residence, with the consent of the other parent;
4. whose territory of origin is the Republic of Serbia

In exceptional cases, permanent residence may also be granted to other foreigners who have been granted temporary residence, if so required by the humanitarian reasons or if it is in the interest of the Republic of Serbia.

The application shall be accompanied by evidence of compliance with relevant legal requirements for granting permanent residence, as follows:

1. travel documents with a temporary residence permit;
2. two photographs;
3. certificate of citizenship for the spouse of a citizen of Serbia,
4. excerpt from the marriage certificate;
5. excerpt from the marriage certificate for the applicant and for children who are citizens of the Republic of Serbia,
6. certificate of graduation,
7. proof of financial means of subsistence;
8. medical certificate,
9. proof of place of residence provided.

The decision on the application for permanent residence shall be taken by the Ministry of Interior. The decision on granting permanent residence in the Republic of Serbia, or decisions on refusing the application for approval of permanent residence, shall be served upon the foreigner by organizational unit which the request was submitted to;

The permanent residence sticker shall be affixed into the travel document of the foreigner granted permanent residence.

Only a foreign holder of a permanent residence permit shall have the right to place of permanent residence in the Republic of Serbia, and the residence shall be considered notified on the date of issuance of the foreigner's identity card.

Registration of change of the permanent residence address and termination of permanent residence shall be performed at the organizational unit of the Ministry of Interior in charge of foreign affairs, by place of foreigner's permanent residence.

Change of permanent residence address and termination of permanent residence shall be entered into the foreigner's identity card.

Pursuant to Article 39 of the Law on Foreigners permanent residence shall not be granted to a foreigner:

1. who fails to fulfil the requirements stipulated in Article 37 of the Law on Foreigners;
2. who has been convicted of a criminal offence that is prosecuted ex officio or in case that proceedings have been instituted for such an offence;
3. who does not have any means of subsistence;
4. who does not have health insurance;
5. who does not have place of residence;
6. for reasons of safeguarding public order or security of the Republic of Serbia and its citizens.

A foreigner may lodge an appeal with the Government of the Republic of Serbia against the decision of the Ministry of Interior on refusal of the permanent residence permit, within 15 days after receiving the decision. A foreigner may initiate administrative dispute before the Administrative Court against the decision of the Government of the Republic of Serbia, within 30 (thirty) days following the date of the decision delivery.

3. Do you have immigration rules providing for family reunification? If so, please outline these (who can be regarded as a family member, which conditions have to be fulfilled, procedure, rights after admission).

Pursuant to Article 32 of the Law on Foreigners, the application for granting the permission for temporary residence for the purpose of the family reunification shall be submitted by a foreigner – a nuclear family member of a citizen of the Republic of Serbia, or a foreigner granted permission for permanent or temporary residence.

Pursuant to this Law, the following family members shall be considered nuclear family: spouses, their minor children born in wedlock or out of wedlock, adopted minor children or minor stepchildren

In exceptional cases, other cousins may also be considered as nuclear family members if there are particularly important personal or humanitarian reasons for family reunification in the Republic of Serbia.

A request for a temporary residence permit on grounds of family reunification shall be submitted to the regional police directorate by place of residence of the foreigner. The request must be accompanied by a proof of fulfilment of the conditions confirming family relationship, i.e. the status of the nuclear family member:

Pursuant to Article 9 of the Law on Asylum, the competent authorities shall take all the available measures for the purpose of maintaining family unity during the asylum procedure and after the granting of the right to asylum. Pursuant to the provisions of the Law, persons granted asylum shall have the right to family reunification.

Pursuant to Article 48 of the Law on Asylum, a person whose right to refuge has been recognised shall have the right to reunite with the family members, and, at his/her request, the Asylum Section shall also grant the right to refuge to the family member who is outside the territory of the Republic of Serbia, unless there are statutory reasons to refuse the status.

Pursuant to Article 49 of the Law on Asylum, a person granted subsidiary protection shall have the right to family reunification in accordance with the regulations governing the movement and stay of foreigners.

Pursuant to Article 50 of the Law on Asylum, the competent authority may, in justifiable cases, allow family reunification and also grant temporary protection to family members of a person enjoying temporary protection in the Republic of Serbia.

4. Do you have immigration rules for acquiring a long-term resident status? If so, please outline these, specifying the rights attached to the status and the conditions for withdrawal.

Request for approval of permanent residence shall be submitted in person, to the organizational unit of the Ministry of Interior in charge of foreign affairs by place of residence of the foreigner. Request for approval of permanent residence to a minor shall be submitted by one of the parents, adoptive parent or guardian.

The application shall be accompanied by evidence of compliance with relevant legal requirements for granting permanent residence, as described in details under question No. 2.

After obtaining permanent residence in the Republic of Serbia, the foreigner shall enjoy the same rights that the nationals are entitled to, except for voting right and right to possess travel documents of the Republic of Serbia

Pursuant to Article 41 of the Law on Foreigners, a foreigner's right to permanent residence shall be terminated if ascertained that the foreigner has moved out of the Republic of Serbia or that he has stayed abroad in continuity for longer than one year and has failed to notify the competent authority thereof, if his/her stay in the Republic of Serbia has been cancelled and if he/she has renounced the right to permanent residence. The procedure to determine that the foreigner has moved out of the Republic of Serbia, or that he/she has stayed abroad in continuity for longer than one year, shall be initiated ex officio.

5. Please describe your system for admission for employment, study and research purposes. If you have several systems in place (i.e. seasonal workers, au pairs, highly skilled workers, trainees etc) please briefly outline them.

Pursuant to the Labour Law, a person who meets working requirements of certain jobs regulated by the Law and by the rulebook on organization and systematization of jobs (adopted by the employer) can enter into the employment relationship. The Labour Law does not prescribe an obligation to publicly announce job vacancies, but the employer shall decide on the procedure of recruitment and selection of candidates.

The Labour Law stipulates that the employment relationship shall be entered into under the contract of employment on a temporary or fixed-term basis. The contract of employment shall be concluded before the employee takes on the job and shall contain certain mandatory elements, as follows: data relating to the employee (name and forename, permanent or temporary residence, the type and level of education), data relating to the employer (name and address of its headquarters), information on job (type and description of jobs that the employee shall take on, place of work), information on employment relationship (open-ended or fixed-term, the duration of open-ended contract of employment, the day of commencement of work), data on working hours (full time, part time or reduced), information on salary (pecuniary amount of base wage and parameters for establishing the work performance, compensation of salary, increased salary and other emoluments the employee shall be entitled to), reference to the collective agreement or rules of procedure in force; information on working hours (duration of daily and weekly working hours). The contract of employment may also stipulate other rights and obligations.

The Labour Law does not stipulate special cases in terms of admission for employment for study of research purposes. However, Article 22 of this Law stipulates that the fixed-term employment relationship may be concluded, inter alia, for work on a particular project, provided that such employment relationship, can last no longer than 12 months with or without termination.

Conditions for employing foreigners, as well as their employment rights are regulated by: the Law on the Conditions for the Employment of Foreign Citizens, the Labour Law and the Law on Foreigners.

Pursuant to the Law on the Conditions for the Employment of Foreign Citizens, a foreign national can enter into employment relationship if he/she holds the permit for permanent or temporary residence in the Republic of Serbia and if he/she obtains a work permit.

A foreign national can enter into employment relationship with an organization or an employer, without work permit and without public announcement, if he/she holds the permanent or temporary residence permit in the Republic of Serbia, and if enters into employment relationship for performing professional activities stipulated by the contract on business and technical cooperation, on long-term production cooperation, on transfer of technology and foreign investments.

In accordance with the law, jobs available to foreign nationals shall be determined by the general act of the organization.

The organization or employer is obliged to submit the data on the number, structure and duration of employment of foreign nationals to the national or provincial organization authorized for employment, in accordance with the regulations on job registers.

A foreign national who holds the permanent residence permit in the Republic of Serbia shall submit a request for issuance of a work permit to authorized organization for employment, or employment branch office, by place of residence.

A competent branch office shall grant a work permit for the period of validity of the permanent residence permit.

The employer shall submit a request to the competent branch office for issuing a work permit to a foreign national who holds the temporary residence permit, by place of the employer's headquarters. Based on the employer's explanation for the need to employ a foreign national, the competent branch office shall issue a work permit to the foreign national for the period of validity of the permanent residence permit.

A foreign national shall enter into employment relationship on the date of work commencement, based on the contract of employment between employer and employee.

A foreign national entering into employment relationship under contract shall be terminated the employment relationship on the contract expiry date.

Employment relationship shall be extended to a foreign national who has extended a temporary residence in the Republic of Serbia and who was granted a new work permit.

Furthermore, organization or employer can conclude employment relationship with a foreign national under the contract on performance of temporary service, for a period no longer than three months in a calendar year, under the same conditions provided by law and the general act relating to performance of such activities by the citizens of the Republic Serbia.

Employment of foreign nationals shall also be conducted on the basis of intergovernmental agreements on cooperation between the Republic of Serbia and another state, to establish scientific, technical, educational and cultural cooperation, as well as with international organizations or under other contracts, memorandums for cooperation between the competent ministry of the Republic of Serbia with the competent ministry of another state or between scientific, cultural and educational institutions of the Republic of Serbia with the competent authorities of another country.

A foreign national can regulate the employment relationship upon approval of temporary residence by the competent authority (Ministry of Interior of the Republic of Serbia).

Pursuant to Article 26(1) of the Law on Foreigners, the temporary residence may be granted to a foreign national who indents to stay in the Republic of

Serbia for the purpose of work, employment, performance of economic or other professional activity.

A foreigner, who has been granted temporary residence due to the above reasons, shall be obliged to stay in the Republic of Serbia in accordance with the purpose for which the residence has been granted to him.

In addition to the application for temporary residence, a foreign national shall also be obliged to submit a valid foreign travel document, as well as **a proof** of sufficient financial means to sustain him/herself, evidence of health insurance as well as other proof justifying the reasons on account of which he is requesting the approval of temporary residence.

The proof, justifying the reasons on account of which the foreign national is requesting the approval of temporary residence depends on the basis of temporary residence on grounds of work, employment, performance of economic and other professional activities, and can be divided into the following subgroups:

I) TEMPORARY RESIDENCE TO BE GRANTED FOR ESTABLISHMENT OF COMPANIES, BRANCHES OR BANKS OR TO PERSONS REGISTERED INTO THE DECISION ON REGISTRATION OF COMPANIES, BRANCHES OR BANKS

Documents required:

- Decision on registration
- proof of possession of financial means (credit cards, passbook, certificate of entry of cash into the country, etc.)
- certificate from commercial bank of account turnover;

II) TEMPORARY RESIDENCE TO BE GRANTED FOR ESTABLISHMENT OR OWNERSHIP OF INDEPENDENT BUSINESS (commercial, handicraft, catering industry, etc.) OR AGENCY

Documents required:

- Decision on registration
- proof of possession of financial means (credit cards, passbook, certificate of entry of cash into the country, etc.)

III) TEMPORARY RESIDENCE TO BE GRANTED FOR CONSIGNATION, AGREEMENT ON BUSINESS COOPERATION, AGREEMENT ON BUSINESS AND TECHNICAL COOPERATION AND TRANSFER OF TECHNOLOGIES

Documents required:

- decision on registration of national companies

- Agreement on cooperation between foreign and national legal entity
- referral letter or designation of the head office (original document and translation of the authorized sworn-in-court interpreter)
- proof of possession of financial means (credit cards, passbook, certificate of entry of cash into the country, etc.)

IV) TEMPORARY RESIDENCE FOR ENTERING INTO EMPLOYMENT RELATIONSHIP

Documents required:

- decision on registration of the company or other legal entity where the foreign national is entering into employment relationship
- contract of employment or contract of hire
- opinion of the National Employment Service when the employment relationship is being entered into for the first time or the opinion of the National Employment Service authorizing the employment relationship.

V) TEMPORARY RESIDENCE FOR PERFORMING TEMPORARY SERVICE (UP TO 90 DAYS)

Documents required:

- contract of employment or contract of hire concluded with legal or natural entity owning rural property as the only income source.
- decision on registration of legal entity or, in case of the contract concluded with natural entity, a certificate validating that agriculture is the main activity of the entity.

VI) TEMPORARY RESIDENCE TO FOREIGN ATHLETES

Documents required:

- decision on registration of the club
- contract of engagement certified by the competent sports federation
- proof of possession of financial means (credit cards, passbook, certificate of entry of cash into the country, etc.)

VII) TEMPORARY RESIDENCE TO FOREIGN ACCREDITED JOURNALISTS

Documents required:

- accreditation of the Ministry of Culture
- proof of possession of financial means (credit cards, passbook, certificate of entry of cash into the country, etc.)

VIII) TEMPORARY RESIDENCE FOR ENGAGING WITH NGO

Documents required:

- letter of the MFA (Ministry of Foreign Affairs) confirming that the foreign national is familiar with the activities of NGO
- contract of employment or the letter from NGO confirming that the foreign national is engaged as a volunteer
- proof of possession of financial means (credit cards, passbook, certificate of entry of cash into the country, etc.)

VI) TEMPORARY RESIDENCE TO FOREIGN PRIESTS

Documents required:

- proof of registration of a church or a letter of support of the Ministry of Religion, as well as of NGO provided that the religious community is not registered.
- contract of employment or the letter from church confirming that the foreign national is engaged in religious activities or for religious services
- proof of sustainable financial means (guarantee of a Serbian citizen hosting a foreign national, current account, transfer account, credit cards, confirmation of the payments from abroad)

X) TEMPORARY RESIDENCE FOR EMPLOYING A READER AND PROFESSOR AT THE UNIVERSITY

Documents required:

- contract of employment and a letter from the faculty

XI) TEMPORARY RESIDENCE TO OFFICERS OF INTERNATIONAL INSTITUTIONS (World Bank, IMF) AND CONSULTING COMPANIES ENGAGED IN REALIZATION OF THE PROJECTS IN COOPERATION WITH OTHER PUBLIC AUTHORITIES

Documents required:

- Letter from the competent ministry with the reference number and date of the donation contract or other agreement with an explanation of the needs of engaging a foreign national and duration of the engagement.

6. Describe your integration policy for foreign nationals (e.g. language courses, social inclusion).

Integration of foreigners is achieved through the application of affirmative rules of law which stipulate the conditions for the exercise of their rights and obligations of the Republic of Serbia, and applied by competent authorities and organizations.

Pursuant to the Law on Foreigners and the Law on the Conditions for the Employment of Foreign Citizens, a foreigner who has been granted temporary residence may enter into employment relationship in accordance with the Law provided he/she is granted a work permit, thus acquiring the possibility to exercise the rights arising out of employment. Such a foreigner is entitled to perform commercial or entrepreneurial activities and seasonal work.

A foreigner who is granted permanent residence shall be integrated through entitlement to the right to: work and employment, education and vocational training; social assistance, health and social insurance, access labour market and services, freedom of association, relationships and membership in organizations representing the interests of workers or employers. A foreigner shall be entitled to these rights in accordance with the laws regulating the way in which the rights above-mentioned are exercised. A foreigner who is granted permanent residence and is registered with the National Employment Service, shall be involved in active employment policy measures.. Such a foreigner shall have the same possibility as a citizen of Serbia who is registered with the National Employment Service, to be involved in active job seeking (clubs and training centres for active job search), in the programmes of additional education and training, and shall be entitled to use subsidies for employment, etc.

Rights to social security, under the competence of the Ministry of Labour and Social Policy (pension and disability insurance, social protection and financial support to families and children), shall be provided in accordance with bilateral agreements on social security which provide for coordination of social security.

Republic of Serbia shall apply social security agreements with 27 countries, of which 16 are the countries of the European Union. Most of these agreements were concluded in the former Yugoslavia and the Republic of Serbia shall apply them as a successor, in respect of international agreements. Certain agreements (preceding conventions concluded by the former Yugoslavia) are based on the principle of citizenship, i.e. applied to nationals of contracting states and members of their families. Most agreements are applied to refugees and stateless persons as well. Other agreements are based on the principle of insurance and are applied to all persons who are or have been subject to the legislation of the contracting party, as well as to family members of such persons. These agreements cover the basic European principles and rules, such as: the principle of aggregation of insurance period the entitlement to social security, equal treatment of nationals of the contracting states, territorial proportion of contracting states, the principle of preservation of the acquired rights, the principle of payment of pensions within the territory of another contracting state, the principle of *pro rata temporis* - determining the proportionate benefit, etc.

The principle of insurance, rather than citizenship is applied in the system of pension and disability insurance and, to that effect, foreign nationals who are employed or perform activities in the Republic of Serbia are fully entitled to equal rights and obligations under pension and disability insurance as local nationals. With regard to pension payments or other

benefits from pension and disability insurance, it shall be provided in accordance with international agreements or by the principle of factual or legal reciprocity.

The basic regulations governing the right to social security and family protection in the Republic of Serbia are the Law on Social Protection and Providing Security of Citizens, the Law on Financial Support to Families with Children and the Family Law. Although the existing Law on Social Protection shall apply to Serbian nationals, but only necessarily to foreigners, a substantial part of social services which are the measures of social inclusion in order to create conditions for social integration (day care for children and the elderly, with a variety of programmes, counselling centres and other services to persons who need additional support for life quality) shall be under the competence of local self-governments, and shall be, under the same conditions, provided for all its citizens who live and work within the territory of a local community. The Law on Financial Support to Families with Children contributes to the overall measures of social care for children through a special financial support for families with children for improving conditions for satisfying the basic needs of children, but the support and help for foreigners is provided only under conditions stipulated in bilateral agreements on social security. Protection of interests of minor children without adequate parental care, of adults who are unable to represent their interests, as well as protection against family violence, is also ensured for foreign nationals pursuant to the provisions of the Family Law. In accordance with the Law on Asylum, adoption of the Rulebook on social assistance to persons seeking or granted asylum in April 2008, created the conditions for exercising right to social assistance for asylum seekers and persons granted asylum under the same conditions as those applying to the citizens of Serbia, noting that the Rulebook has accepted the impossibility of obtaining certain documents required for the citizens of Serbia (in relation to property, etc.).

The right to education is regulated by Article 71 of the Constitution of the Republic of Serbian, by Article 6 of the Law on the Foundations of Education and Upbringing System and by the Law on Higher Education.

Pursuant to the Constitution, everyone shall have the right to education. Primary education is mandatory and free, whereas secondary education is free. All citizens shall have access to higher education under equal conditions. Foreign nationals and stateless persons shall have the right to education and upbringing under the same conditions and in the manner prescribed for the citizens of the Republic of Serbia.

For the exiled and displaced persons who are not familiar with the language in which the educational programme is carried out, or with certain curricula with relevance to further education, the school shall organize language training, or preparation for classes and additional classes, according to special instructions. The possibility to organize the native language and culture teaching for children of European citizens on a reciprocal basis is also provided for on the premises of the institution designated by the local self-government authority. Higher education institutions can organize Serbian language courses in accordance with their autonomous rights, either as preparation for the studies in the Serbian language or on a commercial basis. Such is the programme at the Serbian Language Department within the Faculty of Philology in Belgrade.

7. Provide immigration statistics for 2007, 2008, 2009 and, if available, 2010, including a citizenship breakdown and reasons for immigration.

I) The largest numbers of citizens of Croatia and Bosnia and Herzegovina, who have received citizenship of the Republic of Serbia, are persons with refugee status and status of internally displaced persons, and who are with origins in the

Republic of Serbia, as well as persons with legal residence in the Republic of Serbia for several years. In addition to this, in case of citizens of Bosnia and Herzegovina, the total number includes persons with dual citizenship according to the Agreement on Dual Citizenship of FRY and Bosnia and Herzegovina.

Citizens of Slovenia, Macedonia and Montenegro, who have gained citizenship of Serbia, are persons with legal residence on the territory of Serbia for several years or who are with origins from Republic of Serbia.

In the course of 2010, total number of 19310 persons has gained the citizenship of the Republic of Serbia.

Citizen status of persons, who have received Serbian citizenship	2007	2008	2009
Republic of Croatia	11.000	10.000	6.000
Bosnia and Herzegovina	4.517	9.445	6.524
Republic of Macedonia	700	1.000	900
Montenegro	9.574	31.666	12.000
The Republic of Slovenia	100	100	200
Immigrants, their ancestors, foreigners	6.000	5.500	7.000

Data of the Ministry of Interior of the Republic of Serbia

II) In period from 2007 to 2009, the number of foreign citizens, with the status of permanently residing foreign citizen or with temporary residence permit, has not changed significantly. The same trend continued during the ten- month period in 2010. The largest number of citizens with temporary residing permits are citizens of China, following with the citizens of Romania, Macedonia, Bosnia and Herzegovina and other states, and the most common grounds for their stay, during the monitored period, was employment, marriage and affinity with the citizen of the Republic of Serbia.

The most common foreign citizens with temporary residence permits in the Republic of Serbia								
Reason/ ground for temporary residence								
Nationality:	Year	Employment	Professional Duty	Involvement	Affinity with citizen of Serbia	Marriage with citizen of Serbia	Other reasons	Total number of temporary residents
China	2007	2.891	14	6	1.634	26	472	5.043
	2008	2.841	99	20	1.334	24	515	4.833
	2009	2.760	6	3	1.669	24	503	4.965
	I-X 2010	2.675	6	2	1.704	24	509	4.920
Romania	2007	322	8	7	140	1.383	93	1.953
	2008	430	6	15	158	1.787	114	2.510
	2009	254	4	6	126	1.111	76	1.577
	I-X 2010	235	4	7	97	801	68	1.212
Macedonia	2007	331	8	4	279	729	224	1.575
	2008	261	15	3	221	696	203	1.399
	2009	287	8	19	254	719	152	1.439
	I-X 2010	271	6	3	251	717	141	1.389

Data of the Ministry of Interior of the Republic of Serbia

III) The largest number of citizens with permanent residence status during the three- year period in the Republic of Serbia are citizens of Romania, citizens of former USSR countries (except the Russian Federation), with the Russian Federation following after that etc. During previous three- years, most commonly, foreign nationals received the permanent residence in Serbia on the basis of marriage with the citizen from Serbia.

The most common foreign citizens with permanent residence in Republic of Serbia				
Nationality:	Year	Reason for residence		Total number
		Marriage with citizen of Serbia	Other reasons	
Romania	2007	892	117	1.009
	2008	1056	132	1.188
	2009	1250	158	1.408
	I-X			
	2010	1393	169	1.562
Former USSR countries	2007	591	80	671
	2008	572	81	653
	2009	553	80	633
	I-X			
	2010	339	44	383
Russian Federation	2007	306	38	344
	2008	365	46	411
	2009	384	54	438
	I-X			
	2010	411	64	475
Hungary	2007	260	99	359
	2008	275	102	377
	2009	273	102	375
	I-X			
	2010	273	102	375

Data of the Ministry of Interior of the Republic of Serbia

8. Please give a brief overview of your legislation with regard to combating irregular immigration and trafficking in human beings, in particular whether you have signed and ratified the Palermo Convention on Transnational Organised Crime and its two protocols on smuggling and trafficking in human beings.

Since January 2006, with the enforcement of the Criminal Code of the Republic of Serbia, trafficking in human beings in its main forms has been penalised; through provisions: Article 388 Trafficking in Human Beings, Article 389 Trafficking in Children for Adoption, Article 390 Holding in Slavery and Transportation of Enslaved Persons.

As of 31 August 2009, the National Assembly adopted amendments and supplements to Article 388 Trafficking in Human Beings, of the Criminal Code of the Republic of Serbia, thus **increasing the minimum and maximum sentence prescribed by law for basic form of this criminal offence**, whereas the foreseen imprisonment penalty for basic form is **“from three to twelve years”, without an**

option to impose a penalty below the legal minimum. It also foresees that **consumers of human trafficking services** shall be penalized by imprisonment, as complying with the Council of Europe Convention on Action against Trafficking in Human Beings, as ratified by the Republic of Serbia on 18 March 2009. Adopted amendments and supplements of Article 389, of the Criminal Code of the Republic of Serbia, which now reads “Trafficking in underage persons for adoption”, has extended the age limit, thus protecting the underage persons from all forms of exploitation and trade.

The Criminal Code of the Republic of Serbia, Article 350 criminalizes the offence of Illegal Crossing of State Border and Human Trafficking. As of **31 August 2009**, the National Assembly adopted amendments and supplements to Article **350, Illegal Crossing of State Border and Human Smuggling**, of the Criminal Code of the Republic of Serbia, foreseeing that persons who smuggle citizens of the Republic of Serbia shall also be prosecuted, and increasing the minimum sentence prescribed by law for a basic form of the criminal offence, whereas the foreseen imprisonment penalty for basic form is from six months to five years, also increasing the minimum and maximum sentence prescribed by law for a basic form of the criminal offence committed by an organized criminal group, with foreseen imprisonment penalty **from three to twelve years**.

The Republic of Serbia has signed and ratified the United Nations Convention against Transnational Organized Crime, with supplementary protocols: Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and Protocol against the Smuggling of Migrants by Land, Sea and Air (“Official Gazette of the FRY – International Agreements” no. 6/2001), representing the basis for penalizing of this criminal act.

The Republic of Serbia also signed and ratified the Council of Europe Convention on Action against Trafficking in Human Beings (“Official Gazette of the RS – International Agreements” no: 19/09).

Provision under Article 26, of the Constitution of the Republic of Serbia prohibits any form of slavery.

9. Do you have rules providing for sanctions against employers of irregularly staying foreign nationals? If so, please outline these.

The Labour Law stipulates that foreign national can enter into employment relationship under the conditions stipulated in this Law and in a specific law. Since the Labour Law does not stipulate special conditions for employing foreign nationals concerning the lawful residence and other specific requirements, the latter being the subject of separate legislation, thus the Labour Law does not stipulate the penalties for employers engaging foreign nationals who illegally reside in the Republic of Serbia.

The Law on the Conditions for the Employment of Foreign Citizens provides for fines imposed on organizations or employers committing infringements when concluding employment relationship with a foreign national contrary to the provisions of this Law, or when the foreign national does not hold the permission for temporary or permanent residence in the Republic of Serbia as well as duly issued work permit. Pursuant

to Article 12 of the Law, a fine of RSD 600.000 to RSD 1.000.000 shall be imposed for infringements upon organisation or employer if:

1) if employment relationship is concluded with a foreign national contrary to Provisions 2 to 5 of this Law:

2) if employment relationship is concluded with a foreign national contrary to Provisions 6 and 7 of this Law.

For the infringement referred to in paragraph 1 of this Law, a person responsible in organisation or with the employer shall be fined RSD 30.000 to RSD 50.000.

10. Do you have rules setting down the obligations of carriers transporting foreign nationals into the Serbian territory? If so, please outline these, specifying if these rules also provide for sanctions.

Pursuant to Article 22 of the Law on Foreigners, a carrier may transport a foreigner to a border crossing only if none of the obstacles referred to in Article 11(1) of this Law, prescribing the reasons for refusal of entry into the Republic of Serbia, exist. The said article provides that the foreigner shall be refused entry into the Republic of Serbia if he does not have a valid travel document, or a visa if required, if he does not have sufficient financial means to sustain him/herself during the stay in the Republic of Serbia, if he/she is in transit, but does not meet the requirements to enter the third country, if the protective measure of removal or the security measure of expulsion is in effect or his/her visit to the Republic of Serbia has been cancelled - during the period in which the cancellation is in force, if he/she does not have the certificate of vaccination or other proof of good health, when arriving from areas affected by an epidemic of infectious diseases; if required so by reasons related to protection of the public order or the safety of the Republic of Serbia and its citizens, if there is reasonable doubt that he/she will take advantage of the stay for purposes other than those declared, and if he/she is registered as an international felon in the relevant records.

A carrier shall be obliged to provide transportation to a foreigner without delay and free of charge or, if immediate transportation is not possible, to bear the costs of the stay and compulsory removal of the foreigner associated with the obstacles referred to in Article 11(1) of this Law, which shall also apply to the carrier who brought the foreigner into the international transit area of an airport if another carrier has refused to transport the foreigner into the destination country, or if the foreigner is refused entry into the destination country.

An entity organising a tourism or business related travel shall be obliged to reimburse the incurred costs of stay and compulsory removal of the foreigner if these costs cannot be charged to the foreigner and if his illegal stay resulted from a failure on the part of the entity that organised the travel.

Pursuant to Article 81 of the Law on Foreigners a fine of RSD 100.000 to RSD 500.000 shall be imposed for an infringement upon a legal person, a person responsible within the legal entity and upon entrepreneur who:

- 1) transport a foreigner into the territory of the Republic of Serbia or refuse to transport him there from contrary to the provision of Article 22(1) and (2) of this Law;
- 2) has caused a foreigner's illegal stay in the territory of the Republic of Serbia due to his/her fault in the organization of tourist or business travel.

In addition to the fine imposed for repeated infringement, as referred to in point 1 of this Article, the perpetrator shall also receive the protective measure of prohibition of the engagement in international transportation of passengers by air,

road, water or rail, and for the infringement referred to in paragraph 1(2) of this Article the protective measure of prohibition of the engagement in organizing international tourist or business trips.

11. Specify the authorities and agencies involved in combating transit migration, human smuggling and trafficking in human beings. Describe their working methods and national co-ordination structures.

National mechanism for activities coordination:

Council of the Government of the Republic of Serbia for Combating Trafficking in Human Beings was established as Government expert and advisory body. The Council was established to coordinate national and regional activities for combating trafficking in human beings, as well as to give opinions and propose measures for the implementation of the recommendations by international bodies in combating trafficking in human beings. Council members are as follows: Minister of Interior, Minister of Education, Minister of Finance, Minister of Labour and Social Policy, Minister of Health and Minister of Justice.

Coordinator for combating trafficking in human beings coordinates all activities of the ministries, non-governmental and international organizations, cooperates internationally and regionally and reports to the Council for Combating Trafficking in Human Beings.

Members of the **Republic Team to Combat Trafficking in Human Beings** are representatives of public institutions, non-governmental and international organizations. As to improve its efficiency, the Republic Team was split into 4 Task Forces specialized to deal with specific problems.

1. Task Force for prevention and education,
2. Task Force for assistance and protection of victims,
3. Task Force for combating trafficking in children,
4. Task Force for judiciary and police.

On 12 November 2009, the Ministry of Interior, the Ministry of Finance, the Ministry of Labour and Social Policy, the Ministry of Health, the Ministry of Justice and the Ministry of Education signed an Agreement on Cooperation in the field of anti-trafficking as to organize joint actions and other activities, reduce risk factor and susceptibility to the problem, to raise public awareness of the problem of trafficking in human beings as a modern form of slavery, to improve statistical monitoring of the phenomenon and national responsiveness to trafficking in human beings, assistance and protection, to improve legal framework for combating trafficking in human beings, prevent secondary victimization of victims/witnesses by state authorities and timely problem recognition. Signatory parties undertook to have special and direct cooperation in developing the National Mechanism for Identification, Assistance and Protection of the Victims of Trafficking in Human Beings, in compliance with the Strategy for Combating Trafficking in Human Beings in the Republic of Serbia. We also underline that Transnational mechanisms for referral of victims of trafficking in human beings in South Eastern Europe (TRM Guidelines for standard operational procedures in dealing with victims of trafficking in human beings) are an integral part of the Annex to this Agreement.

The **Service for Coordination of the Protection of Victims of Trafficking in Human Beings**, as an important segment of the established national mechanism for combating trafficking in human beings, is charged with protection of victims of

trafficking in human beings, including children, identifying and referring the victims to appropriate assistance programs.

On 12 November 2009 the Ministry of Interior, the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of Labour and Social Policy, the Ministry of Defence, the Ministry of Justice, the Ministry of Economy and Regional Development and the Commissariat for Refugees, signed an Agreement on the Establishment of the Council for Combating Illegal Migration, as foreseen by the Strategy for Combating Illegal Migration in the Republic of Serbia for the period 2009-2014. Coordinator for Combating Illegal Migration was appointed after the signing of the Agreement. Coordinator for Combating Illegal Migration coordinates all activities and manages Council operations.

Task of the Council for Combating Illegal Migration is to prepare the **Action Plan** for more precise regulation of all relevant issues on the Strategy implementation, and particularly implementation of efficient organizational structure, strategic supervision, control, monitoring, strategy evaluation and revision, and to coordinate the stakeholders implementing the Strategy, offer expert assistance, oversee and monitor Strategy implementation, report to the Government on Strategy implementation and possible respective problems, and propose measures for the revision of the Strategy to the Government.

Government Council for Combating Illegal Migrations was established as an interdepartmental body including experts from the competent government participants responsible for the implementation of the Strategy for Combating Illegal Migration in the Republic of Serbia for the period 2009-2014 (the Ministry of Interior, the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of Labour and Social Policy, the Ministry of Finance, the Ministry of Economy and Regional Development, the Commissariat for Refugees and others).

As to improve the cooperation between the judiciary and the police, on 11 December 2008, the Government of the Republic of Serbia established the Commission for Coordination of Actions and Improvement of Cooperation in the fields of judiciary and internal affairs on the issues of public interest, and particularly in combating corruption, organized crime, terrorism, drugs, trafficking in human beings, property confiscation, money laundering and other related issues.

12. Is there a system of protection and support for victims of trafficking in human beings in place? If so, please describe it. Is there the possibility of obtaining a residence permit if the victim cooperates with the State authorities or for humanitarian reasons? Do you have data available on victims? Do you have data available on victims?

A system of protection and support for victims of trafficking in human beings is in place in the Republic of Serbia. The Service for the Coordination of Protection of Victims of Trafficking was established on 1 March, 2004, being a mutual project of the Ministry of Labour, Employment and Social Policy and the OSCE Mission to Serbia. The Service functions within the Institute for Education of Children and Youth in Belgrade. As of June 1, 2005, the Service has been providing services financed from the budget of the Republic of Serbia (the Ministry of Labour and Social Policy). It represents one of the most significant segments of the established national mechanism for combating trafficking in persons.

The role of the Service is to protect victims of trafficking, including children, through identification of victims and their referral to appropriate assistance programs. Given that the Service has no developed programs for work with children victims, and adequate shelter for their reception, all underage victims of trafficking are provided protection through welfare centres throughout the territory of the Republic.

To that effect, the first and key step is identification of victims of trafficking, which is under exclusive competence of the Service for the Coordination of Protection of Victims of Trafficking, whereas accommodation and shelter for the victims of trafficking is coordinated with the welfare centres, non-governmental and international organizations and other institutions (for accommodation of persons with intellectual developmental disabilities and for accommodation of children and youth). If the victim cooperates with the state authorities, but also for other safety reasons, it will be possible to grant residence for humanitarian reasons, as foreseen by the Law on Foreigners, Article 28, paragraphs 5 and 6.

For statistics on the number of victims, please see question 164.

13. Please describe the international cooperation in place in this field (regional forums, bilateral agreements, cooperation with EU).

The existing international cooperation in this field takes place through various aspects of regional cooperation such as expert meetings, study visits, meetings of the police in the region, as well as of the representatives of governmental and non-governmental organizations.

In cooperation with the representatives of the UN agencies and International Organization for Migration (IOM), UN High Commissioner for Refugees (UNHCR) and UN Office on Drugs and Crime (UNODC), the Ministry of Interior of the Republic of Serbia developed a joint project called "UN GIFT Serbia" (UN-sponsored GIFT initiative), which aims to effectively counter human trafficking in the Republic of Serbia and to strengthen relevant institutions and entities dealing with this issue. The Project is aligned with the National Plan for Combating Trafficking in Human Beings 2009-2011 - NPA (adopted by the Government of the Republic of Serbia on 30 April 2009), and represents the concretization enabling easier and more successful implementation thereof. Implementation of the Project started in June 2010 and is scheduled to last for two years.

For the last three years (2007, 2008, 2009), MoI (Ministry of Interior) of the Republic of Serbia has participated in the project "National and Transnational referral mechanisms for victims of trafficking in human beings". The guidelines developed after the completion of this programme were created under the "Programme to Support the Development of Transnational Referral Mechanisms (TRM) for Trafficking Victims in South East Europe", funded by the United States Agency for International Development (USAID), which was fully implemented by the International Centre for Migration Policy Development (ICMPD). These guidelines are an integral part of the Agreement on cooperation of state authorities in combating human trafficking, which was signed in November 2009 by the Ministers of Interior, Labour and Social Affairs, Justice, Finance, Education and Health. For the most part, the Guidelines i.e. the standard operating procedures provided for thereof, are guidance for effective and safe referral of human trafficking victims to the range of necessary services, as in cases of transnational human

trafficking and protection of victims, as well as in the case of human trafficking within the borders of the Republic of Serbia and protection of victims.

In May 2009, the United Nations Office on Drugs and Crime – UNODC issued a "Training Manual on investigating human trafficking" within the project "Enhancing Operational Capacity to Investigate and Disrupt Human Trafficking Activities in the Western Balkans", the essential goal of which is to enhance the capacity of law enforcement authorities in the Western Balkans in their fight against human trafficking in the region and trafficking aimed at Western Europe, by strengthening regional cooperation between intelligence services. The manual is intended as an aid in training and is a specific guide to using standard and more specific investigation techniques to combat human trafficking.

In addition, the cooperation at regional level is conducted also through SEEPAG – the Southeast European Prosecutors Advisory Group.

14. Please provide information on methods of data collection on foreigners refused entry and of apprehensions of foreigners found to be illegally present on national territory. What are the methods for removing foreigners? How do the authorities ensure that persons are returned to their countries of origin?

Border Police Directorate has been established within the Ministry of Interior, as the sole and centralized service, hierarchically organized on central, regional and local levels, charged with direct organization and **responsible for the affairs of border crossing control and state border protection**. On central level, this Directorate performs its function through the Border Department, the Department for Foreigners, the Department for Suppression of the Cross-Border Crime and Criminal-Intelligence, the Section for International Cooperation and 24/7 Operations Centre. On regional level it carries out its tasks through border police regional centres (7) established vis a vis every neighbouring country. On local level, the Border Police Directorate performs its function through border police stations for state border crossing surveillance (40) and for securing the state border (42), whose work is included in regional centres. This kind of organization of the Border Police Directorate increases the capacities for the prevention and suppression of all kinds of cross-border crimes, international terrorism, illegal migrations, trafficking in human beings, and other illicit activities and actions in the border area.

Article 11, of the Law on Foreigners stipulates that a foreigner shall be denied entry into Serbia if: he/she does not have a valid travel document, does not have sufficient financial means to sustain him/her during the stay, or if in transit but not meeting the requirements for entry into a third country, if the protective measure of removal or security measure of expulsion is in effect, or if his/her permission to stay is cancelled or any other measure has been imposed, he/she does not have vaccination certificate although coming from epidemic affected area, if so required by reasons related to protection of the public order, he/she is registered as an international felon in the relevant records, if there is reasonable doubt that he/she will take advantage of the stay for purposes other than those declared. The denial of entry shall be denoted in the respective foreigner's travel document.

Methodology on reporting, and collecting information on the situation at state border has been adopted in line with the competences resulting from the law and other

regulations, including the records on persons who were denied entry to the Republic of Serbia. Above mentioned records are being updated on a daily basis by the border police stations for state border crossing surveillance, which monthly send cumulative reports to the Border Police Directorate and the Directorate for Analytics.

By the end of 2007, as to establish a statistical reporting system, the Border Police Directorate introduced excel table forms, containing all events within the competencies of the border police, as well as information on the denied persons and the reasons thereof. The information are collected by the border police stations, and then referred to the regional border police centre which, after processing, delivers them to the Border Police Directorate for **data** processing.

Foreigners who were denied entry into Serbia in 2009.										
Border with/Airport	no assets	forged travel document	damaged travel document	no travel document	no visa	forged visa	irregularities relating to the motor vehicle	imposed measure of prohibited entry	other	TOTAL
HUNGARY	97		664	1.465	1.360	1	15	4	888	4.494
ROMANIA	409	1	154		142		75	12	886	1.679
BULGARIA	668	9	245	791	999		521	10	99	3.342
MACEDONIA	33	167	130		235	1	143	5	526	1.240
MONTENEGRO	5		44		182		25	5	851	1.112
BOSNIA AND HERZEGOVINA	12	1	453		130	1	812	9	1.459	2.877
CROATIA	17		1.255		744	24	129	5	4.003	6.177
BELGRADE AIRPORT	41	13	24		524			1	376	979
NIS AIRPORT			1		1				2	4
TOTALLY DENIED	1.282	191	2.970	2.256	4.317	27	1.720	51	9.090	21.904

Border police stations also deliver the information in a different form and not mentioning the reasons for the denial of the entry, to the Directorate for Analytics in the headquarters of the Ministry, for processing on a monthly and cumulative level. In both cases, these are manually maintained records.

Foreigners who were denied entry into Serbia in the period January-October 2010										
Border with/Airport	no assets	forged travel document	damaged travel document	no travel document	no visa	forged visa	irregularities relating to the motor vehicle	imposed measure of prohibited entry	other	TOTAL
HUNGARY	1		493		1.504		91	4	837	2.930
ROMANIA	55		52		155		7	36	231	536
BULGARIA	759	4	82		716	1	434	6	271	2.273
MACEDONIA	9	100	61		357		194	6	346	1.073
MONTENEGRO	2		140		220		72	3	722	1.159
BOSNIA AND HERZEGOVINA	61		250		129		831	5	996	2.272
CROATIA	5		411		801		14	4	1.250	2.485
BELGRADE AIRPORT	93	4	14		222			1	198	532
NIS AIRPORT					2				1	3
TOTALLY DENIED	985	108	1.503		4.106	1	1.643	65	4.852	13.263

Article 42, of the Law on Foreigners clearly enacts that any stay without a visa, a permission for temporary residence or for other legal reasons shall be regarded as illegal residence in Serbia. A foreigner illegally staying in the Republic of Serbia shall be obliged to leave its territory immediately or within a time limit prescribed thereof.

All information on foreigners illegally staying in the territory of the Republic of Serbia shall be gathered by the Border Police Directorate – the Department for Foreigners. In fact, all regional police Directorates in the territory of the Republic of Serbia include divisions, or sections for foreign affairs (for temporary residence registration, measures to be taken against foreigners and similar) and they report to the Border Police Directorate – the Department for Foreigners on all activities relating to foreigners in the area of the Police Directorate.

Border Police Directorate – the Department for Foreigners has an internal, structured access base for entry of the data on the measures taken against foreigners in the territory of the Republic of Serbia who either crossed, or tried to illegally cross, state border of the Republic of Serbia, or who exceeded their approved residence in the territory of the Republic of Serbia. Above mentioned database allows the data on foreigners who illegally crossed state border to be classified by the police Directorate area, by citizenship, gender and age structure, as well as by the measures taken. The existing base does not allow the data on illegal state border crossings discovered in the inner territory to be separated from the illegal crossings at state border itself.

As to overcome this deficiency, and to take appropriate preventive steps, the Border Police Directorate, the Department for Cross-Border Crime, monthly collects and processes statistics on the number of illegal crossings in the territory of the border crossing, as well as in the territory between the two border crossings (stations zone for state border security). The above mentioned statistics which are collected from regional border police centres, include the data on illegal crossings grouped by borders and citizenships of illegal migrants.

Comparison of the data derived from the two above mentioned statistical reports on illegal crossings allows precise information on the number of persons who illegally crossed state border, and were discovered in the inner territory of the Republic of Serbia.

It should also be noted that, for more efficient monitoring of the movement and residence, as well as the measures taken against foreigners, **central database has been established**, complying with the new Law on Foreigners, whose application started in April 2009.

Besides the above mentioned statistical reviews relating to the measures taken against illegal state border crossings, the Directorate for Analytics collects data on illegal migrants on the basis of the reviews delivered by the divisions for foreigners, as well as by the regional centres, or border police stations. These files include information on the citizenship, as well as on the illegal migrant's gender and age structure.

Removal of foreigners from the territory of Serbia is a protective measure stipulated by the Law on Misdemeanour Procedure. The Court may impose removal from the territory of Serbia against a foreigner committing a misdemeanour offence due to which his/her further stay in the country is unwanted, for a period from six months to three years.

To enforce the protective measure of removal of a foreigner from the territory of the Republic of Serbia, the Ministry of Interior shall by resolution cancel his/her further stay in the Republic of Serbia, prescribing a deadline when he/she shall be obliged to leave the Republic of Serbia, as well as the time period of respective prohibition of entry into the Republic of Serbia.

The Ministry of Interior, as the competent authority, shall forcibly remove any foreigner on whom the protective measure of removal or the security measure of expulsion has been imposed, as well as a foreigner who is to be returned on the basis of an international agreement and a foreigner illegally staying in the Republic of Serbia, or failing to leave the Republic of Serbia within the prescribed time limit.

A foreigner on whom the protective measure of removal or the security measure of expulsion has been imposed, as well as a foreigner to be returned on the basis of an international agreement shall **immediately** be forcibly removed.

A foreigner who cannot be forcibly removed immediately or a foreigner whose identity has not been ascertained or who does not possess a travel document, as well as in other cases stipulated by law, shall be ordered to stay in the Reception Centre for Foreigners of the Ministry of Interior, under close police surveillance, pursuant to a decision to be issued by the competent authority.

A foreigner shall stay in the Reception Centre until the time of his/her forced removal. Duration of the stay in the Reception Centre shall not be longer than 90 days. After expiration of that period, foreigner's stay in the Reception Centre may be extended if: identity of the foreigner has not been ascertained, the foreigner intentionally obstructs forced removal; the foreigner has filed an application for asylum during the forced removal procedure, with the aim of avoiding forced removal.

Total duration of residence in the Reception Centre shall not exceed 180 days.

During his/her stay in the Reception Centre, a procedure shall be conducted to establish accurate information on the foreigner and his/her identity, hence travel document shall be provided through the diplomatic and consular representation of the country of his/her citizenship, i.e. the means for the removal of the foreigner.

If, as above mentioned, the travel document, or the means for the removal cannot be provided, the Ministry of Interior shall issue and deliver the resolution on mandatory departure from the territory of the Republic of Serbia to the foreigner, with the time limit prescribed thereof, and the instruction on unaided departure from the Republic of Serbia.

The nature of the relation established between the country from which he/she is removed and the transiting country, if transit is necessary, shall be defined by the Transit Procedure, defined under Article 14, of the Agreement **between the European Community and the Republic of Serbia on the readmission of persons residing without authorization**.

15. Please provide statistics on the number of apprehended foreigners found to be irregularly present in your country in 2007, 2008, 2009 and, if available, 2010. Please indicate which nationalities were most frequently represented, which routes and methods were used, and recent trends as well as how many of those apprehended were effectively removed from the country.

Irregular entry into Serbia includes: entry out of the place or time prescribed for the state border crossing, avoiding the border control, using another person's, invalid and/or forged travel or other document, providing inaccurate information to the border police, as well as entry during the period of the protective measure of removal of the foreigner from the Republic of Serbia. Stay in the territory of Serbia without a visa, approval for the stay, or on other legal grounds, shall be deemed illegal.

Review of measures taken against illegal border crossings by citizenship					
Citizenship	2007	2008	2009	I-X 2010	TOTAL
Albania	332	159	113	90	694
Macedonia	128	142	165	56	491
Turkey	78	51	94	77	300
Bosnia and Herzegovina	54	41	39	30	164
Afghanistan		4	1.216	1.268	2.488
Romania	39	56	43	15	153
Bulgaria	38	31	45	17	131
China	25	18	19	3	65
Montenegro	12	45	58	47	162
Iran	2	1	43	41	87
Hungary	6	62	23	9	100
Palestine		1	22	1.056	1.079
Germany	13	11	14	3	41
Croatia	17	12	13	2	44
Stateless	12	8	5	11	36
Somalia			9	139	139
Other states	118	111	108	464	801
Total	874	753	2.029	3.328	6.975

The number of foreign citizens illegally crossing state border of the Republic of Serbia in **2007 and 2008** is the same. Likewise, in both years the most frequent illegal migrants were Albanian, Macedonian and Turkish citizens. As regards illegal migrations and people smuggling across the state border, major problem has been the unsecured border in the territory of the Autonomous Province of Kosovo and Metohija, under the jurisdiction of UNMIK, allowing many migrants from Albania and Macedonia to enter the territory of the Autonomous Province of Kosovo and Metohija, with the intention to cross the administrative border and then, from the Serbia proper, to cross state border with one of the EU member states (in 2008, 50% of the total number of illegal migrants were Albanians, and in 2008 more than 20%). In almost all cases, those were migrants transiting from Albania and Macedonia through the territory of Serbia towards Hungary, Croatia or Bosnia and Herzegovina, with the intention to reach the EU members states. Of the total number of illegal migrants, more than a half were citizens of a **high-risk migration countries** from the

region (Albania – 491, Macedonia – 270, Montenegro – 57 and Bosnia and Herzegovina – 95).

In 2009, the number of illegal migrants was multiplied, mainly because of the obviously increasing number of Afghan citizens, representing about 60% of all illegal migrants in 2009. Most frequently, they were entering Macedonia from Greece, wherefrom they illegally crossed state border with the Republic of Serbia, with a plan to leave for West-European countries. Typical of Afghan citizens was that they were mainly young people, or work capable persons, mostly males, thus indicating migration for economic reasons. Likewise, compared to 2008, illegal border crossings of Albanian citizens decreased (primarily due to liberal visa regime with Montenegro, and greater work migration towards Greece), whereas the number of illegal crossings of Macedonian citizens was still significant (165). The number of the measures taken against Chinese citizens who used the territory of the Republic of Serbia for illegal departure for Greece has also increased.

In 2009 and by the beginning of 2010, the most frequent route for **illegal migrant smuggling** was: **from Macedonia through the Republic of Serbia into the Republic of Hungary** (the route especially used by the Afro-Asian population, outnumbering all other illegal migrants).

Besides individually organized illegal state border crossings, illegal migrants often use services of persons providing for them transportation and organized illegal state border-crossing transfer. Number of measures taken against organizers of illegal crossings over a three years period did not significantly change, although the number of illegal migrants multiplied in 2009. As regards **combating organized illegal migrations** in 2007, **89 criminal charges** were brought **against 137 persons**, resulting from criminal offences of **illegal state border crossing and people smuggling**, which was somewhat less compared to 2006, when 140 persons underwent the procedure. Structure of the perpetrators of such criminal offences by citizenship was as follows: citizens of the Republic of Serbia (113), Bosnia and Herzegovina (6), Germany (5), Bulgaria (4), etc. Of **343 smuggled persons** who were filed, predominant were Albanian citizens (173), then citizens of the Republic of Serbia (75, of whom 27 were from the territory of the Autonomous Province of Kosovo and Metohija), Turkey (40), etc. In 2008, aimed at suppression of people smuggling and illegal migrations, **69 criminal charges** were brought **against 119 perpetrators** of the criminal offence of illegal state border crossing and people smuggling (94 were local citizens). Organizers of criminal channels are mainly Albanian citizens and Albanian nationals from the territory of the Autonomous Province of Kosovo and Metohija. On the basis of available information, individual price for illegal crossing from Albania to Italy is in the range between EUR 2,500 and 3,000, and from Turkey to Italy between EUR 3,000 and 5,000. **242 smuggled persons** were discovered, predominantly Albanian citizens (71) and Chinese (41). In 2009, **82 criminal charges** were brought **against 156 perpetrators**. **318 smuggled persons** were registered, predominantly Albanian citizens (102), then Serbian citizens from the territory of the Autonomous Province of Kosovo and Metohija (66), Chinese (36), Turkish (25), Bosnia and Herzegovina (23), Afghan (14), Romanian (13), etc. In 2010, **71 criminal charges** were brought **against 139 perpetrators**. **239 smuggled persons** were registered, predominantly Serbian citizens from the territory of the Autonomous Province of Kosovo and Metohija (121), Afghan (26), Palestinian (21), Turkish (20), Albanian (13) etc.

16. Specify your return policy, including:

a) Number of return decisions and carried out removals and destination of returns in 2007, 2008, 2009 and, if available, 2010;

As a signatory to the Agreement with the European Community on the Readmission of Persons Residing Without Authorisation, the Republic of Serbia (OG of RS No. 103/07, hereinafter referred to as: Agreement with EC), assumed the obligation to implement the said agreement, whilst respecting all prescribed procedures and deadlines.

In the process of implementing the Agreement on readmission, the Ministry of Interior of the Republic of Serbia, Directorate for Administrative Affairs, Section for the implementation of readmission Agreements, as the authority competent for implementation of the Agreement on readmission shall, upon receiving written request by the competent international authorities, determine the citizenship status and identity of the persons listed in the request by conducting investigations through all available records of the Ministry in accordance with deadlines stipulated by the agreements .

Pursuant to the provisions of the Readmission Agreement, and in accordance with the principle of family reunification, the competent authorities, in most cases, shall submit the requests including a large number of people (in the case of families comprising not only the holder of the request, but their spouses and minor unmarried children, as well).

The number of return decisions in 2007, 2008, 2009 and 2010 can be observed in statistical terms as follows:

- During 2007, 2.577 requests for admission of Serbian citizens were received, out of which the consent was given for the admission of 1.933 persons and denied for 644 persons;
- During 2008, 1.572 requests for admission of Serbian citizens were received, out of which the consent was given for the admission of 1.132 persons and denied for 440 persons;
- During 2009, 2.104 requests for admission of Serbian citizens were received, out of which the consent was given for the admission of 1.557 persons and denied for 547 persons;

- From 1 January 2010 to 1 December 2010, 3.134 requests for admission of Serbian citizens were received, out of which the consent was given for the admission of 2.674 persons and denied for 460 persons;

- Return procedure

Hitherto, the Republic of Serbia has played the role of the receiving state in the process of readmission and most requests for readmission were related to admission of the citizens of the Republic of Serbia. Readmission agreements stipulate the return of citizens of Republic of Serbia required to leave the territory of signatory states to the Agreement, which can take place by air or by land, under escort of police officers of the Ministry of Interior of the Republic of Serbia or under the foreign police officers escort as well as unaccompanied. The return procedure in the process of implementation of readmission Agreement is carried out with or without receiving notice from a foreign authority.

The decision on the manner and time of returning a person, citizen of the Republic of Serbia, who is after the checks conducted approved for return, or the obligation of taking over was set out, shall be taken exclusively by the competent authority of the state initiating the process of readmission and within the territory of which the person resides. It should be noted that the process of voluntary return is also conducted (with or without notice

of a foreign authority) regarding the persons for whom the competent foreign authority has not initiated the process of readmission, or failed to submit the request for readmission.

According to available data of the Ministry of Interior of the Republic of Serbia, the following number of persons was returned to the Republic of Serbia during 2007, 2008, 2009. and 2010:

- During 2007, our 2.805 citizens were returned;
- During 2008, our 3.572 citizens were returned;
- During 2009, our 4.377 citizens were returned;
- From 1 January 2010 to 1 December 2010, our 3.979 citizens were returned.

- Destination of returns

All persons who are given consent for admission by the Ministry of Interior of the Republic of Serbia, shall return to the Republic of Serbia to their registered permanent residence, but their entitlement to freedom of movement and residence guaranteed by the Constitution of the Republic of Serbia, prevents from accurately tracking the return destination on the basis of readmission Agreements. According to the available MoI data, if the registered permanent residence is taken into account, the most common destinations of persons return under the Agreement on readmission in the Republic of Serbia (decreasing parameter) are the following:

- During 2007: Belgrade, Vranje, Pancevo, Zrenjanin, Novi Pazar;
- During 2008: Vranje, Belgrade, Nis, Pancevo, Zrenjanin;
- During 2009: Belgrade, Vranje, Pancevo, Zrenjanin, Nis;
- From 1 January 2010 to 1 December 2010: Vranje, Belgrade, Pancevo, Zrenjanin, Leskovac;

b) Readmission agreements (and other working arrangement facilitating return) in place and planned, as well as ongoing negotiations in this respect;

- Agreements in place

Agreement with EC

Agreement between the Republic of Serbia and the European Community on the Readmission of Persons Residing without Authorisation, signed on 18 September 2007 in Brussels, ratified by the National Assembly of the Republic of Serbia on 7 November 2007, and entered into force on 1 January 2008. (*Official Gazette of RS* No. 103/07).

Implementing protocols for the implementation of the Agreement with EC on readmission, were signed with: The Republic of Italy on 13 November 2009 in Rome, the Republic of Slovenia on 8 June 2009 in Ljubljana, the Republic of France on 18 November 2009 in Paris, the Republic of Hungary on 19 December 2009 at the BCP (border crossing point) of Horgos-Reske, with the United Kingdom on 18 March 2010 in London, with Austria on 25 June 2010 in Belgrade and with the Republic of Malta on 2 July 2010.

Bilateral agreements:

The Republic of Serbia applies the following bilateral agreements on protocols: **Bosnia and Herzegovina** (OJ of Serbia and Montenegro No. 22/04) , **the Kingdom of Denmark** (OJ of FRY No12/02), **Canada** (*OJ of Serbia and Montenegro* No. 03/06), **the Kingdom of Norway** (OG of RS No. 19/10), **the Republic of Croatia** (OG of RS No. 19/10), **the Swiss Confederation** (OG No. 19/10), **the Republic of Macedonia** (signed on 4 October 2010 in Belgrade, not ratified yet).

- Ongoing negotiations:

In process of conclusion:

- Implementing protocols for the implementation of the Agreement with EC
- The process of the conclusion of Protocols is underway with: The Republic of Bulgaria, Republic of Estonia, Republic of Lithuania, Republic of Portugal.

Bilateral negotiations on the conclusion of the Agreements and Protocols:

- The process of conclusion of the Agreement and Protocols is underway with the Republic of Moldova and Republic of Albania.

To be signed:

- Implementing Protocols for the implementation of the Agreement with EC: The signing of the Protocols is expected with the Benelux countries, FR Germany and the Republic of Slovakia.

- Planned negotiations:

- Implementing Protocols for the implementation of the Agreement with EC: - The process of negotiating the conclusion of the Protocol for implementation of the Agreement with the Hellenic Republic and the Kingdom of Spain is planned.
- Bilateral negotiations on the conclusion of the Agreements and Protocols: The process of negotiating the conclusion of the Agreements and Protocols is planned with the Republic of Turkey and the Republic of Montenegro whereas the Republic of Serbia submitted its draft Agreement and Protocol.

- Early implementation of the Agreements without the concluded Protocols for the implementation of the Agreement with EC:

Although the implementing Protocols between the Czech Republic and the Republic of Latvia have not been concluded yet, the early application of the Agreement with EC has started through address exchange between the competent authorities.

c) Authorities competent to deal with readmission applications.

Pursuant to Article 6(1) of the Regulation on the financing of the competences transferred from the former State Union of Serbia and Montenegro to the Republic of Serbia (*Official Gazette* No. 49, of 8. June 2006), MoI of the Republic of Serbia shall be the authority competent for the conclusion and implementation of the Readmission Agreement in the Republic of Serbia. Within the MoI, the competent authority for the

implementation of the Readmission Agreement is the Directorate for Administrative Affairs as an organizational unit of the General Police Directorate, i.e. the Department for Travel Documents, the Section for implementation of the Readmission Agreement.

Address:

Republic of Serbia
Ministry of Interior
General Police Directorate
Directorate for Administrative Affairs
Department for Travel Documents
Section for implementation of the Readmission Agreement
2, Bulevar Mihaila Pupina Street
Phone number: + 381 11 300-81-70 +381 11 300-81-70
Fax number: +381 11 300-82-03 +381 11 300-82-03
E-mail: readmision@mup.gov.rs

17. Please provide detailed information on the implementation of the readmission agreement concluded with the EU.

Agreement between RS and EC on readmission of persons residing without authorization was signed on 18 September 2007 in Brussels, ratified by the National Assembly of the Republic of Serbia on 7 November 2007 and entered into force on 1 January 2008. (*Official Gazette of RS* No. 103/07).

Implementing Protocols for the implementation of the Agreement with EC on readmission, were signed with: The Republic of Italy on 13 November 2009 in Rome, the Republic of Slovenia on 8 June 2009 in Ljubljana, the Republic of France on 18 November 2009 in Paris, the Republic of Hungary on 19 December 2009 at the BCP (border crossing point) of Horgos-Reske, with the United Kingdom on 18 March 2010 in London, with Austria on 25 June 2010 in Belgrade and with the Republic of Malta on 2 July 2010.

The Republic of Serbia implements the Agreement with the following EC members: FR Germany, the Republic of Hungary, the Kingdom of Sweden, the Republic of Austria, the Republic of France, the Kingdom of Belgium, the Kingdom of the Netherlands, the GD of Luxembourg, the Republic of Italy, the Kingdom of Spain, the Republic of Slovenia, the Slovak Republic, the Republic of Romania, the Republic of Poland and the Czech Republic.

Since the implementation of this agreement, the other EC countries have not submitted any requests to the Republic of Serbia for readmission of persons on any grounds.

The Federal Republic of Germany

The text of bilateral Protocol with the FR Germany on implementation of the Agreement with EC on readmission of persons residing without authorization, was fully agreed upon at the negotiations with the FR Germany, held on 6 -7 July 2009 in Berlin. The Protocol is expected to be signed.

In accordance with previous bilateral cooperation on all matters concerning the implementation of the Agreement, direct cooperation of the authorities competent for the implementation of readmission agreements between the two countries is achieved, which contributes to successful fulfilment of obligations arising from the implementation of this international agreement.

From 1 January 2008 to 1 December 2010, a total of 1.492 requests were received from the competent authorities of the FR Germany, out of which 1.229 requests were approved on the grounds of obligatory admission and return of the persons to the Republic of Serbia, while 263 requests for admission were denied.

Cooperation with the FR Germany takes place in the process of realization of persons transfer in which, at the request of German competent authorities, the return of persons to the Republic of Serbia is performed via both scheduled and charter flights of JAT Airways under the official escort of police officers of the Ministry of Interior of the Republic of Serbia. Furthermore, a number of persons, for whom the German competent authority submits a notice, shall return to the Republic of Serbia without escort.

The Republic of Hungary

The Protocol on implementation of the Agreement with EC on readmission was signed between the Ministry of Interior of the Republic of Serbia and the Ministry of Interior of the Republic of Hungary on 19 December 2009 in Horgos-Reske and entered into force on 1 May 2010.

From 1 January 2008 to 1 December 2010, a total of 1.576 requests for admission of the citizens of the Republic of Serbia were received from the Hungarian competent authority, out of which the consent was given to the Hungarian competent authority for 664 requests, given that, upon the procedure conducted, the persons in question were identified as citizens of the Republic of Serbia, while the consent for admission was denied for 912 requests, given that, upon the procedure conducted, the persons in question were not identified as citizens of the Republic of Serbia (those were mainly persons residing within the territory of the AP Kosovo and Metohija, not recorded in the ministry's registries).

Bearing in mind that the Republic of Hungary borders the Republic of Serbia, the requests for the admission of the third country nationals and stateless persons were also received from the Hungarian competent authorities. - From 1 January 2010 to 1 December 2010, a total of 1.368 requests for the admission of the third country nationals and the stateless persons were received, out of which 518 requests for admission were approved and 850 requests for admission were denied.

In the context of requests submitted by the competent Ministry of the Republic of Serbia as the requesting state to the Hungary competent authority, one request for admission of the citizen of the Republic of Hungary was denied and the other request for the return of the third country national was approved.

Within the cooperation with the Hungarian authorities responsible for the implementation of readmission agreements, regular working sessions are held, addressing specific issues related to admission of citizens of the Republic of Serbia and return of the third country nationals and stateless persons.

The Kingdom of Sweden

In the process of implementing the Agreement with EC the consistent application of the Agreement on resolving the requests submitted by the competent Swedish authorities for the return of citizens of the Republic of Serbia is ensured in accordance with Article 2 of the Agreement.

Within the obligations resulting from implementation of the Readmission Agreement with EC, the competent authorities of the Kingdom of Sweden submitted a total of 1.073 requests from 1 January 2008 to 1 December 2010, out of which 1.019 requests were approved on the grounds of obligatory admission and return of the persons to the Republic of Serbia, while 54 requests for admission were denied.

At the initiative of the Embassy of the Kingdom of Sweden, working sessions on the implementation of readmission Agreement are regularly held in Belgrade.

In 2010, the sessions on readmission were held in Belgrade with the representatives of the Embassy of the Kingdom of Sweden, the Ministry of Foreign Affairs and the Swedish Emigrant Institute, due to increased number of asylum seekers in Sweden, the so-called "false asylum seekers", who declare themselves as citizens of the Republic of Serbia. At these sessions, the representatives of the Kingdom of Sweden pointed out very successful cooperation between the Republic of Serbia and the Kingdom of Sweden when it comes to the implementation of readmission Agreement. The satisfaction was expressed over the expediency of the Ministry of Interior in tackling the issue of "false asylum seekers" declared as citizens of Republic of Serbia, as well as in strong cooperation aiming at resolving this issue through facilitated procedure.

Furthermore, the Embassy of the Kingdom of Sweden has developed cooperation with the competent services of the MoI of the Republic of Serbia in the process of checking validity of travel documents and other accompanying documentation when conducting the return of persons on the basis of the readmission Agreement.

The Republic of Austria

The complete text of Draft Protocol between the Republic of Serbia and the Republic of Austria on implementation of the Agreement between EC and the Republic of Serbia on readmission of persons residing without authorization was agreed upon at the negotiations with representatives of the Federal Ministry of Interior of the Republic of Austria, held on 19 - 20 April 2010 in Belgrade. The Protocol was signed on 25 June 2010 in Belgrade.

From 1 January 2008 to 1 December 2010, a total of 656 requests were received from the competent authorities of the Republic of Austria, out of which 579 requests were approved on the grounds of obligatory admission and return of the persons to the Republic of Serbia, while 77 requests for admission were denied.

The Republic of France

Within the obligations resulting from implementation of readmission Agreement, the Protocol on the implementation of the Agreement between the Republic of Serbia and EC on

readmission of persons residing without authorization, was signed between the Republic of Serbia and the Republic of France on 18. November 2009 in Paris.

From 1 January 2008 to 1 December 2010, a total of 223 requests were received from the competent authorities the Republic of France, out of which 162 were approved on the grounds of obligatory admission and return of the persons to the Republic of Serbia, while 61 requests for admission were denied.

The Kingdom of Belgium, the Kingdom of the Netherlands and the GD of Luxembourg (the Benelux countries)

Within the obligations resulting from implementation of the Readmission Agreement with EC, negotiations on the conclusion of the Protocol on implementation of the Agreement with EC on readmission of persons residing without authorization, were held in the Hague, the Kingdom of the Netherlands, on 25-26 January 2010 between the Benelux countries (represented by the Kingdom of the Netherlands) and the Republic of Serbia. On that occasion, text of the Protocol was fully agreed upon. Upon signing of the Protocol and the completion of internal procedures, the implementation of the readmission process between the Republic of Serbia and the Benelux countries, along with application of the provisions of this Protocol, will be continued.

From 1 January 2008 to 1 December 2010, years, a total of 163 requests were received from the competent authorities of **the Kingdom of Belgium**, out of which 99 requests were approved on the grounds of obligatory admission and return of the persons to the Republic of Serbia, while 64 requests for admission were denied.

In the case of persons who applied for asylum in the Kingdom of Belgium but were denied since they did not fulfil the requirements for granting asylum and resided in this country without authorisation, the Belgian competent authorities organized a return of a number of citizens of the Republic of Serbia holding valid biometric passports, in which case the competent Belgian authorities did not submit the requests for readmission.

From 1 January 2008 to 1 December 2010, a total of 124 requests were received from the competent authorities of the Kingdom of the Netherlands, out of which 87 requests were approved on the grounds of obligatory admission and return of the persons to the Republic of Serbia, while 37 requests for admission were denied.

From 1 January 2008 to 1 December 2010, a total of 11 requests were received from the competent authorities of **the GD of Luxembourg**, out of which 10 requests were approved on the grounds of obligatory admission and return of the persons to the Republic of Serbia, while 1 request was denied.

The Republic of Italy

Within the obligations resulting from implementation of readmission Agreement, the Protocol between the Republic of Serbia and the Republic of Italy on the implementation of the Agreement between EC and the Republic of Serbia on readmission of persons residing without authorization, was signed in Rome on 13 November 2009.

From 1 January 2008 to 1 December 2010, a total of 57 requests were received from the competent authorities of the Republic of Italy, out of which 40 requests were approved on the basis of obligatory admission and return of the persons to the Republic of Serbia, while 17 requests for admission were denied.

In addition, it should be noted that there is an initiative of the Italian side to conclude a Technical agreement between the Ministry of Interior of the Republic of Italy and the Embassy of the Republic of Serbia in Rome, with an aim, upon implementing the procedure of readmission, to conduct the return of Roma individuals originating from the Republic of Serbia provided that the persons said meet the requirements for the return. The Technical agreement would include the following issues: destinations of return, housing, infrastructure, work opportunities, education, social and health care.

Bearing in mind that obligations of the Ministry of Interior of the Republic of Serbia, as the competent authority for the implementation of readmission Agreement, are laid down in the Agreement on readmission with EC, the technical agreement above mentioned only refers to the efficient cooperation in the process of readmission and given that the issue of reintegration of returnees under the Agreement on readmission is considered to be a fundamental issue regarding the said technical agreement.

The Kingdom of Spain

When it comes to cooperation in the field of readmission with the Kingdom of Spain, the Agreement between the Republic of Serbia and the European Community on the Readmission of Persons Residing without Authorization shall be applied. There have been no initiatives for negotiations on concluding an implementation of the Implementing Protocol thus far.

From 1 January 2008 to 1 December 2010, a total of 11 requests were received from the competent authorities of the Kingdom of Spain, out of which 8 requests were approved on the grounds of obligatory admission and return of the persons to the Republic of Serbia, while 3 requests for admission were denied.

The Republic of Slovenia

Within the obligations resulting from implementation of the Agreement on readmission, the Protocol between the Government of the Republic of Slovenia and the Government of the Republic of Serbia on implementation of the Agreement on Readmission of Persons Residing without Authorization was signed in Ljubljana on 08.June 2009.

From 1 January 2008 to 1 December 2010, by a total of 20 requests were received from the competent authorities of the Republic of Slovenia who were approved all the requests given that, upon the procedure conducted, the persons in question were identified as the citizens of the Republic of Serbia.

The Slovak Republic

The complete text of the Draft Protocol between the Republic of Serbia and the Slovak Republic on the implementation of the Agreement between EC and the Republic of Serbia on readmission of persons residing without authorization, was agreed upon at the

negotiations held at the initiative of the Ministry of Foreign Affairs of the Slovak Republic on 1-2 December 2009 in Bratislava.

Upon signing of the Protocol and the completion of internal procedures, the implementation of the readmission process between the Republic of Serbia and the Slovak Republic, along with application of the provisions of this Protocol, will be continued.

From 1 January 2008 to 1 December 2010, a total of 17 requests were received from the competent authorities of the Slovak Republic, out of which 12 requests were approved on the grounds of obligatory admission and return of the persons to the Republic of Serbia, while 5 requests for admission were denied.

The Republic of Romania

Bearing in mind that Romania is a member of the European Union, the readmission process between the two parties concerned is conducted under the Agreement between RS and EC on readmission of persons residing without authorization.

Since the Republic of Serbia and the Republic of Romania have a common border, the process of negotiations on concluding bilateral Protocol for implementation of the readmission Agreement with EC was concluded in order to combat illegal migration in the region. Upon signing of the Protocol and the completion of internal procedures, the implementation of the readmission process between the Republic of Serbia and the Republic of Romania, along with application of the provisions of this Protocol, will be continued.

At present, the cooperation between the authorities of the Republic of Romania and the Republic of Serbia competent for implementation of the Agreement on readmission is conducted on the basis of address exchange, thus initiating early application of the implementation of readmission Agreement prior to signing of the Protocol on implementation of the Agreement.

From 1 January 2008 to 1 December 2010, a total of 5 requests were received from the competent authorities of the Republic of Romania who were approved all the requests for admission given that, upon the procedure conducted, the persons in question were identified as the citizens of the Republic of Serbia.

The Republic of Poland

From 1 January 2008 to 1 December 2010, the Polish competent authority submitted 1 request for admission which was approved given, upon the procedure conducted, the person in question was identified as the citizens of the Republic of Serbia. There have been no initiatives for negotiations on concluding the Implementing Protocol thus far.

The Czech Republic

The authorities competent for the implementation of readmission Agreement at both sides exchanged addresses in order to initiate the early application and to ensure smooth implementation of the readmission Agreement prior to signing of the Protocol on the

implementation of the Agreement. There have been no initiatives for negotiations on concluding the Implementing Protocol thus far.

From 1 January 2008 to 1 December 2010, the Czech competent authority submitted 3 requests for admission of the citizens of the Republic of Serbia, out of which all of the 3 were approved given that, upon the procedure conducted, the persons in question were identified as the citizens of the Republic of Serbia.

Regarding the implementation of readmission Agreement with EU member states, the immediate cooperation of the authorities competent for the implementation of readmission Agreement with all the countries which established cooperation with the Republic of Serbia, enables smooth implementation of this agreement, with full ***respect for the obligations and conditions resulting thereof.***

Based on a joint statement regarding the reintegration which is an integral part of the EC Agreement, the Government of the Republic of Serbia adopted the Strategy of Returnees Reintegration Based on the Readmission Agreement (*Official Gazette of the RS* No. 15/09), developed a national Action plan for implementing the strategy, established the Council for integration of returnees, adopted the rules of procedure of the Council for integration of returnees under the Agreement on Readmission and set up a Team for implementation of the Strategy of Returnees Reintegration, actively involved in the process of reintegration of persons in the Republic of Serbia.

The Agreement with EC on readmission (Article 18) provides for the role and tasks of the Joint Readmission Committee. When it comes to the implementation of readmission agreements between the Republic of Serbia and EU member states, two meetings were held to date - the constitutional session of the Joint Readmission Committee, and the constitutional session of the Joint Committee on the Visa Facilitation, held on 16 – 17 April 2008 in Belgrade, where the situation regarding implementation of readmission agreements was analyzed, and it was ascertained that the progress in implementation of the Agreement, referring to the period between two meetings, as well as the state of affairs in administrative structures, legal and practical aspects of work, would be presented at the first meeting of the Committee.

At the first meeting of the Joint Committee of Experts of Republic of Serbia and EC on the visa facilitation and readmission, which was held on 15 -16 December 2008 in Brussels, the cooperation on implementation of the Readmission Agreement with the Republic of Serbia was assessed, the role of the Readmission Committee specified and the Rules of Procedure, that provides guidelines for future work and contributes to the harmonization of cooperation in the implementation of the said agreements, was signed .

Asylum

18. Please provide information on legislation or other rules governing your asylum policy.

The asylum policy in the Republic of Serbia is regulated by the Law on Asylum, which was adopted in the National Assembly of the Republic of Serbia on 28 November 2007, entered into force on 6 December 2007 and has been applied as of 1 April 2008. In determining the grounds for the asylum applications, filed in the

territory of the Republic of Serbia, the Law on Foreigners (regulating the issues of substantive legal nature that appear in the proceedings, but are not regulated by the Law on Asylum), as well as the Law on General Administrative Procedure (regulating the issues of procedural legal nature that appear in the proceedings but are not regulated by the Asylum Act) shall be applied in addition to the Law on Asylum. It should be emphasized that, pursuant to Article 16 of the RS Constitution, direct application of generally accepted rules of international law and the provisions of ratified international treaties is also at hand, providing the availability for the use of standards prescribed also by the international conventions relevant to this field. Pursuant to the Law on Asylum, the Government of the Republic of Serbia and the line ministries involved in implementing the said Law adopted the relevant by-laws to facilitate the practical application of the Law. Listed below are the said by-laws:

1. Decision on Determining the List of Safe Countries of Origin and Safe Third Countries - the Government (*Official Gazette of RS* No 67/09).
2. Rulebook on Contents and Form of the Asylum Applications and Documents Issued to Asylum Seekers and to Persons Granted Asylum or Temporary Protection – The Ministry Of Interior (*Official Gazette of RS* No. 53/08);
3. Rulebook on the House Rules of the Asylum Centre - The Commissariat for Refugees (*Official Gazette of RS* No. 31/08);
4. Rulebook on the Method of Keeping Records and Contents on Persons Accommodated at the Asylum Centre – the Commissariat for Refugees (*Official Gazette of RS* No. 31/08);
5. Rulebook on Housing Conditions and the Provision of Basic Living Conditions in the Asylum Centre – the Commissariat for Refugees (*Official Gazette of RS* No. 31/08);
6. Rulebook on Medical Examinations of Persons Seeking Asylum upon Arrival to the Asylum Centre – the Ministry of Health (*Official Gazette of RS* No. 93/08);
7. Rulebook on Social Assistance for Persons Seeking or Granted Asylum - Ministry of Labour and Social Policy (*Official Gazette of RS* No. 44/08);

19. Describe your asylum procedure at first and second instances:

- a) regular, exceptional (for instance border) and accelerated procedures;
 - b) provide number and types of appeals;
 - c) explain which bodies are competent in each instance and how are they composed;
 - d) provide assessment of the average duration of the procedures;
 - e) identification of services involved and number of staff dedicated to asylum procedures;
 - f) present methodology for gathering the country of origin information.
- a) regular, exceptional (for instance border) and accelerated procedures

In determining the grounds for asylum applications filed in the territory of the Republic of Serbia a two-stage administrative procedure is implemented. There is no simplified (accelerated) procedure, but the one which is the same and unique for all asylum seekers. The first instance procedure consists of 4 stages:

1. recording - part of a procedure in which, in the presence of the authorized police officer of the Ministry of Interior, the foreigner expresses intent to seek asylum in the Republic of Serbia, in which case the said officer shall comply and issue a certificate to the asylum seeker and shall refer him/her to report to the Asylum Section or the Asylum Centre;
2. registration - part of a procedure in which an officer of the Asylum Section shall establish the identity of the asylum seekers, take their photographs and finger prints and, if required, shall temporarily confiscate all the identification documents those persons dispose of, after which they shall be issued identity cards for persons seeking asylum; Upon completion of registration, an asylum seeker can formally apply for asylum;
3. interview - part of a procedure in which the officials of the Asylum Section shall conduct an interview with the Asylum seeker on the basis of formally submitted asylum application, thus performing detailed and thorough examinations of the reasons for seeking asylum;
4. decision making - part of a procedure in which an official of the Asylum Section shall make the decision on the submitted asylum application, based on all information gathered during earlier stages of the procedure.

b) provide number and types of appeals;

The Asylum Commission, as the second instance administrative authority, shall decide on appeals lodged against the decision of the Asylum Office, as the first instance authority, taken in the procedure for determining the grounds for the asylum applications filed in the territory of the Republic of Serbia. The asylum seekers shall also be entitled to judicial protection in this procedure, by initiating administrative dispute before the Administrative Court against the decision of the Asylum Commission. Upon completion of the administrative dispute, the decision shall become final.

c) explain which bodies are competent in each instance and how are they composed;

The procedure of first instance, determining the grounds for the asylum applications filed in the territory of the Republic of Serbia, shall be led and decided upon by the Asylum Section as a competent organizational unit of the Ministry of Interior, within the Border Police Directorate (pending the adoption of the new Rulebook on internal organisation and systematisation of job positions in the Ministry of Interior, under which the Asylum Section shall be established, its duties shall be performed by the Asylum Section as an integral part of the Department for Foreigners of the Border Police Directorate). Based on systematisation, there are 11 job positions within the Asylum Office (Head of the Office, 6 RSD officers, 2 COI officers and 2 administrative staff). Asylum Commission, as the second instance authority in the procedure, consists of a Commission chairperson and eight members (nine in total) and takes the decisions by voting (simple majority is sufficient). An administrative dispute may be initiated before the Administrative Court by lodging a complaint against the decision of the Asylum Commission, by which occasion a decision on the complaint shall be taken by a judicial council consisting of three judges.

d) provide assessment of the average duration of the procedures

Pursuant to the Law on Asylum, maximum duration of the procedure is not limited, while the Law on Administrative Procedure stipulates that the first instance authority shall be obliged

to take the decision within 60 days from the date of application. The same deadline shall apply to the second instance authority, from the moment of receiving a complaint, which means that the procedure can not last longer than four months.

e) identification of services involved and number of staff dedicated to asylum procedures;

At present, 8 officers of the Ministry of Interior are dedicated to asylum procedures within the Asylum Section (11 job positions are envisaged by the current systematisation). Upon the adoption of a new systematization of job positions, the Asylum Section is envisaged to involve 18 officers.

f) present methodology for gathering the country of origin information

Information on the countries of origin of asylum seekers are mostly collected from two sources – the first includes the Ministry of Foreign Affairs, i.e. Diplomatic and Consular Missions of the Republic of Serbia on residential bases, and the second refers to specialized web sites (www.ecoi.net, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain> - the so called Refworld), where one can find various reports regarding the security situation, human rights, etc..in countries of origin of asylum seekers.

20. Do you apply the following concepts (if yes, how?):

- a) safe third country;**
- b) safe country of origin;**
- c) manifestly unfounded claims**

The Law on Asylum completely recognizes the concepts of safe country of origin and safe third country. In fact, according to Article 2(11) of the Law, "a safe country of origin shall be a country registered in the list made by the Government, whose national is an asylum seeker, and if the stateless person is concerned a country where the said person had the previous habitual residence, which has ratified and applied international treaties on human rights and fundamental freedoms, where there is no danger of persecution for any reason which makes the grounds for the recognition of the right to refuge or for granting subsidiary protection, whose citizens do not leave their country for the said reasons, and which allows international authorities to monitor the observance of human rights". Furthermore, according to Article 2(12) of the same Law, "a safe third country shall be the country registered in the list made by the Government, which adheres to international principles of refugee protection laid down in 1951 Convention on the Status of Refugees and the 1967 Protocol on the Status of Refugees (hereinafter referred to as the Geneva Convention and the Protocol), where an asylum seeker had resided, or through which he/she had passed, immediately before he/she arrived on the territory of the Republic of Serbia and where he/she had an opportunity to submit an asylum application, where he/she would not be subjected to persecution, torture, inhumane or degrading treatment or sent back to a country where his/her life, safety or freedom would be threatened". At the government session, held on 17 August 2009, the Serbian government passed the Decision on establishing the list of safe countries of origin and safe third countries. On the other hand, the Law on Asylum does not recognize the concept of manifestly unfounded asylum claims.

21. Describe the procedural guarantees for asylum applicants:

- a) information, interview, right to counsel and representation, interpretation/translation;
- b) independence of review and appeal procedures;
- c) measures for unaccompanied minors.

a) information, interview, right to counsel and representation, interpretation/translation;

The Law on Asylum, Chapter II (Article 6 – 18) lays down the basic principles of the asylum procedure. Hence, Article 10 stipulates the **principle of the right to being informed and the right to legal aid** (A foreigner who expressed intention to seek asylum in the Republic of Serbia shall be entitled to be informed on his/her rights and obligations throughout the asylum procedure. An asylum seeker may have free legal aid and representation by UNHCR and NGOs whose objectives and activities are aimed at providing legal aid to refugees), Article 11 prescribes **the principle of free interpretation/translation services** (An asylum seeker, not understanding the official language of the procedure, shall be provided with free translation services into the language of the country of origin, or a language he/she understands. An asylum seeker may engage an interpreter of his/her own choice and at his/her expense. The obligation of providing free translation services referred to in paragraph 1, of this Article, shall apply to the use of sign language and availability of materials in the Braille alphabet and other accessible formats), whereas Article 12 stipulates **the principle of free access to UNHCR** (an asylum seeker shall have the right to contact authorized UNHCR staff at any stage of the asylum procedure). Lastly, Article 26 prescribes that an asylum seeker must be interviewed before deciding on the submitted asylum request (Authorized officer of the Asylum Office shall personally interview the asylum seeker as soon as possible). An asylum seeker may be interviewed more than once...).

b) independence of review and appeal procedures;

Article 20, of the Law on Asylum, inter alia, prescribes that the Asylum Commission shall decide in the second instance on appeals against the decisions taken by the Asylum Office. In addition, the same Article stipulates that a person may be appointed the Chairman or a member of the Asylum Commission if he/she is a citizen of the Republic of Serbia, has a university degree in law with minimum five years of relevant working experience, and is familiar with regulations in the field of human rights. Also, the same Article prescribes that the Asylum Commission shall be independent in its work and shall pass decisions by majority vote of the total number of its members, thus ensuring full independence of the second instance body in the procedure of deciding on appeals of asylum seekers against the first instance decisions.

c) measures for unaccompanied minors:

Article 16, of the Law on Asylum prescribes **the principle of representation of the unaccompanied minors or persons without legal capacity** (An unaccompanied minor or a person without legal capacity, not having a legal representative, shall be appointed a guardian by the guardianship authority, before the submission of an asylum application, according to the law. The guardian must be present in the course of an interview with an unaccompanied minor or a person without legal capacity, as stipulated by paragraph 1, of this Article). In the course of the procedure of deciding

whether the asylum requests are grounded or not, underage asylum seekers may be placed in the Reception Centre for Asylum, as well as in the **Accommodation Centre for alien minors unaccompanied by parents or guardians**. This Centre shall accept alien minors between the age of 7 and 18 of masculine gender, because there are no available separate premises for the accommodation of minors of female gender. They shall be under temporary guardianship ex officio and shall be appointed a temporary guardian.

22. What concept of protection do you apply?

There are three methods of protection. As prescribed by Article 2, paragraph 8, of the Law on Asylum, **the first method - refuge**, “shall be understood to mean the right to residence and protection granted to a refugee who is in the territory of the Republic of Serbia, with respect to whom the competent authority has determined that his/her fear of persecution is well-founded...”, where refugee is defined under Article 2, paragraph 7, of the same law as “shall be understood to mean a person who, on account of well-founded fear of persecution for reasons of race, sex, language, religion, nationality, membership of a particular social group or political opinions, is not in the country of his/her origin, and is unable or unwilling, owing to such fear, to avail him/herself of the protection of that country, as well as a stateless person who is outside the country of his/her previous residence, and who is unable or unwilling, owing to such fear, to return to that country...” The second method - **subsidiary protection**, prescribed by Article 2, paragraph 8, of the Law on Asylum “shall be understood to mean a form of protection which the Republic of Serbia grants to an alien who would be subjected, if returned to the country of origin, to torture, inhumane or degrading treatment, or where his/her life, safety or freedom would be threatened by generalized violence caused by external aggression or internal armed conflicts or massive violation of human rights...”. Complete Chapter V, of the Law on Asylum is dedicated to the third method, **temporary protection**. Two systems are in place primarily for information collection on the country of origin – through diplomatic and consular representations of the Republic of Serbia in the countries where they exist, and through specialized internet web pages containing such information.

a) How do you apply the 5 grounds in article 1A and the exclusion clauses of Article 1F of the 1951 Geneva Convention (GC)?

Paragraph 5, Article 1 C, of the Convention on Refugee Status has been fully incorporated in Article 54, paragraph 5, of the Law on Asylum (The right to refuge shall cease if a person can no longer refuse the protection of his/her country of origin, because the circumstances that led to his/her being granted protection have ceased to exist), while Article 1 F, of the Convention is incorporated in Article 31. of the Law (The right to asylum shall not be recognised to a person with respect to whom there are serious reasons to believe that he/she has committed crime against peace, war crime, or crime against humanity, according to the provisions of international conventions adopted with a view to preventing such crimes, he/she has committed a serious non-political crime outside the Republic of Serbia prior to entering its territory, he/she is responsible for acts contrary to the purposes and principles of the United Nations).

b) Are non-state agents of persecution included in your understanding of the refugee definition of Article 1A GC?

The refugee definition has practically been adopted from the Convention on the Refugee Status and incorporated in the Law on Asylum (Article 2, item 7, of the law). To understand and interpret the definition of the term, non-governmental participants of the persecution are included in the sense that a refugee shall be understood to mean a person who left his/her country due to persecution by non-governmental participants, only in cases when government authorities of that country had not wanted (or had not been able) to protect such person from the persecution, although he/she requested help from them.

c) Do you have in place subsidiary protection(s) or other forms of humanitarian protection?

We have subsidiary protection, and it is prescribed under Article 2, item 9, of the Law on Asylum “subsidiary protection shall be understood to mean a form of protection which the Republic of Serbia grants to an alien who would be subjected, if returned to the country of origin, to torture, inhumane or degrading treatment, or where his/her life, safety or freedom would be threatened by generalized violence caused by external aggression or internal armed conflicts or massive violation of human rights”.

d) Do you have in place a temporary protection system to deal with mass influx of displaced persons?

Complete Chapter V of the Law on Asylum is dedicated to the temporary protection system. Namely, Article 36, of the Law on Asylum prescribes that “in the case of a massive influx of persons from a country where their life, safety or freedom is threatened by generalized violence, external aggression, internal armed conflicts, massive violation of human rights or other circumstances that have seriously affected public order, when it is not possible to carry out an individual procedure for granting the right to asylum due to the massive influx, temporary protection shall be accorded in line with the social, economic and other capacities of the Republic of Serbia. The Government shall decide on the temporary protection.” At this point, it is important to mention that foreigners who were granted temporary protection are entitled to submit asylum request, as well as that possible negative decision on that request shall not affect the rights conferred on the basis of temporary protection.

23. Have you identified the services competent for the application of provisions for determining the State responsible for the examination of an asylum application and for recording and processing the fingerprints of asylum seekers in this connection (with a view to possible future implementation of the Dublin II and Eurodac-regulations)?

Having in mind that the Republic of Serbia is not a country member of the Dublin Convention (Dublin II Regulation), and therefore can not be a user of the EURODAC system, the service to determine the State responsible for the examination of an asylum application and for recording and processing the fingerprints of asylum seekers in this connection, has not yet been identified.

24. Describe your registration and identification (including IT) systems for asylum applicants.

Pursuant to Article 24 of the Law on Asylum, the registration of asylum seekers and members of their family shall be performed by an authorized officer of the Asylum Section. Registration includes: establishing identity, taking a photograph, taking fingerprints, and temporary withdrawal of all identification papers and documents which can be of relevance in the asylum procedure, of which a certificate shall be issued to a foreigner. The method of conducting the registration shall be prescribed by the Minister of Interior by a special act - the pending Rulebook on the method of recording and registration of asylum seekers. Given that the Republic of Serbia is not yet a part of the Dublin II and EURODAC, and is thus unable to perform the appropriate checks within the databases of the signatories to these regulations, establishing of identity is based on registration data available within the competent service. Thus far, there is no existing information technology solution for entering registration data, but the implementation of the project on procurement of necessary technical equipment and software solutions is in progress. In this regard, the identification procedure is performed "manually" from the existing databases and records, on the basis of foreigner's personal papers and documents (if available).

25. Describe your system of reception conditions for asylum applicants including reception centres.

During the process of determining the grounds for the asylum applications filed in the territory of the Republic of Serbia, or pending the adoption of a final decision on the asylum application, asylum seekers shall be provided with accommodation and basic living conditions (food, footwear, clothing) at the Asylum Centre, existing and operating within the Commissariat for Refugees. The Government shall pass an act establishing one or more asylum centres. At this time, one asylum centre is operational in the Republic of Serbia, located in Banja Koviljaca (around 80-person capacity). Persons accommodated at the Centre are provided with medical examination, free legal aid through NGO, as well as the creative and pedagogical work with children.

26. Describe the framework for cooperation with UNHCR and NGOs.

Pursuant to Article 35 of the Convention on the Status of Refugees (the Regulation on the Ratification of the Convention on the Status of Refugees, with a final act of the United Nations Conference of Plenipotentiaries on the Status of Refugees, *Official Journal of FPRY - International Treaties* No.7/60) the obligation to cooperate with the High Commissioner for Refugees is assumed.

In addition, the basis for cooperation with UNHCR is:

- Article 5 of the Law on Asylum, which stipulates that the competent authorities shall cooperate with UNHCR;

- Article 12 of the Law on Asylum, which guarantees contact with authorized officers of UNHCR in all stages;

- Article 6 of the Law on Refugees that regulates the cooperation of the Commissariat for Refugees and United Nations institutions.

With the arrival of a large number of refugees from former republics of the SFRY, cooperation with the UNHCR has been intensified. Since then, a large number of memorandums of cooperation have been signed on the basis of which a series of projects on acceptance and taking care of refugees and their subsequent integration into the Republic of Serbia, have been carried out.

In cooperation with UNHCR, the Commissariat for Refugees has conducted census of refugees on three occasions (1996, 2001 and 2004/05) as well as the census of internally displaced persons in 2000.

In recent years, in addition to cooperation in solving the problem of refugees from former SFRY republics and internally displaced persons from Kosovo and Metohija, UNHCR has been involved in establishing asylum system in the Republic of Serbia and provided significant assistance in this regard. Regardless of the fact that the Ministry of Interior took over the implementation of the procedure and decision making upon the enforcement of the Law on Asylum, UNHCR has continued to support the state authorities, particularly in creating adequate capacities in conducting activities relevant to the asylum issue.

As for the NGO sector, the bases for cooperation are:

- Article 10 of the Law on Asylum regulating the provision of legal aid by non-governmental organizations;

- Article 6 of the Law on Refugees, pursuant to which the Commissariat shall establish the cooperation with the Red Cross, humanitarian, religious and other organizations, associations and citizens;

- Article 8 of Law on Refugees, pursuant to which the Commissariat may provide refugees with assistance in cooperation with the Red Cross, humanitarian and other organizations and associations;

In the Republic of Serbia, there exists a large number of NGOs tackling the problems of forced migrations, and a significant number of associations of refugees and internally displaced persons.

NGOs provide various forms of assistance to the above mentioned population, mainly through legal aid, psychosocial help and assistance in training for integration into the labour market.

In recent years, civil society is very active in monitoring and evaluating the work of public authorities in this area, through public hearings, conferences, roundtables and various debates organized by NGOs.

Since the founding of the Asylum Centre, the NGO "Asylum Protection Centre" has regularly provided legal aid to asylum seekers.

27. Describe your integration policy for refugees and persons who have received another form of protection.

The existing policies of refugees' integration refer exclusively to the integration of the refugees who have acquired the status pursuant to the Law on Refugees, i.e. to the nationals of the former SFRY. Legal and strategic framework for integration of refugees comprises the Law on Refugees and the National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons.

By the recognition of their status, the refugees shall be entitled to health care, education and work under the same conditions and to the same extent as the nationals, as well as to social security for the elderly and disabled persons in need of accommodation within social protection institutions. All children are included in the system of family and legal protection from the very beginning. Special attention was focused on children without parental care, who were treated within the social protection system equally to the children nationals.

Measures and activities performed in the field of social protection on creating conditions for social integration of all citizens, including refugees, in addition to social assistance and accommodation at the centre or in foster family shall lie within the competence of local self-governments. Access to rights is enabled under the same conditions to all who live on the local community territory. Underdevelopment of the necessary support services is the problem in most local communities.

Practically speaking, implementation of projects aimed at providing permanent housing solutions for refugees who could not or did not want to return to the country of origin, was initiated just a few years upon the outbreak of the conflict. The projects, conducted by the Commissariat for Refugees, were financed with the funds allocated from the Budget on one side, but also in cooperation, primarily with UNHCR, and other donors, mainly the European Union, on the other side. Integration projects included the construction of housing units, assistance in providing construction material for the completion of housing objects in the process of construction, purchasing village houses with gardens and construction of social housing objects. In this way, the housing problem of around 40.000 refugees from the former SFRY republics was solved.

Given that the funds allocated for the integration of refugees are limited, a new form of social protection, "social housing in supportive environment", has been developed during the last 7 years within the competence of local self-governments, in order to create conditions for social integration of the most vulnerable refugees from the former Yugoslav republics. According to results of the survey conducted during 2009, the new form of social protection significantly improved social inclusion and quality of life for about 1.100 users through an integrated approach to meeting their needs.. In addition to housing services, this form of protection has provided a variety of measures and supportive programmes for social integration according to individual needs through the centres for social work. The said protection is available in 21 local communities, and the construction of new facilities necessary for this form of support is underway in more than 20 local communities (mostly from the IPA funds, and from other donors).

Apart from addressing the housing problems, different programmes aimed at economic empowerment of refugees have been developed in accordance with the National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons. Under these programmes, different trainings for improving competitiveness in the labour market have been implemented as well as projects on granting in-kind aid for initiating personal income-generating activities and self-employment.

Pursuant to the National Strategy, the new Law on Citizenship provided for simplified procedure for acquisition of citizenship, thus facilitating formal integration.

The Law on Asylum created a legal basis, and the Migration Management Strategy confirmed the orientation of the Republic of Serbia to frame the legislation that will regulate the integration of refugees and persons who have received another form of protection under the Law on Asylum.

The law stipulates that an asylum seeker and a person granted asylum in the Republic of Serbia have the right to health care, the right to free primary and secondary education and the right to social assistance. Persons, whose right to refuge in the Republic of Serbia has

been recognised, shall have the same rights as the foreigners who are permanent residence holders, with respect to rights related to and resulting from labour, right to entrepreneurship, right to permanent residence and freedom of movement, rights to movable and immovable property and right of association. These persons are provided with accommodation, commensurate with the capacities of the Republic of Serbia, but no longer than one year upon receiving the final decision on status recognition. Commensurate with its capacities, the Republic of Serbia shall create conditions for the inclusion of refugees in its social, cultural and economic life, and enable the naturalization of refugees. So far, the secondary legislation governing the exercise of right to social assistance, has been adopted and acts that would specify the mode and scope of assistance for accommodation and social inclusion of refugees and persons granted subsidiary protection, are being drafted.

28. Describe the system put in place to collect data and statistics on asylum and refugee movements in your country and provide the following data (reference period 2005-2010): 2005-2010): number of asylum seekers, number of positive decisions granting refugee and other protection status recognised, negative decisions rejecting the applications and other non substantive decisions (all of them for both first instance and appeal), disaggregated by citizenships of the applicants, for each year.

The provision of Article 19 of the Law on Asylum, stipulates the competences of the Asylum Section which operates under the Ministry of Interior - Border Police Directorate as the first instance authority in determining the grounds for the asylum applications filed on the territory of the Republic of Serbia ("With regard to asylum application and termination of right thereof, the competent organizational unit of the Ministry of Interior shall conduct the procedure at first instance and shall take all decisions "). Pending the adoption of the new Rulebook on internal organisation and systematisation of job positions in the Ministry of Interior, under which the Asylum Section shall be established, its activities shall be performed by the Asylum Section as an integral part of the Department for Foreigners of the Border Police Directorate. Articles 22 and 23 of the same Law regulate the expression of intent to seek asylum and registration of asylum seekers. Specifically, any foreigner who has expressed intent to seek asylum (the intent is expressed in the presence of the authorized police officer of the Ministry of Interior) must be recorded (the recording is conducted by the same police officer in whose presence the intent is expressed). Upon conducting the registration a police officer shall immediately notify the Asylum Section thereof, which shall instantly enter the registered person into the records of asylum seekers. Otherwise, the Asylum Section keeps several records of asylum seekers (the total number of expressed intents, the total number of applications, the total number of decisions taken, the types of decisions - positive, negative, suspended procedures, the structure of asylum seekers by nationality, followed by gender, by age - minors, adults ...) Data on asylum seekers, who are entered into the records, shall be collected from the asylum seekers themselves - from their personal and travel documents, when there is a possibility to do so (when the asylum seekers hold the said documents). In case the asylum seekers hold no documents, the data shall be collected on the basis of their personal statements.

In the past three years, since the MoI of the Republic of Serbia have assumed full responsibility for performing procedures that determine the grounds for the asylum applications filed on the territory of the Republic of Serbia, a continuous increase in asylum seekers has been noted. Specifically, in **2008**, there were a total of **77 asylum**

seekers, in **2009** the number increased to **275**, and until 1 December 2010 461 persons applied for asylum in the Republic of Serbia. In 2008, the greatest number of asylum seekers were originally from Georgia and Ivory Coast, in 2009 the majority arrived from Afghanistan (much more than from all other countries), and this trend continued in 2010. In 2009, 4 subsidiary protections were granted (1 to a citizen of Iraq and 3 to citizens of Ethiopia) but they are all related to cases of 2008, while in 2010, positive decision was taken for 1 asylum application that was filed in 2009 (subsidiary protection granted to a citizen of Somalia), which means that, from the date the Law on Asylum entered into force, a total of 5 asylum applications were approved (all were subsidiary protections, none refugee, i.e. refugee status). In 2008, a total of 2 appeals were lodged against the first instance decisions (a citizen of Croatia – refused, stateless person - accepted). In 2009, a total of 28 appeals were lodged (19 appeals of the citizens of Ivory Coast - 1 accepted, 18 refused; 2 appeals of the citizens Congo – 1 accepted, 1 refused; 1 appeal of the citizen of Somalia – accepted; 1 appeal of the citizen of Croatia - accepted; 1 appeal of the citizen of Afghanistan - refused; 1 appeal of the citizen of Armenia - refused; 1 appeal of the citizen of Albania – refused; 1 appeal of the citizen of Palestine - refused, and 1 appeal of stateless person - refused), as well as 15 complaints for initiating administrative dispute (13 complaints of the citizens the Ivory Coast - all refused; 1 complaint of the citizen of Armenia - accepted and 1 complaint of stateless person - accepted). In 2010, a total of 29 appeals were lodged (17 appeals of the citizens of Afghanistan - 14 accepted, 2 refused, and 1 appellate proceedings suspended; 4 appeals of the citizens of Pakistan – 2 accepted, 2 refused; 4 appeals of the citizens of Somalia - 3 accepted, 1 proceedings is underway; 2 appeals of the citizens of Congo - all accepted; 1 appeal of the citizen of Cuba – accepted, and 1 appeal of the citizen of Bosnia and Herzegovina - was accepted) and 4 complaints for initiating administrative dispute (2 complaints of the citizens of Afghanistan – both proceedings are underway, 1 complaint of the citizen of Croatia - refused, 1 complaint of the citizen of Ivory Coast - refused).

Pursuant to Article 6 of the Law on Refugees, the Commissariat for Refugees shall keep records within its competence and shall set up databases. Accordingly, the Commissariat shall dispose of the registry of persons who have been granted refugee status and persons whose refugee status was terminated under this Law. In addition to a general database, the Commissariat shall keep individual databases on persons accommodated in collective centres and a database of persons who received help on resolving the housing problem in the process of integration. According to the Law on Refugees, from 1 January 2005 to 1 December 2010, 230 minor children, whose both parents were granted refugee status pursuant to this Law, were recognized as refugees.

Applications for status recognition under the Law on Refugees		2005	2006	2007	2008	2009	2010
Bosnia and Herzegovina	positive	36	20	9	4	6	1
	negative	1	4	/	/	/	/
Republic of Croatia	positive	65	31	14	23	16	5
	negative	2	8	/	2	/	1

29. Describe the activities related to practical cooperation with other countries that your asylum authorities are engaged in (for instance: exchange of country of origin information, organisation of seminars, study visits, etc.)

Regarding the asylum issue, the Republic of Serbia has established bilateral cooperation with many countries, mainly through their liaison officers in diplomatic and consular missions in Belgrade, through study visits, various seminars and other forms of education that are organized either in Serbia or abroad. In addition, an important form of cooperation is established through a regional initiative MARRI (with headquarters in Skopje, Macedonia), which gathers all the Western Balkan countries, i.e. their national authorities competent for migration and asylum issues. One of the most important issues that the MARRI member states currently address is expression of their opinion on the proposal of the Agreement of the MARRI Member States on the exchange and delivery of data on asylum seekers, the draft of which was prepared and the signing initiated by the Republic of Serbia in April 2010. So far, Serbia has not signed any bilateral or multilateral agreements on data exchange in this field.

30. Describe the situation of refugees covered by the *Law on Refugees*, which is applied to the refugees who arrived in Serbia during the Yugoslav wars of the 1990s (as opposed to the *Law on Asylum* of 2007).

Legal framework

The conflicts that erupted in 1991 - 1992 in the territory of the former SFRY triggered a massive arrival of refugees in the Republic of Serbia.

Status and rights of refugees are governed by the following regulations:

- **The Law on Refugees** (*Official Gazette of RS* No. 18/92, 45/02- SUS (Federal Constitutional Court)), which defines the concept of refugees and their rights in the Republic of Serbia covering the right to care, temporary accommodation, assistance in provision of food, adequate health care, financial and other assistance, as well as the right to education and employment. The law provides for the support in integration process and to returnees in their country of origin.
- **Regulation on Taking Care of Refugees** (*Official Gazette of RS* No. 20/92, 70/93, 105/93, 8/94, 22/94, 34/95, 36/04), which lays down the manners of providing assistance and care to refugees, as well as the aspects thereof.
- **Rulebook on the Refugee Identity Card** (*Official Gazette of RS* No. 23/92, 139/04), which prescribes the form of refugee identity card, as well as the way of keeping records of the refugee identity cards already issued and of the change of refugee residence;
- **The Law on Citizenship of the Republic of Serbia** (*Official Gazette of RS* No 135/04, 90/07), which lays down the methods and conditions for acquiring and terminating citizenship of the Republic of Serbia. Pursuant to Article 23 of the said Law, a procedure of admission to the citizenship of the Republic of Serbia shall be simplified to persons from one of the former SFRY republics who took refuge in the Republic of Serbia;
- **The Law on Health Care** (*Official Gazette of RS* No. 107/05, 72/09), which regulates the health care system in the Republic of Serbia. Pursuant to Article 238 of the said Law, the refugees, foreign nationals, persons granted asylum and stateless persons shall have the right to health care by their residence, i.e. where their temporary or permanent residence is registered.

Accordingly, provision of the following regulations shall also apply to the refugees: the Law on Social Protection and Providing Security of Citizens (*Official Gazette of RS* No. 36/91, 79/91, 33/93, 53/93, 67/93, 46/94, 48/94, 52/96, 29/01, 84/04, 101/05, 115/05),

the Law on Domicile and Residence of Citizens (*Official Gazette of SRS* No. 42/77 (revised text), 25/89) (*Official Gazette of RS* No. 53/93, 67/93, 48/94, (17/99, 33/99), 101/05), the Labour Law (*Official Gazette of RS* No. 24/05, 61/05, 54/09), and a set of laws regulating the field of education.

Statistics

In accordance with the Law on Refugees, the Commissariat for Refugees shall keep records of persons whose refugee status has been recognized. In addition, the records shall be kept of persons who have terminated the refugee status to integrate and acquire personal documents of the Republic of Serbia and also of persons whose status has been terminated due to organized return to their country of origin or resettlement in third countries through UNHCR. Due to the lack of adequate mechanisms for monitoring the spontaneous return and resettlement in third countries (when performed directly through the embassies of recipient countries), the Commissariat, together with UNHCR, conducted three censuses of refugees.

The 1996 census covered the holders of refugee status, but also war-affected persons, i.e. the persons who could not acquire the status within terms of the Law on Refugees, but due to the war left their territories and came to Serbia. The said census listed 537.937 refugees and 79.791 war-affected persons.

On the occasion of the 2001 census, 451.980 persons were registered, out of whom 377.131 had the status of refugees and 74.849 were war-affected persons.

The last registration of refugees, conducted from 27 November 2004 to 25 January 2005, was mandatory in nature. On that occasion, on the basis of data on returnees that were obtained from the countries of origin through UNHCR, the checks were conducted on the refugees who continued to meet the criteria for retaining refugee status. Persons whose refugee status was confirmed, were issued new refugee documents. For persons who are, during the registration process, identified as holders of returnee status, beneficiaries of assistance in resolving permanent housing problem in the process of integration in the Republic of Serbia or if they had moved to third country, the decision was taken on termination of refugee status with the possibility to file a claim and to be entitled to judicial protection.

Out of 141.685 persons who took part in the said census, the status was confirmed to 104.246 of them and terminated to 37.435 persons.

Country of origin (before 1992)	1996 Census		Registration of 2001.		Registration of 2004/2005.	
	Number of refugees with status	%	Number of refugees with status	%	Number of refugees with status	%
Bosnia and Herzegovina	232.974	43,31	133.853	35,50	76.546	73,43
Croatia	290.667	54,03	242.624	64,33	27.541	26,42
Other	14.296	2,65	654	0,17	159	0,15
Total	537.937	100,00	377.131	100,00	104.246	100,00

According to data of March 2009, 86.155 persons enjoyed refugee status in the Republic of Serbia. Still, more than 75% of all persons who enjoy refugee status are persons from the Republic of Croatia

Refugees are regularly de-registered due to integration into the Republic of Serbia, which is governed by compulsory termination of refugee status for registration of permanent residence in the Republic of Serbia. One of the results of the Regional Ministerial Conference on durable solutions for refugees and displaced persons in the region, held in March 2010, is the agreement on the continuous exchange of data on returnees with countries of origin, for the purpose of regular updates of statistics and on the basis of data from the country of origin. Upon completion of the exchange of data and their comparison by UNHCR, which is in progress, the exact number of persons who still enjoy refugee status will be known.

The rights of persons with refugee status

The position of refugees coming from the former SFRY republics is regulated in such a way that the refugees enjoy almost completely the same rights as citizens of the Republic of Serbia.

Refugees have the rights to freedom of movement and residence, as well as other citizens. There are no restrictions on the choice of place of residence.

Refugees are provided with personal documents, i.e. refugee identity card issued by the Ministry of Interior on the basis of the decision on status recognition taken by the Commissariat for Refugees. Refugee identity card is a public document which confirms the identity and on the basis of which refugee shall exercise the rights he/she is entitled to under the law, and shall prove other facts contained therein. The regulations on issuance of the identity card shall be accordingly applied to issuance, holding and replacement of refugee identity card.

Refugees are guaranteed collective protection of personal, property and other rights and freedoms and they are provided with international legal protection by the Republic of Serbia, in a way regulated for its citizens.

Refugees have the right to work and employment in accordance with the regulations governing this issue. In accordance with applicable legislation, refugees cannot enter into employment relationships only with state agencies and the courts, for which the nationality of the Republic of Serbia is a necessary requirement. Refugees are entitled to assistance in employment through appropriate employment service.

Refugees are entitled to social security, as well as to family legal protection. Refugees who do not have sufficient financial means are entitled to care that involves organized admission, temporary accommodation, assistance in provision of food, financial and other assistance. The Commissariat can provide temporary accommodation and food support to refugees by organizing collective accommodation in collective centres or individual accommodation in facilities and special purpose institutions. Temporary accommodation shall be determined by the Commissariat, taking into account to the greatest extent possible, the best interests of the refugees who are or will be accommodated in the collective centre. For persons who cannot use a collective centre due to mental and physical condition (old, disabled and sick persons), as well as for minors without parental care, the Commissariat shall provide accommodation in an institution of social welfare, in another facility of social protection or in family, on the basis of decision of the Centre for Social Work..

The refugees' right to health care at primary, secondary and tertiary level is regulated by the Law on Refugees. The new Law on Health Insurance stipulates that health insurance for the refugees who have no other basis for insurance (employment relationship, pensions) shall be funded from the budget. Refugees are exempt from paying the participation costs of treatment.

Persons who have been granted refugee status are entitled to free education. The costs of accommodation for children of refugees in boarding schools shall be paid from the budget, if necessary.

Commensurate with its capabilities, the Republic of Serbia can solve the housing needs of the refugees who have opted for integration therein.

The Republic of Serbia can provide assistance to the refugees who have opted to return in order to settle in the former SFRY Republic where they fled from.

Rights and obligations of refugees shall be exercised by place of their residence in the Republic of Serbia.

Solving the refugee problems

Legal and strategic framework for integration of refugees comprises the Law on Refugees and the National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons (2002).

In accordance with the said documents and internationally accepted standards and norms, the refugees shall be allowed to freely choose between integration and return to a previous residence.

In order to facilitate integration, in accordance with the National Strategy, the new Law on Citizenship has envisaged simplified procedure for the acquisition of citizenship for refugees from the former SFRY republics, thus facilitating their formal integration.

With regard to the rights guaranteed to refugees by the law and the fact that the recognition of status entitles them to educational, health and social system without major obstacles, the greatest difficulties in their integration are housing and employment.

In order to collect basic data needed for programming and planning the solutions for the problems of refugees in Serbia, the Commissariat for Refugees, in cooperation with UNHCR and IOM organized and conducted research on their needs, in December 2008. The most important findings are:

- the unemployment rate among refugees is 33%, which is significantly higher than that among the local population
- 29% of refugees have monthly incomes per household member below the threshold necessary for exercising the right to financial family support
- 61% of refugees live in rented apartments or with relatives and friends.
- only 5% of the refugees want to return to the country of origin.

In addition to the above mentioned, it should be noted that there are still 54 collective centres operating in Serbia, out of which 17 are located in Kosovo and Metohija with 4.421 persons accommodated therein. Of this number, 929 persons enjoy the status of refugees (of which 99 in Kosovo and Metohija).

In order to facilitate full integration in the society, various projects are carried out aimed at providing permanent housing solutions for refugees who cannot or do not want to return to the country of origin. Projects are implemented by the Commissariat for Refugees in cooperation with UNHCR and local self-governments. Projects are financed from the RS budget and from donor funds, mainly provided by EU and UNHCR. Integration projects include the construction of housing units, assistance in providing construction material for the completion of housing objects in the process of construction, purchasing village houses with gardens and construction of social housing. The right to address the housing needs can be exercised by refugees who cannot make use of the real estate in the country of their former residence or in another country, who did not alienate, donate or exchange the real estate in the state of their previous residence or in another state since obtaining the refugee status but could solve their housing needs thereof, who do not possess the real estate by which they could solve their housing needs, have no financial means they could use to solve their housing needs and are not the

beneficiaries of some other programme of social housing in the process of integration or return.

Priority in solving housing needs of refugees is given to persons accommodated in collective centres, whose number has significantly decreased since the beginning of their planned closure (the number of collective centres and persons residing in them has been reduced by 83%).

Apart from addressing the housing problems, different programmes aimed at economic empowerment of refugees have been developed in accordance with the National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons. Under these programmes, different trainings for improving competitiveness in the labour market have been implemented as well as projects on granting in-kind aid for initiating personal income-generating activities and self-employment.

So far, the refugees and IDPs in Serbia have been provided with about 10.500 different housing solutions, out of which about 8.000 were allocated for refugees from the former SFRY republics, thus facilitating the integration of about 35.000 refugees. The biggest obstacle to solving the problem of refugees' integration is the lack of funds, due to which the pace of implementation is slowed and the number of the persons covered is significantly lower than the actual needs.

Out of a total number of refugees from Bosnia and Herzegovina who found refuge in Serbia, about 72.000 or 31% of them returned to the place of residence. At the same time, about 55.000 persons, or 19% of a total number of refugees from Croatia, fulfilled the UNHCR requirements for the acquisition of returnee status in Croatia.

To remove obstacles for the return and exercise of rights in the countries of origin, the Sarajevo Process was launched as a regional initiative, under which, the participation of UNHCR, the European Commission and OSCE, should enable the control over the return of refugees and the exercise of associated rights. Due to a slowdown in implementation of the Sarajevo Declaration, the Republic of Serbia initiated a conference to discuss pending issues (addressing the problem of refugees, the former tenancy right holders from RC; due and unpaid pensions; restoration of property in the country of origin, etc.) regarding the support and the way of determining mechanisms for the solution thereof, with responsibilities to be assumed by the countries from the region. The Conference on "Permanent solutions for refugees and internally displaced persons - cooperation between regional countries" held on 25 March 2010. in Belgrade, resulted in a joint statement of the Ministers of Foreign Affairs of the Republic of Serbia, Croatia, Bosnia and Herzegovina and Montenegro, ascertaining unsolved problems of refugees and internally displaced persons and the need to intensify regional cooperation in order to achieve just, comprehensive and permanent solution. The conference and the forthcoming process are aimed at facilitating the solution of a series of open questions within the regional framework and with the support of international organizations that made their contribution by signing a joint document which refers to solving the refugee problem in the region and establishing regional cooperation and stability. As a result of the Conference, an expert working group on statistics (bilaterally Croatia - Serbia) and an expert group for the regional project (Bosnia and Herzegovina, Montenegro, Croatia and Serbia) have been established thus far.

Visa policy

31. Please provide information on legislation or other rules governing your visa policy.

The visa policy in the Republic of Serbia is governed by the Law on Foreigners and the Visa Rulebook of the Ministry of Foreign Affairs of the Republic of Serbia (Official Gazette of RS No 27/2010, which entered into force on 1 June 2010, the Ministry of Interior rulebooks on issuance of visas at the border crossing and on extending the validity of visas).

32. Which third countries are currently under visa obligation and which ones are not?

Visa regime of the Republic of Serbia to third countries enclosed in the Annex 1.

33. Are there any provisions for a seasonal visa free regime?

In the Republic of Serbia, the applicable laws and by-laws do not envisage a seasonal visa free regime.

34. What types of short- and long-term visas are issued, including by diplomatic representations abroad?

According to the Law on Foreigners, the following types of visas are issued in the Republic of Serbia – **A** (airport transit visa); **B** (transit visa of up to 5 days); **C**: individual short stay visa that can be issued for uninterrupted short stay of up to 90 days within the period of six months (C1), double or multiple entry visa for a short stay of up to 90 days within the period of six months (C2), multiple entry visa for a short stay of up to 180 days within the period of one year (C3); and **D** (a temporary residence visa for a stay of up to one year). All types of visas are issued upon obtaining the approval from the competent authority – the Ministry of Interior of the Republic of Serbia – Border Police Directorate.

35. What criteria and conditions are used as a basis for issuing the different types of visas?

Along with the application for issuing visa, the holder of a foreign travel document shall also submit:

- 1) travel documents valid at least 90 days from the day of the visa issuance;
- 2) one photo 3.5x4.5 cm;
- 3) a return travel ticket, or a photocopy of an international drivers license and vehicle registration with the liability insurance policy (in case of entry or transit by passenger car);
- 4) proof of sufficient funds to cover subsistence for the stay in the Republic of Serbia and a certificate of vaccination or not suffering from infectious diseases if coming from areas affected by epidemics of infectious diseases, in accordance with regulations governing the conditions for refusal of foreigner's entry into the Republic of Serbia
- 5) a proof that the consular fee has been paid.

For individual transit visas A or B, a photocopy of the visa or of the document for entry into third country shall be submitted. For a common transit visa A or B, the following papers should be submitted: verified power of attorney from the other parent if the child or children travel with one of the parents, or from both parents or guardians if they travel with a third party, or a certified list of group members who have been issued a common visa.

For individual C visa, the following papers should be submitted: Excerpt from the marriage registry, or other excerpts and documents in case of mixed marriage with Serbian citizen or a copy of journalistic legitimacy and accreditation of the newsroom to report from the Republic of Serbia (journalists).

For a common short stay visa (visa C) the following papers should be submitted: a verified power of attorney from the other parent if the child or children travel with one of the parents, or from both parents or guardians if they travel with a third party, or a certified list of group members who have been issued a common visa.

In case of a temporary stay in the territory of the Republic of Serbia, in addition to points 1 to 5 the following documents should be submitted:

- 6) decision on registration of the company or other legal entity where the foreign national is entering into employment relationship,
- 7) contract of employment and the opinion of the RS National Employment Service when the employment relationship is being entered into for the first time or the opinion of the National Employment Service authorizing the employment relationship.

The person deployed by his/her head office with its headquarters abroad to work in one of its branches located in the territory of the Republic of Serbia, shall submit a decision on registration of the company and referral letter of the sending company.

If the person is sent to work in the company that does not have a head office abroad, he/she shall submit the contract on business and technical cooperation between the company which refers him/her to work and the company located in the territory of the Republic of Serbia where he is coming.

Exceptionally, the holder of a foreign travel document who is coming to service in the Republic of Serbia as a member of a diplomatic or consular office of a foreign state or international organization accredited in the Republic of Serbia, or when coming to an official visit to our country, shall not submit the accompanying documentation with the visa application. The exemption shall also apply to family members of the said foreigner.

36. What is the standard procedure for the assessment of a visa application? Which institutions are responsible to carry out the assessment?

The procedure for the assessment of a visa application shall start upon submitting of the party's applications to the diplomatic or consular mission of the Republic of Serbia. The party's application, which comprises a set of documents (given in answer to question 35), shall be examined by the authorised officer and shall be subject to assessment by the head of consular department who shall give his/her opinion on the application submitted. The application shall be made in electronic form and forwarded to the database of submitted applications and issued visas in the DKP (Diplomatic and Consular Missions), which is centralised at the Ministry of Foreign Affairs – the Visa Centre. The Visa Centre shall conduct the checks on fulfilment of requirements for application and shall forward the application processed thereof to the Ministry of Interior – Border Police Directorate. The Border Police Directorate is in this way notified of all submitted applications for visa issuance, as well as issued visas in diplomatic and consular missions of the Republic of Serbia abroad. Moreover, Border Police Directorate of the MoI shall conduct security and other checks on each submitted application and shall also, within its competence, conduct interview with a host or a guarantor in the host country, in order to evaluate the grounds for the arrival of

foreign national and to provide guarantees within the meaning of Article 23 of the Law on Foreigners.

Based on the assessments, the MoI-BPD (Border Police Directorate) shall give its consent / deny the submitted visa application being entered in electronic form into the existing database. On the bases of MoI consent, the Visa Centre shall enable the visa issuance by allowing the option for printing the visa in the diplomatic or consular office. In case of the MoI disagreement, the applicant shall be informed of visa issuance denial.

The following institutions are responsible to carry out the assessment: Visa Centre of the Ministry of Foreign Affairs and Border Police Directorate of the Ministry of Interior.

37. Does your country have online connections between visa-issuing authorities and the Foreign Ministry? Do you have broadband or high-speed connections to your central visa issuing authorities from your consular posts in third countries capable of transmitting biometric files? If not, do you have plans for such technical implementation?

Online connection is established between diplomatic and consular missions that issue visas and the Ministry of Foreign Affairs. Consular missions in third countries have neither broadband nor high-speed connections capable to use for transmitting biometric files to our central visa issuing authorities.

There is a preliminary design for expanding the technological capabilities of the existing system, for the realization of which neither tangible assets nor financial resources are available.

38. Do your visa-issuing authorities have the physical capacity to digitally collect biometric identifiers (fingerprints and facial images) from visa applicants? If not, do you have plans for such technical implementation?

The authorities competent for issuing visas are the Ministry of Foreign Affairs and the Ministry of Interior – within the competence of giving consent for issuing visas and conducting the checks of visas issued at border crossing points. Establishment of Working Group for creation of electronic records system of visas and rejected applications for visas was initiated between the competent ministries in order to constitute a basis for further development of the Visa Information System in accordance with EU standards. The Ministry of Interior and Ministry of Foreign Affairs have the physical capacity to digitally collect biometric identifiers (fingerprints, facial images) only for the purpose of issuing travel documents and identity cards, while the technical capacity for issuing visas by the same method, does not exist. Diplomatic and consular missions of the Republic of Serbia also have limited capacities for collecting biometric identifiers for issuing biometric travel documents. Namely, one can apply for biometric passport in 30 out of 82 diplomatic and consular missions, mainly in the countries where numerous Diaspora from the Republic of Serbia reside (EU, USA, Canada, etc). In the countries of potentially high migration risk, there are no technical capacities for collection of biometric identifiers for issuing either travel documents of the Republic of Serbia or visas.

Within the development of the project on establishing visa information system, the plan is to provide equipment and to create technical preconditions for digital

collection of biometric identifiers from the visa applicant. The equipment for digital collection of biometric identifiers is not installed presently at the border crossing points.

39. Does a national visa register/database exist (including granted visas and rejected visa applications)?

As of 1 June 2010, i.e. since the commencement of application of the new Rulebook on Visas, an electronic database has been set up as the register of granted visas and rejected visa applications, which is accessible to the Ministry of Interior – Border Police Directorate and to the Ministry of Foreign Affairs – the Visa Centre and diplomatic and consular missions.

40. Do the existing visas allow applicants to work in your country without a residence permit or working licence?

In accordance with the legislation of the Republic of Serbia, the existing visa holders are not allowed to work without registration of the residence, or without obtaining work permit, except in cases prescribed by the Law on Foreigners and the Law on the Conditions for the Employment of Foreign Citizens, only in cases when the foreign national holds the permanent or temporary residence permit in the Republic of Serbia, and if he/she enters into employment relationship for performing professional activities stipulated by the contract on business and technical cooperation, on long-term cooperation, on transfer of technology and on foreign investments.

The employment relationship is regulated by Articles 2,3,4 and 5 of the **Law on the Conditions for the Employment of Foreign Citizens. 2, 3, 4. .**

Pursuant to the Law on the Conditions for the Employment of Foreign Citizens, a foreign national can enter into employment relationship if he/she holds the permit for permanent or temporary residence in the Republic of Serbia and if he/she obtains a work permit.

A foreign national can enter into employment relationship with an organization or an employer, without work permit and without public announcement, if he/she holds the permanent or temporary residence permit in the Republic of Serbia, and if enters into employment relationship for performing professional activities stipulated by the contract on business and technical cooperation, on long-term production cooperation, on transfer of technology and foreign investments.

In accordance with the law, jobs available to foreign nationals shall be determined by the general act of the organization.

A foreign national who holds the permanent residence permit in the Republic of Serbia shall submit a request for issuance of a work permit to authorized organization for employment, or employment branch office, by place of residence.

A competent branch office shall grant a work permit for the period of validity of the permanent residence permit.

The employer shall submit a request to the competent branch office for issuing a work permit to a foreign national who holds the temporary residence permit, by place of the employer's headquarters. Based on the employer's explanation for the need to employ a foreign national, the competent branch office shall issue a work

permit to the foreign national for the period of validity of the permanent residence permit.

A foreign national shall enter into employment relationship on the date of work commencement, based on the contract of employment between employer and employee.

A foreign national entering into employment relationship under contract shall be terminated the employment relationship on the contract expiry date.

Employment relationship shall be extended to a foreign national who was extended a temporary residence in the Republic of Serbia and who was granted a new work permit.

Furthermore, organization or employer can conclude employment relationship with a foreign national under the contract on performance of temporary service, for a period not longer than three months in a calendar year, under the same conditions provided by law and the general act relating to performance of such activities by the citizens of the Republic Serbia.

41. Does your legislation foresee any provision for the punishment of persons entering your territory without a passport? If not, do your authorities have the intention to introduce any amendment to this end and when will this be done?

Article 10 of the Law on the State Border Protection stipulates that crossing of the state border shall mean any movement of people across the state border.

The state border may be crossed, as a rule, only at border crossing points with valid travel document or other document prescribed for crossing of the state border, in the time specified for traffic at the border crossing point and in a manner in compliance with the purpose of the border crossing point.

Pursuant to Article 65 of the same Law, a fine or up to 30 days imprisonment shall be imposed on a natural person committing an offence by:

1) crossing or trying to cross the state border outside a certain border crossing point, outside working hours at the border crossing point or contrary to the purpose of the border crossing point; or crossing or trying to cross the state border at a border crossing point without valid travel or other document prescribed for crossing of the state border.

Pursuant to Article 26 of the Law on the State Border Protection, a person who is crossing or who has already crossed the state border shall be obliged during border checks to present to a police officer valid document for crossing of the state border and to enable undisturbed control. This person shall not be allowed to leave the zone of the border crossing point until the border control is completed.

Pursuant to Article 65 of the same Law, a fine or imprisonment shall be imposed on a natural person committing an offence by:

2) not possessing a document prescribed for crossing the state border or refusing to present it to police officer, i.e. refusing to submit to border checks or leaving the zone of the border crossing point before the border check is completed or trying to evade border control in some other way.

Unlawful entry in the Republic of Serbia shall be the entry:

- 1) outside the place or the time specified for crossing the state border;
- 2) by evading cross border control;
- 3) by using other person's invalid or false travel documents or other papers;

- 4) by providing the border police with false data;
- 5) which occurred for the duration of the protective measure of removal of the foreigner from the territory of the Republic of Serbia, security measure of banishment of the foreigner from the country or the measures of termination of residence.

Pursuant to Article 84 of the Law on Foreigners, a fine shall be imposed on a foreigner who enters the territory of the Republic of Serbia unlawfully. In addition to the fine, the foreigner may also receive the protective measure of removal from the territory of the Republic of Serbia.

42. In which cases can visas be issued at border crossings? How frequently is this done? What checks are performed in these cases?

According to provisions under Article 14, of the Law on Foreigners (“Official Gazette of the RS” no. 97/08) *visa may be issued at the border crossing only exceptionally*, when there are serious humanitarian reasons or if it is in the interest of the Republic of Serbia. In such cases the border police may, with consent of the Ministry headquarters, issue a transit visa (type B visa) for a single transit, or a short stay visa (type C visa) for a single entry with the term of validity of up to 15 days, when a foreigner has had no opportunity to apply for a visa via a diplomatic mission or a consular office of the Republic of Serbia, provided he/she presents adequate proof of urgency of the trip for which he/she needs the visa. The Rulebook which was adopted in line with the above mentioned provision of the Law on Foreigners, sets more specific conditions and the procedure for issuing visas at the border crossings, stipulating that exceptionally, and when there are serious humanitarian reasons or if it is in the interest of the Republic of Serbia, a foreigner may apply for visa issuance at the border crossing, submitting evidence of the existing serious humanitarian reasons and of urgency of the trip, as prescribed by Article 2, paragraph 3, of the above mentioned Rulebook. Officials receiving the visa issuance application at the border crossing shall carry out checks using all available databases kept at the border crossing, complying with Article 6, paragraph 1, of the Law on Protection of State Border. When issuing a visa at the border crossing, the Government Regulation on more specific conditions for the denial of foreigner’s entry into the Republic of Serbia shall be respected.

43. Are your border crossing points organised so that biometric equipment may be integrated into existing border check processes? Do you have plans for such technical implementation?

With the project which was accomplished through the EU structural funds, the programming cycle CARDS 2006, the minimum technical preconditions were established for the improved state border control and security from the standpoint of information technologies utilization.

Completion of the projects, which are also funded by the EU structural funds, the programming cycle IPA2007 and IPA2008, will improve communication and information infrastructure at border crossings of the Republic of Serbia. Thereby the technical preconditions will be fulfilled to enable integration of the digital biometric

data collection equipment in the existing information and communication infrastructure.

44. Do you have any agreements with third countries to issue visas on your / their behalf? In this case, how is the assessment of each request ensured?

The Republic of Serbia has concluded the agreements with three countries on issuing visas on behalf of the other party: With the Republic of Macedonia, Republic of Montenegro and Republic of Bosnia and Herzegovina. Visa applications, which are submitted in diplomatic and consular missions of other signatories to the agreement, are forwarded for the approval to competent authorities of the country the visa is issued for. Thereby, the visa sticker bears the mark of the country whose diplomatic or consular mission actually issues the visa, while the name of the signatory country is being entered into the "notes" column on the visa sticker.

45. Are you cooperating with or do you intend to cooperate with third countries to share premises for visa issuing procedures? If so, how is the assessment of each visa request ensured?

At this point, there is no cooperation with third countries in terms of sharing premises for visa issuing procedures.

46. Document security: Please provide information on legislation and other rules governing the issuance of machine readable biometric passports and travel documents to Serbian citizens and residence permits to third country nationals legally residing in Serbia. Please provide information on legislation and other rules governing the format and the security features of visas.

The Law on Travel Documents was adopted on 24 September 2007 and published in *Official Gazette of the Republic of Serbia* No 90, of 1 October 2007, as well as the following corresponding by-laws: Rulebook on Travel Documents was adopted on 14 May 2008 and published in the *Official Gazette of the Republic of Serbia* No. 54 of 23 May 2008 (Rulebook amending the Rulebook on Travel Documents, which regulates new formats of travel certificate and visa, was adopted on 6 May 2010 and published in *Official Gazette of RS* No.34, of 21 May 2010; Rulebook on the Formats of Passport, Diplomatic Passport and Official Passport was adopted on 14 January 2008 and published in *Official Gazette of the Republic of Serbia* No.7 of 18 January 2008; Regulation on the Procedure for Determining the Fulfilment of the Prescribed Conditions for Issuing Passports to Persons from the Autonomous Province of Kosovo and Metohija was adopted on 15 September 2009, and published in *Official Gazette of the Republic of Serbia* No. 76, of 16 September 2009; Regulation on Evaluation of the Formats of Passport, Diplomatic Passport and Official Passport was adopted on 17 January 2008 and published in *Official Gazette of the Republic of Serbia* No. 8, of 23 January 2008; Regulation on Issuing Diplomatic and Official Passports was adopted on 29 January 2009 and published in *Official Gazette of the Republic of Serbia* No. 7, of 30 January 2009.

Within the meaning of the Law on Travel Documents, travel documents shall be: passport, diplomatic passport, official passport, travel certificate, as well as travel documents issued on the basis of an international agreement. A travel document is also a shipping booklet of a member of a crew of an inland shipping vessel, as well as a sailor's booklet of a member of a crew of a sea-going ship, if supplied with a valid visa of the Republic of Serbia in accordance with the said Law on Travel Documents.

The Law on Travel Documents and by-laws for the implementation thereof, have provided for a completely smooth process of issuing passports in the new format of the Republic of Serbia, harmonized with European standards.

The procedure for issuing biometric passports is described in details by the provisions of the Law on Travel Documents and Rulebook on Travel Documents, while the layout of the passport, including protective measures as well, are thoroughly described through the provisions of the said Law and Rulebook on the Formats of Passport, Diplomatic Passport and Official Passport.

In accordance with the Law on Travel Documents, the format of the passport, diplomatic passport and official passport contains the space needed for automatic data reading in which visible alphanumerical data are entered, as well as protective elements regulated by the Minister in charge of Internal Affairs. The person granted a travel document shall be entitled to insight into the data for automatic data reading which are entered in his/her travel document by the competent authority.

The formats of travel certificates and visas of the Republic of Serbia are prescribed by the above mentioned Rulebook on amending the Rulebook on Travel Certificates, adopted on 6 May 2010.

It should be noted that the formats of travel documents are developed in accordance with the ICAO 9303 Standards, EU Council Recommendation (EC) No. 2252/2004, as well as with ISO/IEC 14443 and ICAO NTWG.

The Law on Foreigners (Official Gazette of the Republic of Serbia No. 97/08), Rulebook on Visas (*Official Gazette of the Republic of Serbia*, No. 27/10), Rulebook on More Specific Conditions, the Format of Application and the Procedures of Extending the Visa Validity and Rulebook on More Specific Conditions and Procedures of Issuing Visas at the Border Crossing Points (*Official Gazette of the Republic of Serbia* No. 59/09), contain the rules which regulate the format and security solutions for visas issued to foreign nationals.

The format and security solutions for issuing visas are regulated by Rulebook on Visas of the Ministry of Foreign Affairs (Articles 7 and 8), based on the Law on Foreigners. The same Rulebook prescribes the following: the size of the visa format is 105x74 mm, made of adhesive coated paper, printed in light blue and dark blue tones. The form includes visible and invisible UV fibres with built-in security elements (intaglio printing, kinegram, OVI printed labels – in optically variable ink and in fluorescent colour, with micro text). Visa format shall contain the following: the base at the top, with printed text "VISA" in modulated lines and guilloche rosette, and a kinegram with a small emblem of the Republic of Serbia at the top left corner. In the central upper part, the label "REPUBLIC OF SERBIA" is printed with translation in English and French and with the text - "VIZA / VISA" under it, and serial number of the visa form is printed in the right corner in red colour as a combination of letters and seven-digit number. The base-surface of the central part of the form, in screen printing and in light blue colour, is the printed

international designation for the Republic of Serbia - "SRB", except for the left side, reserved for a photo. The rest of the form area contains sections in Serbian (Cyrillic), English and French languages, where the following is written: "Valid from", "Valid until", "Type of visa", "Number of entries", "Period of stay", "Days", "Place of issuance", "Date of issuance", "Passport number", "Last name", "First name", "Notes" and "Registration number", and under the last column there is the international code "SRB" printed in OVI ink. In the lower part there is the international code – "SRB", processed by modulated lines in light blue tones. Two coupons with visa serial number are printed in red colour on the visa form and in the columns – "Fee" and "Registration number".

47. What is your technical and administrative capacity to detect falsified documents? Please explain.

Technical capacity to identify the authenticity of documents can be grouped in three levels – categories, as follows: capacities of the cross border points, sections for criminal and AD (anti diversion) techniques and of the National Criminal Centre of the Criminal Police Directorate of the MoI of the Republic of Serbia.

At the training courses, police officers of the Criminal Police Directorate and Border Police Directorate are introduced to the development techniques and protective elements of travel documents as well as to methods and techniques of forging.

The Border Police Directorate has 14 devices for detecting forgeries - "**Projektina dokubox**", which are installed at: three border crossing points with Hungary (Horgos, Kelebija and Becki Breg), two devices per each border crossing point with Croatia (Batrovci and Sid), Romania (Vatin and Djerdap), Bulgaria (Gradina and Vrska Cuka), Bosnia and Herzegovina (Sremska Raca and Mali Zvornik), one device per each airport (Belgrade and Nis) and a device at the border crossing with Macedonia (Presevo). The problem is lack of the said device at the border crossing point with Montenegro.

If, during the control on a border crossing point, reasonable suspicion arise that a person has presented or held travel document or other document containing possible signs of forgery, the said person shall be handed over with the travel document or other document to officers of criminal police within the territorial competence of the police directorate.

The next technical capacity to identify the authenticity of documents is located at the police directorates where the trained police officers are employed. Namely, all crime technicians attend basic training on the Basic Course on Crime Techniques with the subject on documents examination. All sections of the crime technique in police directorates are equipped with stereo microscopes, UV lamps, stereo microscopes, magnifiers and basic equipment, which are necessary for examination of documents.

Therefore, the first levels of determining authenticity of documents are the devices, so called „**Projektina**“, which are installed at the border crossing points. In addition to the said devices, auxiliaries, such as magnifiers, UV (ultraviolet) lamps and the like, are also used to detect forgeries. It is necessary to emphasize that the Border Police Directorate detects forgeries, but the National Crime Technical Centre which operates within the Border Police Directorate is competent for identifying the forgery. Pursuant to national legislation, when it comes to determining whether or

not a document is considered a forgery, only the authorized expert opinion of the National Crime Technical Centre shall be a valid proof in court.

Thus, the members of the border police and crime technicians conduct basic research and expertise.

The most documents forgery examinations are performed at the National Crime Technical Centre (NCTC). Examinations are conducted on the basis of requests of the MoI organisational units and by orders of competent courts.

In the NCTC Department for Examinations, at the MoI headquarters, four expert forgery examiners are currently engaged in graphoscope expertise (examination of documents, handwritings).

This Department has the following equipment for the examination of documents:

1. "Projectina docucenter 3000"
2. "Projectina docucenter 4500"
3. „Foster freeman VSC 5000“
4. „Foster freeman FORAM“, a device for Raman spectroscopy, for examining ink and other materials attached to documents.

Two expert forgery examiners are engaged in these activities at the NCTC Department in Nis which is equipped with "Projectina Docubox Dragon" device. The NTCT Department in Novi Sad employs 3 expert forgery examiners on documents examination. The examinations are conducted on the "Projectina docubox 500s" device.

Regarding administrative capacities to determine forgeries, it is important to say that, in cooperation with OSCE Mission, NCTC experts held 17 training courses on Identification of documents as forgeries, organized for the members of border police and attended by over 200 police officers. Every police directorate has the section for combating fraud and forgery, where the police officers, upon the discovery and identification of forged documents, submit criminal charges to the competent public persecutor, according to the procedure prescribed by the Criminal Procedure Code, for criminal offences envisaged by the Criminal Code, as follows: CO (criminal offence) within the meaning of Articles 355 – Forging a Document, Article 356. - 356. Special Cases of Forging Documents, Article 357 - 357. Forging an Official Document, and Article 358 - 358. Inducing to Certify False Content.

Ministry of Foreign Affairs, i.e. diplomatic and consular missions, do not have special equipment to identify falsified documents. In case of the suspicion in documents authenticity (forgery), the examination shall be required to be done competent authorities of the MoI of RS, or the validity checks to be conducted by the competent authorities of the countries within the jurisdiction area which is covered by the consular mission of the Republic of Serbia. During their preparations for departure to service in another country, diplomatic and consular officers are trained to roughly identify a document as a forgery.

48. Please explain in detail the special procedures for Kosovo residents to obtain biometric passports, its functioning since its introduction and the measures taken to prevent fraud and corruption (in particular in view of bogus residence changes).

Organisational units of the Ministry of Interior, as the competent authority, conduct the registration of temporary and permanent residence of the Republic of Serbia citizens in accordance with the Law on Domicile and Residence of Citizens, adopted

on 13 October 1997, published in *Official Gazette of the Republic of Serbia* No. 42, of 22 October 1977, i.e. No. 42/77, 48/94.

The Government Regulation on the Procedure for Determining the Fulfilment of the Prescribed Conditions for Issuing Passports to Persons from the AP of Kosovo and Metohija (*Official Gazette of RS* No. 76/09) stipulates that security and other relevant measures shall be conducted in the procedure of registration and termination of residence and the address registration of the citizens of the Republic of Serbia who have already registered their residence in the territory of the AP of Kosovo and Metohija, in order to determine validity of data and submitted documents, and fulfilment of conditions prescribed by the Law on Domicile and Residence of Citizens.

Pursuant to the above mentioned, as of the day this Regulation came into force organisational units of the said Ministry have conducted on-site and other checks on the information contained in the applications upon receiving the registration of residence of the said category of persons, in order to identify the facts relevant to the residence registration and to prevent the violation of rights to freedom and residence, guaranteed to citizens of the Republic of Serbia by the Constitution.

Upon conducting thorough identification of facts, if determined that the legal requirements for registration of applicant's residence are not fulfilled, the competent authority shall take a decision to reject the concerned application for registering the residence, in compliance with the Law on Domicile and Residence of Citizens.

At the same time, if determined by additional checks that the person is registered to the residence without the grounds thereof, or if determined that the person did not provide valid information in his/her application for permanent residence, administrative line of work of the Ministry shall take a decision to cancel the residence application in accordance with Article 5 of the Law on Domicile and Residence of Citizens. In such a way, from 1 January 2010 to 1 December 2010, the Ministry cancelled 81 residence applications of persons who terminated their residence in the territory of the AP of Kosovo and Metohija and registered in the territory of the Republic of Serbia outside of the AP Kosovo and Metohija, upon conducting the additional checks which confirmed that, at the time of residence registration, the persons did not fulfil the legal requirements thereof.

The procedure for issuing biometric passports, which is aligned with the Law on Travel Documents (adopted on 24 September 2007 and published in *Official Gazette of the Republic of Serbia* No. 90 of 1 October 2007), does not differ as regards the categories of persons who apply for passport, i.e. whether or not person comes from the territory of the Autonomous Province of Kosovo and Metohija, except for concerning the competent authority to whom the application for passport is submitted and who issues the passport.

Regulation on the Procedure for Determining the Fulfilment of the Prescribed Conditions for Issuing Passports to Persons from the Autonomous Province of Kosovo and Metohija (hereinafter referred to as: The Regulation), adopted on 15 September 2009 and published in *Official Gazette of the Republic of Serbia* No 76 of 16 September 2009, stipulates the procedure for determining the fulfilment of prescribed conditions for issuing passports to citizens of the Republic of Serbia with the place of residence in the territory of the Autonomous Province of Kosovo and Metohija and to citizens of the Republic of Serbia who have been issued citizenship

certificates by the authorities of the Republic of Serbia with jurisdiction over the territory of the Autonomous Province of Kosovo and Metohija, but do not have the residence registered in the Republic of Serbia.

Pursuant to the above said, citizens of the Republic of Serbia who have no residence in the territory of the Autonomous Province of Kosovo and Metohija and the citizens of the Republic of Serbia who have been issued citizenship certificates by the authorities of the Republic of Serbia with jurisdiction over the territory of the Autonomous Province of Kosovo and Metohija, shall submit their passport applications to the Ministry of Interior - Coordinating Administration in Belgrade. The said application shall be entered into the register at this Ministry in electronic form, within the computer application "Travel Documents".

After the passport application has been submitted by the said category of persons, the Ministry of Interior of the Republic of Serbia and other competent authorities shall conduct security checks as well as other relevant checks, pursuant to the above Regulation.

The Ministry, competent for internal affairs, shall conduct appropriate checks in order to identify the facts relevant to taking decision on the application for passport issuance, according to the said Law on Travel Documents, as follows: authentication of personal documents with which the passport applicant identified himself/herself, verifying the authenticity of a certificate of citizenship or birth certificate which the party submitted at the competent civil registry, etc.

If determined that the passport applicant fulfils all legal requirements for issuing passport envisaged by the Law and Regulation, process of passport personalisation shall be initiated and subsequently the deliverance thereof shall be conducted at the Coordinating Administration of this Ministry. The data on the passport number, issuance date and the date of delivery thereof shall also be entered into the register at this Ministry in electronic form, within the computer application "Travel Documents". Passport deliveries shall be conducted through the network of registration points at which the applications for processing the passports are collected.

Given that the procedure for issuing biometric passports is conducted by the authorised officers of the Ministry of Interior who have electronic chip cards to access certain stages of process under legal actions, and having in mind that passport issuance and legality of the procedure are under the control of the second instance authority of the Ministry of Interior, these and other mechanisms prevent the abuse of powers of the authorities responsible for issuing passports

At the same time, protection of access to software application is provided where the data acquisition on passport applicants is performed and further stored in a central database before generating orders for personalisation and the mechanisms are developed to control the issuance of passports as contained in the form of software protection of applications for the issuance thereof, which fully automated the process of issuing passports.

Please note that the Ministry adopted anti-corruption ethics code on travel documents and visas for police officers during 2008, contributing through the prescribed norms of behaviour to combat all forms and aspects of corruption and privileges arising from the direct

involvement in performing tasks related to exercise of citizens' rights, as well as that the training of police officers has been conducted thereof.

External borders and Schengen

49. Please provide information on legislation and other rules governing the area of border management in your country.

The work of border services is stipulated in detail by laws and by-laws regulating competences, activities and responsibilities of border services, as well as citizens' rights and obligations relating to crossing state border, and movement of goods and capital.

This issue has been regulated to a significant extent by a series of bilateral and multilateral agreements governing different fields, such as: all types of international cooperation in international transport, visa regime, customs conventions, foreign trade, quarantine and protection of animals and plants, and the like.

Within the national legislation, key acts and by-laws have been adopted, referring to security and crossing of state border (the Law on State Border Protection, the Law on Foreigners, the Law on Asylum, the Law on Personal Data Protection, the Law on Travel Documents, etc), which are in compliance with the EU standards and Schengen rules, having in mind that upon the adoption of the said laws EU experts were consulted in any event.

The overview of the legislation, other laws and international agreements relevant to the exercise of powers of the Ministry of Interior and other authorities in performance of the control of crossing state border and the protection thereof:

Law and other regulations (national law):

- The Law Ministries (*Official Gazette of RS* No.65/2008, 36/2009); 65/2008, 36/2009);
- The Law on State Administration (*Official Gazette of RS* No.79/2005, 101/2007); 79/2005, 101/2007);
- The Law on the Police (*Official Gazette of RS* No.101/2005, 63/2009); 101/2005, 63/2009);
- The Law on State Border Protection (*Official Gazette of RS* No.97/2008) 97/2008);
- The Law on Foreigners (*Official Gazette of RS* No.97/2008); 97/2008);
- The Law on Travel Documents (*Official Gazette of RS* No.90/2007, 116/2008, 104/2009); 90/2007, 116/2008, 104/2009);
- The Law on Personal Data Protection (*Official Gazette of RS* No.97/2008, 104/2009) 97/2008, 104/2009) ;
- The Law on Asylum (*Official Gazette of RS* No.109/2007); 109/2007);
- The Law on Navigation and Ports on Inland Waters (*Official Gazette of RS* No.); 12/98, 44/99, 74/99, 73/2000, *Official Gazette of RS* No.85/2005, 101/2005); 85/2005, 101/2005);
- The Air Transport Law (*Official Journal of FRY* No. 12/98, 5/99, 38/99, 44/99, 73/2000, 70/2001, *Official Gazette of RS* No.101/2005); 101/2005);
- The Law on Road Traffic Safety (*Official Gazette of RS* No.41/2009); 41/2009);
- The Law on the Transport of Dangerous Goods (*Official Journal of SFRY* No. 27/90, 45/90, *Official Journal of FRY* No. 24/94, 28/96, 21/99, 44/99, 68/2002, *Official Gazette of RS* No.36/2009); 36/2009);
- The Criminal Procedure Code (*Official Journal of FRY* No. 70/2001, 68/2002,

- Official Gazette of RS* No. 58/2004, 85/2005, 115/2005, 46/2006, 49/2007, 122/2008, 20/2009, 72/2009); 58/2004, 85/2005, 115/2005, 46/2006, 49/2007, 122/2008, 20/2009, 72/2009);
- The Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime (*Official Gazette of RS* No.42/2002, 27/2003, 39/2003, 60/2003, 67/2003, 29/2004, 58/2004, 45/2005, 61/2005, 72/2009); 42/2002, 27/2003, 39/2003, 60/2003, 67/2003, 29/2004, 58/2004, 45/2005, 61/2005, 72/2009);
 - The Law on Plant Health (*Official Gazette of RS* No. 41/2010);
 - The Law on Food Safety (*Official Gazette of RS* No.41/2010);
 - The Law on plant protection products (*Official Gazette of RS* No. 41/2010);
 - The Law on Plant Nutrition Products and Soil Enhancers (*Official Gazette of RS* No. 41/2010);
 - The Law on GMO (Genetically Modified Organisms) (*Official Gazette of RS* No.41/2010);
 - The Law on Seedlings of Fruit Trees, Vines and Hops (*Official Gazette of RS* No.18/2005);
 - The Seed Law (*Official Gazette of RS* No.45/2005);
 - Regulation on Determining Border Crossing Points and the Control of Crossing the State Border (*Official Journal of FRY* No. 2/92).
 - Regulation on Arrival and Stay of Foreign Yachts and Foreign Boats Intended for Leisure or Sports in Coastal Sea, Rivers and Lakes in the Federal Republic of Yugoslavia (*Official Journal of SFRY* No.38/87, 33/88 and *Official Journal of SRY* No.28/02);
 - Rulebook on Areas and Objects on Determining Border Crossing Points and the Control of Crossing the State Border (*Official Journal of FRY* No. 8/80);
 - Regulation on The Manner of Determining and Resolving Border Incidents and Other Violations of State Borders (*Official Gazette of SFRY* No. 12/80);
 - Regulation on the Control of Crossing the State Border and the Movement ,Stay, Resettlement, Hunting and Fishing in The Border Zone (*Official Journal of FRY* No. 14/80).
 - Regulation of the Medical Examination of Consignments of Plants in Moving Across State Borders (*Official Journal of FRY* No. 59/01).
 - Rulebook on Transport , Import and Sampling of Pesticides (*Official Gazette of RS* No. 104/05)
 - Rulebook on Transport , Import and Sampling of Pesticides (*Official Journal of FRY* No. 59/01);
 - Order on the Determination of Border Crossings through which a Consignment of Plants, Plant Products and Regulated Facilities can be Imported, Exported and Transported (*Official Gazette of RS* No 107/09);
 - Rulebook on the pest lists and lists of, plants, plant products and regulated facilities (*Official Gazette of RS* No. 7/10).

50. Does an integrated border management (IBM) strategy and action plan on IBM exist in your country? If so, describe the main components of your integrated border management strategy and the stage of implementation of the current action plan on IBM.

The Strategy on integrated border management was adopted in the Republic of Serbia in January 2006 and the Action Plan for Implementation of the Strategy on integrated border management in June 2006. Functional strategies of border services were adopted in June 2006. The Agreement on cooperation in integrated border management was signed between the Ministry of Interior (border police), Ministry of Finance (customs), Ministry of Agriculture, Forestry and Water Management (veterinary and phytosanitary inspection) and Ministry of Infrastructure (port authorities).

Twinning Project on the implementation of the Strategy on integrated border management was initiated in September 2009, and is financed by CARDS 2005 programme.

Partners in the said project are Austria, as a senior partner and Hungary as a junior partner. The above mentioned project on the implementation of the Strategy on integrated border management envisaged, inter alia, the amendments of the existing legislation on border management, i.e. its harmonization with the European Union standards.

The Agreement on establishing the operational working group for coordination of integrated border management at the central level was signed between the Ministry of Interior, Ministry Finance, Ministry of Infrastructure and the Ministry of Agriculture, Forestry and Water Management. Working group performs the activities on coordination of integrated border management at the central level, and operational application of the Agreement.

The parameters of the integrated border management system in the Western Balkans

The system of integrated border management and its individual elements are viewed developed, and followed by eight parameters:

1. Legal and regulatory framework,
2. Organisation and management,
3. Procedures,
4. Human resources and training,
5. Communication,
6. Information technology,
7. Infrastructure and equipment,
8. Budget.

These parameters will be applied consistently as attributes of situation reviews and in the development of strategic goals.

Work on implementation of the Strategy

Twinning Project on the implementation of the Strategy on Integrated Border Management was initiated in September 2009.

The Coordination body for the implementation of the Strategy on Integrated Border Management in the Republic of Serbia was established by Government Decision in May 2009.

In 2010, Operational Working Group for coordination of integrated border management (IBM) was established at the central level.

Meetings of the representatives of all border services are being held at local and central levels, while the representatives of border police and the customs from regional level coordinate and actively participate in the local level meetings.

Contact persons competent for issues relating to integrated border management are designated for both local and regional level for all organisational units within border services.

51. How are the ministerial competences arranged in regard to border management (administrative arrangements)?

The central precondition to implement the concept of integrated border management in practice is the efficient cooperation and work coordination between all border services, as well as their cooperation with other state authorities, institutions and international subjects.

Ministerial competences in regard to integrated border management are regulated by the Law on Ministries (*Official Gazette of RS* No. 65/2008), the Law on State Administration (OG of RS No. 101/2007), the Law on State Border Protection (OG of RS No. 97/2008), the Strategy on Integrated Border Management in the Republic of Serbia (OG of RS No. 11/2006), Action Plan on implementation of the Strategy on Integrated Border Management in the Republic of Serbia and the Agreement on cooperation in integrated border management, signed between the Ministry of Interior, Ministry of Finance, Ministry of Agriculture, Forestry and Water Management and Ministry of Infrastructure.

Services present at the borders are: Border Police of the Ministry of Interior, Customs Administration of the Ministry of Finance, Veterinary and Phytosanitary Inspection of the Ministry of Agriculture, Forestry and Water Management, and Port Authorities of the Ministry of Infrastructure. By the joint cooperation, the above mentioned border services should enable basic preconditions for establishing efficient system of border control and monitoring. Each authority has a specific assignment and the role within the system of integrated border management, but the most important thing is to coordinate their activities and to establish the mechanisms for their cooperation.

THE SERVICES WITHIN THE INTEGRATED BORDER MANAGEMENT IN SERBIA

Ministry of Interior – Border Police Directorate

Border Police, as an organizational unit of the Ministry of Interior is a unique, centralized and hierarchically organized at the central, regional and local levels, and is responsible for the immediate organization and performance of state border crossing control and security. At the central level, the said function is realized through the Border Division, Foreigners Division, Division for Combating Transborder Crime and Criminal Intelligence, Division for Acceptance and Accommodation of Foreigners, Section for International Cooperation and Emergency Operations Centre. At the regional level, the activity is realized with neighbouring countries, through regional centres of the border police. At the local level, the Border Police Directorate shall exercise its powers through border police stations for performing the activities on state border crossing control and border police stations for the state border security. Border Police Directorate performs duties related to suppressing cross-border crime – particularly illegal migrations, trafficking in human beings, smuggling of narcotic drugs, weapons, forbidden substances, prevention of false and falsified travel

documents; crime-intelligence duties – collecting and analysing crime-intelligence data in regards to cross-border crime, tracking of the movement of international criminal perpetrators and terrorists, and acting against them; duties related to movement and stay of foreigners - participating in procedures of recognizing asylums; performing normative and legal tasks, control of legality of work; performing activities on logistics, as well as other duties as prescribed by law.

Ministry of Finance – Customs Administration

Customs, as an administrative authority of the Ministry of Finance, carries out the measures of customs surveillance and control of customs goods; it executes the customs procedures; it calculates and charges customs duties, other import fees, value added taxes, and imported luxury goods taxes; it executes preventive and subsequent control based on the principle of selectivity and risk analysis; it carries out the legally prescribed procedures aimed at discovering customs offences and criminal acts; it conducts the first-instance and second-instance administrative proceedings; it controls foreign currency exchange in import and export of dinars and foreign currencies in international travel and cross-border traffic with foreign countries; it controls import, export, and transit traffic of goods for which special security measures are prescribed for protection of health and environment, of protected flora and fauna, of wastes, of national riches with historical, artistic or archaeological value, protecting intellectual rights and the similar; processes and statistically monitors data on import and export, and performs other duties in compliance with the law and other regulations.

Ministry of Agriculture, Forestry and Water Management

Ministry of Agriculture, Forestry and Water Management through its inspection services at the border and in the country (veterinary, phytosanitary and agriculture inspection) is responsible for the cross-border traffic of the plants, animals, and agricultural food products of plant and animal origin.

Veterinary Inspection

Border Veterinary Inspection, as part of Veterinary Administration within the Ministry of Agriculture, Forestry, and Water Management, performs duties of public administration and professional activities in managing the system of health care and animal welfare, security and quality of food of animal origin, and of animal food. Border Veterinary Inspection performs duties of veterinary and sanitary control at certain border crossings regarding import and transit of animals, products of animal origin, food of animal origin, by-products of animal origin and animal food, mixed food items containing products of animal origin, as well as other duties in accordance with the laws and regulations.

Phytosanitary Inspection

The Ministry of Agriculture, Forestry and Water Management comprises, inter alia, the administrative department and the following units:

Administration for Plant Protection is responsible for making laws and secondary legislation regarding plant health, food safety, plant protection and nutrition products, risk analysis and notification of interception of international authorities. The Division of Border Phytosanitary Inspection and the Division of Border Phytosanitary Inspection for the Safety of Food and Animal Food of plant and mixed origin, are responsible for the control of food and animal food of plant and mixed origin, control of the plants, plant products and regulated facilities, as well as for control of plant protection and nutrition products.

52. Is there a centralised and clearly structured public authority with a direct chain of command between Border Police units?

Border Police Administration is headed by the Chief. Persons responsible for certain lines of work, directly subordinated to the Chief of Border Police Directorate are: a deputy, assistants and heads of the Border Division, Emergency Operations Centre, Foreigners Department, and Department for combating human trafficking and illegal migrations, Criminal Intelligence, Department for International Cooperation, and Regional centres.

53. Is there a constantly updated comprehensive situational picture at national level covering all information related to national border management? Is there a national coordination centre, coordinating 24/7 the activities of all agencies carrying out border control tasks?

The Coordination Body for the implementation of the Strategy on Integrated Border Management in the Republic of Serbia was established by Government Decision (May 2009).

2010. In 2010, Operational Working Group for coordination was established (at central and local levels).

Each service in the system of integrated border management monitors the situation in areas the border management within its competence and in accordance with it continuously makes reports, processes information and analysis as well as treatment plans either independently or in cooperation with other services.

There is currently no national coordination centre to perform the activities 24/7, but in case emergencies the jobs, tasks and problems are solved in direct contact of managers of the competent services, and in everyday situations at the meetings of operational working group and certain contact persons and at work meetings organized when necessary.

54. Are there any plans to allocate reserves, staff and equipment to react to incidents along the borders?

In every regional centre, i.e. at every border crossing point, there is a plan to react in emergency situations, which is a general plan for all organisational units in that area, and every station of the border police has its individual plan as a part of the regional center plan. Each regional center has a mobile unit to react in emergency situations in coordination with control stations and border security stations. If needed, the capacities of local police directorates and of the Department for Emergency Management can also be engaged.

Article 16 of the Agreement on cooperation in integrated border management stipulates that: “Signatories to the Agreement, in cooperation with other competent authorities shall establish joint action plans in case of emergency situations”.

The Law on Police has envisaged establishment of auxiliary police to securing the border in case of war or emergencies.

The Customs Administration currently has no plan to allocate reserves, staff, and equipment to react in incidents along the borders.

There are plans at the level of the Veterinary Administration to act in case of infectious diseases threatening animal and public health, in order to protect the country from the entry thereof, as well as procedures to prevent unsafe food imports.

Moreover, the Border phytosanitary inspection service responds to emergencies in case of quarantine plant diseases and pests in a manner to protect the country from the entry thereof, as well as to prevent of unsafe food imports.

55. Please describe the means of providing situational awareness and reaction capability on green and blue borders. Is the level satisfactory in relation to the threat analysis? What would be major fields of development in this respect?

On the basis of a system for collecting, processing, exchanging and performing analysis of all available data and information at the central (Emergency Operations Center), regional (emergency operations centers within regional centers of border police) and local (emergency operations centers of the border police stations) level, in cooperation with other lines of work of MoI and other competent state authorities, risk analysis on all the said levels is performed continuously, and all available resources (organizational, technical and human) are directed and engaged accordingly.

The existing level of capacity to respond is considered adequate given the risk analysis and the results achieved.

Areas for improvement have been primarily of a technical nature relating to communication systems, technical equipment, motor vehicles, etc., then a special form of education relating to the exchange of experiences in implementation of the activities on the green and blue borders.

56. Please describe the training system for the Border Police. Are the programmes in line with the Common Core Curriculum on border guard training? Are border police officers properly trained and specialised? Are border police officers able to communicate in foreign languages? Are they trained to deal with requests for international protection?

The system of border police training consists of core and specialized training and is a part of education system of the MoI.

CORE POLICE TRAINING – Pursuant to the approved curriculum, using its own human resources, material and technical resources, the Border Police Directorate has recently organized five courses for border police and 1 transition course for military personnel who were taken to work in the BDA.

The Curriculum for vocational training of students of the Police Academy - Border Police Course, designed for participants from civil society, to acquire the necessary knowledge, skills and values needed to adequately perform the duties of border police in the border police stations (control of crossing or securing the state border). Training based on this

Curriculum lasts for 53 weeks and is realized through: theoretical part of the educational institution or training center for a period of 25 weeks (phase I) and a practical part at the police units and border police stations for a period of 25 weeks (phase II).

The Curriculum for vocational training of students of the Transition Course for border police is designed for the members of Serbian army who are taken over by the MoI, to acquire the necessary knowledge, skills and values needed to adequately perform the duties of border police in securing the state border. The Curriculum envisaged the course to last for 12 weeks, ie 60 class days and to be implemented in the theoretical part, at the MoI training center.

Meanwhile, within the reform of police education in Serbia, the modern core police training was established to represent the "input" training in the future (starting from 2011) not only in terms of the general police jurisdiction but also for the border police members, with an appropriate short basic-specialist course subsequently to follow.

SPECIALIZED TRAINING - is a part of the border police officers training to perform specific operations, such as anti-diversion course, the course for driving motor boats, core police skills course (exercise of the powers and shooting a firearm), courses for the detection of forged documents, stolen vehicles, etc.

Despite the implementation of core training and a wide variety of specialized courses, the training system of police officers should be modernized and advanced, in terms of developing curricula for further improvement of acquired knowledge

There is a need for adaptation of training centers and the need for teaching staff committed to implement training of the members of border services.

Border police officers are trained, to the extent necessary, to deal with situations in which, while performing their official duties, they come into contact with persons seeking asylum. Training is conducted by the competent line of work of the Border Police Directorate through lectures, meetings and seminars and through provision of instructions for treatment. There is also an important perennial activity on organizing seminars on the issue of international protection for refugees and the treatment of asylum seekers, which is jointly organized by the MoI of the Republic of Serbia - Border Police Directorate and the UNHCR Representation in Serbia, for the border police members and officers from police administrations who deal with the problem of foreigners, and are at the initial and middle management levels. These seminars are attended by a total of 140 police officers a year.

In cooperation with other services and various international organizations, officers working in border service administration attended different types of trainings, courses and seminars thus the professional competence is high.

As for the programme for learning foreign languages, 422 customs officers have attended English language courses, and 243 certificates for successfully completed training have been issued thus far.

All employees in the border veterinary inspection must have the veterinary faculty diploma, the state exam certificate and must pass the training to work at the Veterinary border crossing point. A number of border veterinary inspectors have adequate basic knowledge of foreign languages and basic communication skills in the English language. Education and trainings are conducted with the Twinning project, CARDS, TAIEX, study visits and workshops.

Employees of the Border Phytosanitary Inspection must fulfil the prime condition of holding primarily a university degree in agriculture and having passed the state exam. Education and trainings are conducted with the Twinning project and TAIEX workshops, performed by the of European Union countries.

Some of the border phytosanitary inspectors have attended courses in foreign languages. In addition, most of them know and understand the neighbour state language.

Within the implementation of the Twinning project "Implementation of Integrated Border Management Strategy in the Republic of Serbia" (2009.), organization of joint specialized trainings for all border agencies (police, customs, phytosanitary and veterinary inspection) shall be initiated in January 2011.

The purpose of joint training is to develop capacity of border service officers to promote joint work and cooperation in official activities on the control of goods and passengers across the state border, in accordance with regulations and good practices of the EU.

The objective of organizing joint training is to increase the capacity and competence for effective control and border management and to prevent cross-border crime while respecting high standards of the protection of human rights and freedoms.

57. Please describe the risk analysis system in the Border Police. Describe the use of risk analysis on the level of operative management and possible results.

The Border Police Directorate currently has no organizational unit responsible for risk analysis. New jobs systematization in the Border Police Directorate within the Ministry of Interior, envisaged the establishment of risk analysis Section that will be directly subordinate to the Chief of Directorate as well as associated jobs at the regional level. So far, risk analysis has been conducted by the Division for Combating Transborder Crime and for Criminal Intelligence which has established a system of collecting data on phenomena with relevance to the successful border management, since late 2007. Situation reports were made quarterly, semi-annually and annually, as well as ad hoc reports (operational risk analysis) Data are collected in accordance with the forms prescribed by the Frontex and the structure of the report is aligned with the structure of the Frontex reports. Since the establishment of networks for risk analysis of the Western Balkans and Frontex, the exchange of statistical data on illegal migration has been performed between border police directorates of the Western Balkans through a secure Internet platform of the European Commission, and a result of this exchange is the risk analysis at the regional level. In addition to the exchange of statistical data within the network for risk analysis of the Western Balkans countries, an exchange of analytical reports in the form prescribed by the Frontex has also been introduced starting from the last quarter of 2010.

Operational risk analysis was carried out when noticing new phenomena, such as: illegal migration and trafficking of Turkish nationals, illegal migration and trafficking of Afghan nationals, illegal migration at the border crossing with Hungary, which has suffered the greatest pressure of illegal migration since Hungary joined the Schengen. Such operational analysis laid a foundation for making specific decisions in order to prevent the underlying phenomena, and was also used as guidelines for criminal-intelligence work, the results of which were the basis for initiating concrete operational activities.

58. How is border management supported by intelligence?

Criminal-intelligence work of the Border Police Directorate particularly refers to illegal migration and organization thereof, human trafficking, forgery of travel documents and all other criminogenic activities taking place across the state border and which may endanger the safety thereof. Collected, processed and analyzed data, embodied in information and various crime-intelligence products, are used to make decisions regarding the border management as follows:

- at the strategic level - to determine priorities, allocate resources in planning activities and determining the control strategy (priorities of the intelligence, preventive and reactive work);
- at the operational level - as a basis for making decisions on managing the current activities, as well as on reallocation of resources and efforts in accordance with emerging needs and problems;
- at the tactical level - as a basis for developing methods to counter the immediate threats of crime, for planning and directing the surveillance and control of state border, for the creation of profile and risk indicators.

59. How is the gathering of information, its analysis and distribution arranged?

Border Police Directorate collects information from its organizational units, other organizational units of the Ministry of Interior, as well as from agencies and authorities outside the MoI.

Border police stations deliver the information to the regional centre, which forwards them to the headquarters of the Border Police Directorate. The Special CMIS software (Case Management Intelligence System) is used to store information at the Department for Combating Transborder Crime and for Criminal Intelligence, within the Border Police Directorate. Analysis and further processing of information is performed at the Section for Criminal Intelligence within this Department. The said information is also delivered to the Criminal Police Directorate to be stored in the UIS (Unified Information System of the Ministry of Interior). Distribution of information is carried out by the Border Police Directorate and the Criminal Police Directorate in accordance with the contents of information and territorial jurisdiction.

60. Please describe the organisational structure of the national service or national services responsible for border control tasks:

- a) legal and regulatory aspects;**
- b) human resources and training;**
- c) border control procedures;**
- d) infrastructure, IT systems and equipment;**
- e) coordination and co-operation with other relevant services (customs, veterinary and phyto-sanitary authorities and/or other services/agencies).**

a) Legal and regulatory aspects

The work of border services is stipulated by Law and By-law regulations which determine their activities and responsibilities related to the state border crossing and the flow of goods and capital.

This field is to a great extent regulated by many bilateral and multilateral agreements which regulate various areas, such as: all forms of international traffic, visa regime, customs conventions, foreign trade, quarantine, animal and plants protection, etc.

Border Police Directorate enforces and implements the Law on Police ("Official Gazette of RS", No. 101/2005, 63/2009) and Law on Protection of State Border

("Official Gazette of RS", No. 97/2008), which directly regulates matters of border crossing control and protection and determines the obligations arising from this Law. This Directorate is in charge of the implementation of laws governing the following issues:

- travel documents;
- movement, residence and legal status of foreigners,
- asylum issues , etc.

Customs procedures, implemented by customs officers are regulated by the recently passed Customs Law ("Official Gazette of RS", No. 18/10, 26 May 2010). However, when it comes to competence and organization of Customs Administration, data collecting, filing, processing and security, Customs Administration employees, code of conduct of Customs Officers, their employment, transferring and promotion as well as performance assessment, personnel records and financing of the Customs Service, Customs Law ("Official Gazette of RS", No. 73/2003, 61/2005, 85/2005 – other law, 62/2006 - other law, 63/2006 - other law corrigendum, 9/2010 – Decision of the Constitutional Court and 18/2010 – other law of 26 May 2010) is still in force until the Law on Customs Service is passed.- {}-

The Customs system is based on the following legislation:

- Customs Law ("Official Gazette of RS", No. 18/10 of 26 March 2010)
- Customs Law provisions, Articles 252-329 ("Official Gazette of RS", No. 73/2003, 61/2005, 85/2005 - other law, 62/2006 - other law, 63/2006 - other law corrigendum, 9/2010 - Decision of the Constitutional Court and 18/2010 – other law of 26 May 2010) which regulate the abovementioned fields;
- Customs Tariff Law ("Official Gazette of RS", No 62/2005, 61/2007 and 5/2009 of 22 January 2009)

Apart from the abovementioned laws and regulations, the Customs Service also applies the following legislation:

- Foreign Trade Law ("Official Gazette of RS", No. 36/9 of 15 May 2009);
- Law on Value Added Tax ("Official Gazette of RS", No. 84 of 24 July 2004; 86/04-corrigendum., 61/05 and 61/07 of 30 June 2007)
- Law on Foreign Exchange Operations ("Official Gazette of RS", No. 62/06 of 19 July 2006)
- Law on General Administrative Procedure ("Official Gazette of RS", No. 33/97 and 31/01 and Official Gazette of RS, No. 30/2010 of 07 May 2010);
- Law on Ionising Radiation Protection and Nuclear Safety ("Official Gazette of RS", No.36/2009 of 15 May 2009);
- The Law on Misdemeanours ("Official Gazette of RS", No. of 29 December 2009)
- Law on Foreign Trade in Arms, Military Equipment and Dual-use Goods ("Official Gazette of RS", No. 7/05 and 8/05 of 18 February 2005);
- Law on Chemicals ("Official Gazette of RS", No. 36/09, 88/10) of 23 November 2010);
- Law on Biocidal Products ("Official Gazette of RS", No. 36/09 and 88/10 of 23 November 2010);
- Law on Air Protection ("Official Gazette of RS", No. 36/09 of 15 May 2009);

- Law on Nature Protection (“Official Gazette of RS”, No. 36/09 and 88/10 and 91/10 corrigendum of 23 November 2010);
- Law on Waste Management (“Official Gazette of RS” No. 36/09 and 88/2010 of 23 November 2010);
- Law on Technical Requirements for Products and Conformity Assessment (“Official Gazette of RS”, No. 36/09 of 15 May 2009);
- Law on General Product Safety (“Official Gazette of RS”, No. 41/09 of 2 July 2009);
- Regulation on Customs-Approved Treatment of Goods (“Official Gazette of RS”, No. 93/2010 of 8 December 2010);
- Regulation on Special Conditions for the Exchange of Goods with the Autonomous Province of Kosovo and Metohija (APKM) (“Official Gazette of RS”, No.86/2010 of 17 November 2010);
- Rulebook on the Form, Content, Way of Lodging and Completing Customs Declarations and Other Forms in the Customs Procedure (“Official Gazette of RS”, No. 29/2010 and 84/2010 of 12 November 2010);
- Rulebook on Obligations of Customs Authorities in the Foreign Trade in Arms, Military Equipment and Dual-use Goods (“Official Gazette of RS”, No. 67/05 of 29 July 2005);
- Rulebook on the Form of Licence Application, Licence Form and Other Documents Required for International Trade in Controlled Goods (“Official Gazette of RS”, No. 96/07 of 22 October 2007);
- as well as other laws and by-laws .

The List of International Agreements and Conventions

Within the implementation of international standards in the field of trade facilitation, the following provisions are enforced:

1. CEFTA Agreement (Central European Free Trade Agreement)- Official Gazette of RS - International Agreements, No. 88/2007 of 24 September 2007);
2. Agreement on Trade of Textile Products Between the Republic of Serbia and European Community (“Official Gazette of RS”, No. 45/2005 of 31 May 2005);
3. Agreement with Russian Federation (“Official Gazette of Federal Republic of Yugoslavia (FRY)”- International Treaties, No. 1/2001 of 11 May 2001)
4. Free Trade Agreement with the Republic of Belarus (“Official Gazette of RS”- International Treaties, No. 105/09 of 16 December 2009);
5. Interim Agreement on Trade and Trade-related Matters Between the European Community and the Republic of Serbia (“Official Gazette of RS”- International Treaties, No. 83/08 adopted 10 September 2008), came into force February 2010;
6. Free Trade Agreement Between Serbia and Turkey (“Official Gazette of RS”- International Treaties, No. 105/09 of 16 December 2009);
7. Free Trade Agreement Between Serbia and EFTA Member States (“Official Gazette of RS”- International Treaties, No. 6/2010 of 11 June 2010);
8. Starting 1 January 2011 Free Trade Agreement with the Republic of Kazakhstan will enter into force (it has not been ratified or published yet).

Furthermore, it is important to note that in the field of international standards implementation, the Republic of Serbia has ratified 8 out of 17 conventions of the World Customs Organization (WCO):

- Convention on the Harmonised Commodity Description and Coding System (“Official Gazette of SFRY”- International Treaties, No. 6/87 of 26 June 1987);
- Customs Convention on the Temporary Importation of Packings (“Official Gazette of SFRY”- International Treaties, No. 10/62 of 27 October 1962);
- Customs Convention the Temporary Importation of Professional Equipment (“Official Gazette of SFRY”- International Treaties, No. 2/64 of 26 February 1964);
- Customs Convention Concerning Facilities for the Importation of Goods for Display or Use at Exhibitions, Fair, Meetings or Similar Events (“Official Gazette of SFRY”- International Treaties, No. 9/65 of 15 July 1965);
- Customs Convention on the ATA Carnet for the Temporary Admission of Goods- ATA Convention (“Official Gazette of SFRY”- International Treaties, No. 13/63 of 1 December 1963);
- Customs Convention Concerning Welfare Materials for Seafarers (“Official Gazette of the SFRY”- International Treaties, No. 8/66 of 30 July 1966);
- International Convention on the Simplification and Harmonisation of Customs Procedures (Kyoto Convention) as amended (“Official Gazette of RS”- International Treaties, No. 70/2007 of 25 July 2007);
- Convention on Temporary Admission (“Official Gazette of RS”- International Treaties, No. 1/2010 of 21 May 2010)

Apart from the abovementioned, Customs Administration is also involved in monitoring the implementation of the following conventions:

- Customs Convention on the International Transport of Goods Under Cover of TIR Carnets – TIR Convention (“Official Gazette of FRY”- International Treaties, No. 9/2001 and the Official Gazette of Serbia and Montenegro (SM)- International Treaties, No. 5/2003 of 20 June 2003);
- Customs Convention on Containers (“Official Gazette of FRY”- International Treaties, No. 2/2021 of 11 May 2001);
- Convention Concerning Customs Facilities for Touring (“Official Gazette of the Federal People's Republic of Yugoslavia (FPRY)”- International Treaties, No. 5/1960 of 21 May 1960);
- Customs Convention on the Temporary Importation of Private Road Vehicles (“Official Gazette of FPRY”- International Treaties, No. 5/1960 of 21 May 1960);
- Customs Convention on the Temporary Importation of Commercial Road Vehicles (“Official Gazette of FPRY”- International Treaties, No. 3/1962 of 24 Mart 1962);
- International Convention on the Harmonisation of Frontier Control of Goods (done at Geneva) (“Official Gazette of SFRY”- International Treaties, No. 4/1985 of 5 April 1985);

- European Convention on Customs Treatment of Pallets Used in International Transport (“Official Gazette of SFRY”- International Treaties, No. 13/1964 of 20 November 1964);
- Customs Convention on the Temporary Importation for Private Use of Aircraft and Pleasure Boats (“Official Gazette of FPRY”- International Treaties, No. 9/1960 of 10 September 1960);
- Convention Concerning the Regime of Navigation on the Danube (“Official Gazette of FPRY”, No. 8/1949 of 25 January 1949);
- Convention on the Contract for the International Carriage of Goods by Road (CMR) (“Official Gazette of FPRY”- International Treaties, No. 11/1958 of 8 November 1958);
- Convention on the Means of Prohibiting and Preventing Illicit Import, Export and Transfer of Ownership of Cultural Property (“Official Gazette of SFRY”- International and Other Treaties, No. 50/73 of 20 September 1973);
- United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (“Official Gazette of SFRY”- International Treaties, No. 14/1990 of 23 September 1990);
- Single Convention on Narcotic Drugs (“Official Gazette of SFRY”- International and Other Treaties, No. 2/64 and Official Gazette of SFRY- International Treaties, No. 3/78-other law of 7 April 1978);
- Convention on Psychotropic Substances (“Official Gazette of SFRY”, No. 40/1973 of 19 July 1973);
- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (Official Gazette of FRY- International Treaties, No. 11/2001 of 9 November 2001);
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (“Official Gazette of FRY”- International Treaties, No. 2/99 of 25 December 1999);
- The Vienna Convention for the Protection of the Ozone Layer (“Official Gazette of SFRY”- International Treaties, No. 1/90 of 23 February 1990); and Montreal Protocol on Substances That Deplete the Ozone Layer (“Official Gazette of SFRY”- International Treaties, No. 16/90 of 29 December 1990 and “Official Gazette of Serbia and Montenegro”- International Treaties, 24/2004 – other law 24 December 2004);
- Convention on the Prohibition of the Development, Production, Stockpiling and Use and Chemical Weapons and on Their Destruction (Chemical Weapons Convention) (“Official Gazette of FRY”- International Treaties, No. 2/2000 of 30 June 2000);
- European Convention for the Protection of Pet Animals (“Official Gazette of RS”- International Treaties, No. 1/2010 of 21.05.2010);
- European Convention for the Protection of Animals during International Transport (“Official Gazette of FRY”- International Treaties, No. 1/92 of 02.10.1992);
- Convention on Biological Diversity (“Official Gazette of FRY”- International Treaties, No. 11/2001 of 09 November 2001);
- Cartagena Protocol on Biosafety to the Convention on Biological Diversity (“Official Gazette of Serbia and Montenegro”- International Treaties, No. 16/2005 of 2 December 2005);

- Convention on the Conservation of European Wildlife and Natural Habitats (“Official Gazette of RS”- International Treaties, No.102/2007 of 7 November 2007);
- Convention on the Conservation of Migratory Species of Wildlife Animals (“Official Gazette of RS”- International Treaties, No.102/2007 of 7 November 2007);
- Convention on Wetlands of International Importance especially as Waterfowl Habitat (“Official Gazette of SFRY”- International Treaties, No. 9/1977 of 3 October 1977);
- International Convention for the Protection of Birds (“Official Gazette of SFRY”, No.6/73 of 8 February 1973);
- Vienna Convention on Civil Liability for Nuclear Damage (“Official Gazette of SFRY”- International Treaties, No.5/77 of 22 July 1977);
- United Nations Framework Convention on Climate Change (“Official Gazette of FRY”- International Treaties, No.2/1997 of 27 June 1997);
- Kyoto Protocol to the United Nations Framework Convention on Climate Change and the Amendment to Annex B of the Kyoto Protocol (“Official Gazette of RS”- International Treaties, No. 38/2009 of 25 May 2009);
- Stockholm Convention on Persistent Organic Pollutants (“Official Gazette of RS”- International Treaties, No. 42/2009 of 2 June 2009);
- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (“Official Gazette of RS”- International Treaties, No. 38/2009 of 25 May 2009);
- European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR 2007) (“Official Gazette of RS”- International Treaties, No. 2/2010 of 24 May 2010);
- Convention concerning International Carriage by Rail (COTIF) (“Official Gazette of SFRY”- International Treaties, No. 8/1984 of 25 August 1984);
- European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN) (“Official Gazette of RS”- International Treaties, No. 3/2010 of 25 May 2010);
- Convention on International Civil Aviation (Chicago Annex) (“Official Gazette of FPRY”- International Treaties and Other Agreements, No. 3/54 of 8 April 1954);
- Convention for the Unification of Certain Rules for International Carriage by Air (“Official Gazette of RS”- International Treaties, No. 38/2009 of 25 May 2009);
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BWC) (“Official Gazette of SFRY”- International Treaties and Other Agreements, No. 43/74 of 30 August 1974).

Customs Administration of the Republic of Serbia also implements bilateral agreements on providing administrative support in customs matters. Answer to the question no. 69 of this Chapter contains detailed explanation on this matter.

- Veterinary Administration: Rulebook on Job Classification of Ministry of Agriculture, Forestry and Water Management.

- The Department of Border Phytosanitary Inspection and the Division for the Safety of Food and Animal Feeds of the Plant and Mixed Origin are in charge for the border control.
- The following laws regulate border control procedures:
- Law on Plant Health ("Official Gazette of RS", No. 41/2009)
- The Law on Food Safety ("Official Gazette of RS", No. 41/09)
- The Law on Plant Protection Products ("Official Gazette of RS", No. 41/09)
- The Law on Plant Nutrition Products and Soil Enhancers ("Official Gazette of RS", No 41/09)
- Law on Genetically Modified Organisms (GMO) ("Official Gazette of RS", No 41/09)
- Law on Seedlings of Fruit Trees, Vines and Hops ("Official Gazette of RS" 18/05)
- Seed Law ("Official Gazette" of RS, No. 45/05)
- By-law act that determine in detail responsibilities of Phytosanitary Inspectors are:
- Rulebook on Phytosanitary Control of Plants, Plant Products and Regulated Objects in International Circulation ("Official Gazette of RS", No 32/10)
- Rulebook on the List of Hazardous Organisms and List of Plants, Plant Products and Regulated Objects ("Official Gazette of RS", No 7/10);
- Rulebook on Sanitary and Technical Characteristics of Working and Other Conditions for Border Crossing Points with Phytosanitary Inspection ("Official Gazette of RS" No 37/10)
- Rulebook on Pesticide Trade, Importation and Sampling ("Official Gazette of RS" No 104/05)
- The Rulebook on Conditions and the Method of Examining and Sampling the Shipment During the Importation, the Method of Announcing Arrival of the Shipment and the Conditions the Importer Must Provide for the Purpose of the Phytosanitary Examination and the Method of Samples Delivery, Number and Size of the Samples for the Purpose of Testing and the Method of Handling the Seized Shipment ("Official Gazette of RS" No 86/10).
- Order on Determining the Border Crossing Points for the Purposes of Importation, Exportation and Carriage of Plants, Plant Products and Regulated Objects ("Official Gazette of RS", No 107/09).

B) Human resources and training

One of the essential pre-requisites in reaching the goals of the Integrated Border Management Strategy and the implementation of the EU recommendations is sufficient number of qualified and skilled employees working at border services.

Border services employees have so far attended various training programs, courses and seminars, organized in cooperation with other national services and different international organizations. However, the scope of provided training can not adequately respond to the challenges of implementation of the Integrated Border Management Strategy. Even with the basic training and substantial number of specialized courses, the system of training of the border service officers should be modernized and improved, in the sense of designing the plan and program for further improvement of acquired skills.

There is also the need for adaptation of teaching and training centres and employing the specialized teaching staff to carry out the training of border service officers.

In the existing three organizational levels of the Border Police Directorate there are 4484 positions envisaged by systematization but only 3240 are filled.

As the organizational unit of the Ministry of Interior, Border Police is unified, centralized and hierarchically structured at the central, regional and local levels and it is responsible for direct organization and performance of the tasks of border crossing control and border security. At the central level the abovementioned tasks are performed through the Department for Borders, Department for foreigners, Department for Suppression of Cross-Border Crime and for Criminal Intelligence, Department for reception and accommodation of foreigners, Department for International Cooperation and Operational Centre. At the regional level, the function of Border Police Administration is carried out through Border Police Regional Centres, set towards neighbouring states. At the local level Border Police Stations are responsible for the tasks of state border crossing control and security. Border Police Directorate undertakes measures in combating the cross-border crime, especially illegal migrations, human trafficking, narcotic drugs smuggling, the smuggling of arms, illegal substances, combating the use of false and forged travel documents. The Directorate performs criminal intelligence tasks, gathers and analyzes criminal intelligence data concerning the cross-border crime, follows the movement of international criminal offenders and terrorists and applies measures against them, deals with matters concerning the movement and residence of foreigners, takes part in asylum granting procedures, carries out legal and regulatory affairs, monitors the lawfulness of the overall work process and logistic matters as well as other tasks prescribed by law.

You will find the organizational chart of the Border Police Directorate enclosed in the Annex 2.

The Customs Administration is an administrative authority within the Ministry of Finance, consisting of the Headquarters and 14 Customs Offices. The Customs Administration Headquarters consists of 6 Divisions and 3 organizational units outside the Divisions (see the enclosed organizational scheme)

According to the Rulebook on the Internal Systematization and Job Description in the Customs Administration, there are 2539 classified job positions.

2445 employees have permanent employment, while 238 have temporary employment.

29.6% of the overall number of employees have university degree, 20.6% has college degree, 47.2% finished four-year high-school and 2.6% finished three-year high-school or elementary school.

873 (35%) of the overall number of Customs employees perform the tasks of Customs control in passenger traffic and trade in goods at the border crossing points with neighbouring countries; 6.8% of them have university education, 18.2% have college education and 75% finished high-school. To acquire qualifications to perform their duties, border officers have to undergo specific training and pass the Customs examination. They receive their education at the Customs Administration Vocational Training Centre and this process consists of a theoretical and a practical part.

Upon successfully completing their training, employees have to pass the Customs examination, which consists of a written and an oral part. Only employees who have passed the written part acquire the right to take the oral part of the

examination. It is possible to take the Customs examination twice; failure to pass the examination after the second try, results in the termination of the employment.

Apart from the mandatory Customs examination, employees advance their professional knowledge and skills by attending professional trainings, seminars, conferences, courses, etc.

You will find the organizational scheme of the Customs Administration enclosed (Annex 3)

Veterinary Administration: Chief of Border Veterinary Inspection (BVI), 4 Chiefs of Department of BVI, 3 Chiefs of Group BVI and 24 BVI Officers. Trainings, seminars, study visits, workshops, trainings through participation in various projects.

Border Phytosanitary Inspection Department is a part of the General Inspectorate of the Ministry of Agriculture, Forestry and Water Management (MAFWM). This Inspectorate disposes of 33 Inspectors deployed to 20 border crossing points.

Phytosanitary Inspection Department for the Safety of Food and Animal Feeds of Plant and Mixed Origin is also a part of the General Inspectorate of MAFWM.

So far, the training of Border Phytosanitary Inspectors have been carried out as a part of the ‘Twinning’ projects SR2005-IB-AG-02, named ‘The Strengthening of Institutional Capacity of Plant Protection Administration of MAFWM and at ‘TAIEX’ workshops, lectures given by experts and study visits.

Twinning project CARDS 2006- SR/06/IB/JH/01, SER I, named “Implementation of Integrated Border Management (IBM) Strategy” implies providing all Border Services with the training to the end of improving the efficiency of their co-operation.

c) Border control procedures;

I) Border Police Procedures:

Basic checks

Border Police is obliged to carry out the control of persons on their entering the territory of the Republic of Serbia, as well as the checks of their travel and vehicle documents.

If necessary, the checks of persons, their personal luggage and the vehicle can also be conducted. Border police officers are obliged to ensure that all persons entering the Serbian territory fulfil the conditions for entering.

Basic checks include:

- identity check;
- travel documents check;
- visa and other mandatory documents check and if necessary, fulfilment of additional requirements for entering the country;
- vehicle documentation check and comparing the data in the documents with data on the vehicle.
- Checks performed on certain categories of persons in JIS database (by using the passport reader or computer);

- passenger profiling;

Basic checks results

Requirements for entering the country fulfilled: - person is allowed to enter the Serbian territory or;

it is necessary to perform additional checks:

Requirements for entering the country are not fulfilled-entry refused:

Additional checks

If Border police officers find it impossible to reach a definite decision on entry additional checks are carried out.

Additional checks include:

- interviewing the person;
- checking the documents and visa, if necessary by using the specialized equipment for travel and vehicle documents check (video-spectral comparator, stereo zoom microscope);
- comparing the samples of the actual documentation, visa sticker samples and using the national and international database containing the reports on forged documents;
- verifying the place of departure, the purpose and the existence of the sufficient means of subsistence for the duration of the intended stay,
- accompanying documents check (cash, travellers' cheques, credit cards, invitation letter of the host, hotel reservations, etc.);
- special documentation check, if necessary (e.g. weapon permits);
- If necessary, Border police officers can carry out the search of persons and their personal luggage pursuant to the law.

Additional checks results:

- allowing the entry in the country or,
- refusal of entry

Refusal of entry

If the border control resulted in entry refusal, passenger is not allowed to enter the country and is returned to the country of departure.

On completing the necessary checks and identity verification, citizens of the Republic of Serbia have to be allowed entry, regardless of the possession of the valid documentation for border crossing, pursuant to the Law.

Procedures related to carriers and special procedures for diplomatic vehicles

Prescribed procedures for the control of the means of transport and carriers are applied on every border crossing point depending on the mode of transport.

In addition, prescribed procedures are followed when dealing with persons in possession of diplomatic passport and official status and in handling of their properly marked vehicles.

Border protection procedures followed by Border police officers

Border police officers follow procedures laid down for the purposes of the national border protection.

II) Customs Authority carries out the control of movement of passengers and goods across the border crossing points pursuant to the Customs Law provisions (Official Gazette of RS, No. 93/2010) and Regulation on the Customs-Approved Treatment of Goods (Official Gazette of RS, No. 93/2010).

The goods taken in or taken out of the customs territory of the Republic of Serbia is placed under transit procedure which is explained in details in the answer to the question number 18, Chapter 29- Customs union.

III) Veterinarian and sanitary control procedures on the border crossing points are regulated by the Law on Veterinary Practice, Food Safety Law, Animal Welfare Law and the relating Rulebooks. These procedures imply: Documentation check, carriage identification and physical inspection.

IV) The Department of Border Phytosanitary Inspection is in charge of the plant, plant products and regulated objects consignments control, food, animal feeds of the plant and mixed origin registration, plant protection and nutrition equipment control and Phytosanitary and Re-export certificates issuing.

The Phytosanitary Inspection for the Safety of Food and Animal Feeds of the Plant and Mixed Origin exerts control of food and animal feeds of the plant and mixed origin.

d) Infrastructure, IT systems and equipment

The state of infrastructure at border crossing points varies depending on their location, either at the old borders (with Hungary, Romania and Bulgaria) or at the borders with former Yugoslav republics (Macedonia, Bosnia and Herzegovina and Croatia).

Infrastructure of the border crossing points located at the old borders is mainly in solid state and allows relatively good working conditions. On the other hand, the state of the infrastructure at the boarders towards former Yugoslav republics is not satisfactory and at a number of crossing points is insufficient.

Nevertheless, the Ministry of Interior reconstructed and modernized national border crossing points, purchased new equipment, carried out computer networking between border crossing points while more efforts towards improving the technical and computer equipment are under way.

When it comes to the movement of persons across the national border, Border police officers use the centralized computer system which includes equipment for automatic verification of travel documents; this system is used at all boarder crossing points that have technical possibilities to support it. The system implies the use of service 'smart' cards for the access and carrying out of the persons identity check, which define the rights and competences of individual police officers.

The system used at border crossing points for checks on persons is centralized and uses intranet network resources for maintaining communication between border crossing points, police stations and the Directorate at the Ministry of Interior.

Depending on the volume of data or border crossing frequency, Border Police stations use local servers for data reception and sending to the central system and for securing the normal work if the access to the central server is denied.

Securing and monitoring the work of the telecommunication and IT structure is carried out mainly by the Sector for Analytics, Telecommunications and IT technologies of the Ministry of Interior and by organizational units of these services in the local police directorates.

Border services' strategic goal is reaching the level of technical and technological equipment which will support the fulfilment of all tasks resulting from the Integrated Boarder Management System, in every segment of their operations and in a manner corresponding to the modern practice of the Border services throughout the European Union.

As regards the Customs Administration, the state of the infrastructure at the 'primary' border crossing points (Horgos, Kelebija, Batrovci, Presevo and Gradina) can be described as very good, meaning that these border crossing points have sufficient number of traffic lanes, control booths, canopies, objects for detailed examination of lorries and lorry scales. The abovementioned infrastructure is built and scaled to answer the requirement of the fastest possible movement of goods and passengers. In 2008, 2009 and 2010, large-scale construction works to the end of building new traffic lanes and enlargement of the old ones, setting up of canopies, connecting the utility infrastructure to the newly constructed border control objects donated by the European Agency for Reconstruction were carried out at the following 'secondary' border crossings: Sid, Sremska Raca, Badovinci, Trbusnica, Prohor, Peinjski, Jabuka, Backa Palanka, Kotroman, Mehov krs and Mali Zvornik. Border control facilities financed by the EU were also set up and became functional at the border crossing points Gostun and Bajina Basta. At other 'secondary' and minor border crossings the works on modernization and maintaining the existing systems and equipment are carried out within the scope of allocated budgetary funds.

IT system of the Customs Service:-

The Customs Administration uses the complex integrated IT system which functions 24/7, 365 days in the year and provides support to the basic Customs procedures.

Hardware infrastructure consists of:

- Central platform which consists of a central server IBM z/800 2066 - X02 – Mainframe with the additional peripheral equipment,
- 54 IBM AS/400 9406-520 – iSeries local servers
- PC platform consisted of 55 Windows servers and more than 2200 working stations.

These 3 platforms are connected to 2 separate star-shaped networks (internet and intranet) by using 140 routers.

Apart from this IT system, the Customs Administration Intelligence Department uses the Operational Centre which is capable of gathering data important for the

border control and as such, has a different IT system and supporting computer equipment.

The infrastructure of the Phytosanitary and Veterinarian Inspection is significantly modernized in the past six years.

Namely, the Government of the Republic of Serbia in 2004 adopted the Strategy on reconstruction and equipping of the 14 border crossing points, where the Inspectional services of the Ministry of Agriculture, Forestry and Water Management would be located. Besides from the border crossings reconstruction and modernization, complete laboratory and office equipment has been purchased in the aim of supporting the modernization and creating better working conditions for the inspectional services.

Necessary infrastructure and other conditions prescribed by the Rulebook on Hygienic and Technical Working and Other Conditions which Border Crossings with Organized Phytosanitary Inspection Have to Fulfil (Official Gazette of RS, No. 37/10) are not completely met at border crossings, except at Horgos and Batrovci which are built and equipped as a part of the EU financed Project for Border Crossing Points Equipping. In the last years, part of the existing equipment (computers, vehicles and professional equipment for Phytosanitary Inspectors) was acquired thanks to the projects financed by the EU and other donors or provided from the budgetary funds.

IT system at the Border Phytosanitary Inspection is currently being installed.

e) Coordination and co-operation with other relevant services (customs, veterinary and phyto-sanitary authorities and/or other services/agencies).

Law on Public Administration provides general framework for co-operation among public administration authorities and defines the procedures. As a rule, the contacts at border crossing points are established on a daily basis as needed.

With the aim of increasing efficiency, improving the level of performance and mutual exchange of experience and data, it is necessary to establish co-operation between border services which will exist at all levels and be based on clearly defined tasks, responsibilities and communication rules. Ministry of Foreign Affairs, Ministry of Defence, Ministry of Capital Investments, Ministry of Trade, Tourism and Services, judicial authorities, local self-government authorities and other authorities should be involved in the co-operation process.

The organizational units of Waterway Transport and Navigation Safety Sector which is a part of the Ministry of Capital Investments, called the port captaincies, are responsible for audits at river border crossing points, direct inspections of vessels with national or foreign flags at international and cross-border waterways and for following the movement and stay of vessels.

Coordination and co-operation between four border services is ensured by setting the institutional framework for implementation and monitoring the Integrated Border Management Strategy in the Republic of Serbia, by establishing:

1. Coordinating body (Decision of the Government of RS on Establishing the Coordinating Body for Implementation of the Integrated Border Management Strategy in the Republic of Serbia – Official Gazette of RS, No. 37/2009). Members of this body are: Minister of Interior, Minister of Finance, Minister of Agriculture, Forestry and Water Management and Minister of Infrastructure. The establishing date of coordinating body was May 2009.

2. Operational working groups for coordinating the Integrated Border Management Strategy at the central level. Members are heads of border services (customs service is represented by its Director). Operational working group was established June 2010 by concluding its foundation agreement signed by Ministers listed under 1.

3. Working subgroups for legal framework, institutional framework, common procedures and risk management, human resources and training, communication and data sharing and for infrastructure and equipment. Members of these 6 subgroups are representatives of customs services (except for the infrastructure and equipment subgroup, which consists of representatives of all customs services and the Ministry of Infrastructure). Operational working group for coordination of the Integrated Border Management Strategy at the central level established these working groups October 2010.

4. Working groups for implementation of the Integrated Border Management Strategy at the regional and local level. Members of the regional and local working groups are representatives of all four customs services.

Apart from the cooperation and co-ordination between Customs Service, Inspection Services and Border Police as part of the Integrated Border Management Strategy, in 2005 Customs Administration established the Commission for Coordination of Work of Inspection Authorities, members of which are employees of Customs Administration and Inspection Authorities of other Ministries. Commission's fundamental task is common identification and quick reaction to any problematic situation that can arouse from goods importation and exportation process. It should be noted that the members of the Commission are in direct contact and able to solve emergencies without organizing the meeting. Additionally, working lists of products that can be subjected to the phytosanitary, veterinary and sanitary and health inspection based on the common work with certain inspection bodies were made and entered into Customs Administration IT system. These working lists are used during regular controls of the Inspection bodies and regularly updated to match the regular nomenclature changes in the Customs tariff as well as changes in the Law on Plant Protection, Law on Food Safety and other relevant regulations covering this field.

Direct co-operation is maintained between the Customs Administration and the representatives of Ministry of Environment with the aim of implementation of the Agreement on Taking Preliminary Control on Waste Management, Toxic Substances and Ozone Depleting Substances at border crossing points and Agreement on Ways of Radioactivity Control of Goods at Border Crossing Points by Customs Officers employed by Customs Administration- Ministry of Interior.

The Coordination between the Customs Administration and control services (state authorities and institutions) is maintained through the Enforcement Division (Intelligence Department). Risk assessment and treatment is performed automatically (by using selection criteria) or in another way, depending on available information.

61. What equipment is available to the border guards? Is there any major lack of infrastructure or equipment as regards the arrangements for, or organisation of, border checks?

The situation regarding infrastructure at border crossing points is different depending on whether the said are located at the past borders (Hungary, Romania and Bulgaria) or at the

borders with the former Yugoslav republics (Macedonia, Bosnia and Herzegovina and Croatia).

Members of the border police use communication and IT Infrastructure of the Ministry of Interior, which was upgraded by establishing communication routers up to border crossing points and by constructing and enabling centralized system for checking persons at border crossing points with the possibility of using devices for verification of travel documents.

Implementation of the project by means of structural funds of the EU CARDS 2006 programme cycle enabled the achievement of the minimum technical requirements for improving the control and security of the state border in terms of using information technologies. This project provided the border police stations with the minimum equipment needed, such as personal computers, and the minimum server platform necessary to enable the construction building up.

The implementation of another project is underway, also carried out by means of structural EU funds, the programme cycles IPA2007 and IPA2008, which will improve communication and information structures at the border crossing points of the Republic of Serbia in terms of improving the infrastructure and capacities, upgrading the central system with adequate platform for reception, storage, enabling high availability, and achieving effective search and with platform for analysis and reporting on the state border crossings. Implementation of the project will also cover the license plate recognition system, verification and registration of vehicles crossing the border, mobile devices for the control of the crossings with functional verifications of travel documents.

Further improvement of the system available to members of the border police was planned in the field of establishing a system for efficient fight against illegal migrations and for the monitoring and security of the state border.

As for telecommunications infrastructure and equipment, all border police stations are equipped with a minimum of equipment necessary for the smooth performance of the tasks. A great piece of the telephone system equipment as well as the equipment necessary to transmit encrypted documents was obtained from CARDS 06 funds.

Radio link: analogue systems are in use (both UHF and VHF bands), which are also largely financed with the CARDS 2006 funds, as well as a digital radio system according to TETRA standard. At this moment, the coverage of the territory by TETRA signal is not complete, but almost all headquarters of police directorates as well as most of the major roads and a part of the border (almost entirely with Hungary, Romania and Croatia) are covered. The existing TETRA system is fully financed with the funds allocated from the budget of the Republic of Serbia (not including 255 terminals that are financed with the CARDS 03 funds). The project IPA07 is underway, which is expected to provide purchase of 40 base stations, 1,250 terminals and radio-relay equipment, the installation of which will significantly improve the working conditions of border police.

Anti-smuggling Division of Customs Administration has equipment for physical inspection of vehicles, such as fiber optics, buster, inspection mirror, drug testers, ahura - handheld chemical identification system, the kit for the detection of narcotics and precursors, radiation detection pagers, gas detector MULTIRAY, the kit for the detection of the smuggled goods Cseke-CT30, an identifier of radioactive isotopes - SAJC - GR 135, ISC, IDENTIFENDER. Delivery of X-RAY-mobile scanners for inspection of trucks and passenger vehicles is also expected.

In accordance with the flow of traffic and passengers at some border crossing points such as Gostun, Kotroman, Vatin, it is necessary to develop new facilities in the form of lanes, control structures, canopies, truck scales and facilities for a detailed inspection of trucks, and to significantly increase electricity supply in order to enable smooth functioning of border services. The Customs Administration has contracted the development of urban plans, prior to designing and construction of all facilities on the said border crossing points,

so that even the latter will be equipped with all the facilities necessary for operations of border services.

The expected period of completion of works that would eliminate the deficiencies in infrastructure at some border crossing points (primarily Gostun-BCP with the Republic of Montenegro) is 3 years.

All the equipment necessary to perform veterinary sanitary inspection is available to members of the BVI (Border Veterinary Inspection). Infrastructure at some BCPs is incomplete (BCP Gostun- without water and sewerage, BCP Presevo – no access to the facility from the EU donation and disconnected in terms of infrastructure; BCP Vatin - without telephone line; BCP Batrovci - facility from the EU donation is not connected to infrastructure and has no access road ; BCP Sremska Raca – without inspection ramp).

The following equipment is available to the Border Phytosanitary Inspection at border crossing points: magnifying glass, binoculars, binoculars with cameras, microscopes, probes, awls, screens. The main problem at a number of border crossing points is the lack of facilities for phytosanitary inspectors and inspection ramps.

62. Which first and second-line equipment do you have in place at border-crossing points? Describe all the methods used by border guards for carrying out routine checks on national databases and registers.

I line - in order to detect forged travel documents, magnifying glasses, UV lamps (optical readers for passports, scanners, the JIS and application border checks), as well as handheld metal detectors and x-ray units are used at the first line.

II line - Dokubox – “Projektina” device for the detection of forged documents is used at the second line, where the police officers, responsible for travel documents expertise, are also involved.

All stations of the border police are equipped with at least a minimum of telecommunications equipment required for the smooth functioning of the border police.

All border crossing points are equipped with telephone and fax machines as workstations for cryptographic protection. Where necessary, private branch exchanges of adequate capacity have been installed (Panasonic or Ericsson).

At border crossing points covered with TETRA radio signal, there are hand-held, vehicular and fixed terminals of the TETRA system (Sepura terminals or Motorola MTH650, MTH800, MTM 700 and MTM 800), while hand-held, fixed and vehicular radio stations of analogue VHF systems are used at other boarding crossing points (mostly Motorola GP340, Motorola GM360). At the time of writing this paper, base stations of TETRA system are also installed at two border crossing points, with a tendency to adequately cover all major border crossing points with TETRA signal by 2012.

In order to control the border crossing, members of the Border Police Directorate use at their workplaces (peripheral) server and communications computer equipment, i.e. IT infrastructure of the Ministry of Interior.

Computer (peripheral) and server equipment was acquired mainly through implementation of the CARDS 2006 project. The acquired computer equipment consists of:

- personal computers Pentium 4, with 17 "TFT monitor, memory of minimum 512 MB, Disk Drive of minimum 150 GB, DVD optical devices and an adequate number of USB ports and other ports for reception of peripheral equipment;
- smart cards containing defined rights and responsibilities;
- VDR readers or devices for verification of travel documents;

- laser printers (network or "stay alone" through a USB cable) and
- servers located in regional police directorates, operational on a LINUX platform.

Part of the communication equipment ("swich" and "Reck" cabinets) is also acquired through the implementation of the CARDS 2006, and the routers and modems that are used to establish communication links between border crossing points and the centralized system, were acquired through the procedure for the procurement of communications equipment. Communications equipment of the "Cisco" manufacturer is installed at all border crossing points (transmission of video signals and images, IP telephony etc.). The plan is to replace complete communications and computer equipment, which would be financed from EU pre-accession 2007 and 2008 IPA funds. The project will also cover the license plate recognition systems, verification and registration of vehicles crossing the border, mobile devices for the control of border crossings with functional verification of travel documents.

The data of the Information system of Customs service of the Republic of Serbia are used in all border crossing points. Depending on the nature of work, organizational units the data of which are not unified on ISCS a personal database. Based on direct requirements or observed indicators, if the customs officers at border crossing points cannot obtain data through the ISCS, they can use the data if needed from the databases of other divisions, from the contact persons of these departments, through oral communication or by other means of information exchange.

63. Do you have the capacity to secure machine-readability of new documents?

A new, independently developed information system "Border" is in use at border crossing points of the Republic of Serbia, which enabled significant improvement in the control of travel documents and checking of persons through the MoI official records. Through a single applicable form, the officials now have the opportunity to perform verification of travel documents by control lights (three different types of light - white, UV and IR), then to carry out automatic reading and to check the machine readable zone of the document, and based on the said, to perform the reading of the microchip contents by applying Basic Access Control (if the travel document has a chip). At the same time, automatic alerting of the officials is provided in case the data contained in the machine readable zone are not logically correct, for example validity of the document expired or illogical birth date, and the like.

All border crossing points are equipped with the necessary IT equipment. In case of need to form new border crossing points, they will be equipped in the same way.

64. Describe what is done to detect falsified documents and, in particular, to improve the exchange of information to combat counterfeit travel documents.

In May 2008, in the Ministry of Interior on the level of Border Police Directorate, the Early Warning System was established (EWS), with the objective of introducing all police officers from Border Police Directorate on new ways of falsifying documents, that is new forms and shapes of falsified documents (foreign and domestic). Early Warning System is centralised, and the communication between Department for Prevention of Cross Border Crime in the headquarters of Border Police Directorate and stations for crossing control of state border line goes both ways. Warning messages are being forwarded from the headquarters to all stations in order to be informed about them, and the Department is informed on the new ways of controlling

documents. Following this, the Department sends the selected and processed messages to other subjects in order to be informed.

From the moment of setting up the Early Warning System until 31 December 2008, police officers of the Department for Prevention of Cross Border Crime have processed and forwarded 101 warning message in total. During 2009, police officers of the Border Police Directorate continued to update the established system of early warning and to introduce the new ways- forms and shapes of forged documents to all police officers. Total of 72 warning messages have been processed and forwarded.

In order to inform all police officers of Border Police directorate with the specimens of personal and travel documents, and through the established early warning system with the assistance of established ways of international cooperation, the specimens of foreign documents and examples of discovered forged documents from Romania and Republic of Austria have been provided and forwarded from the police directorates of these countries.

In order to establish international mechanism for more efficient combat of illegal migration and smuggling of human beings, as well as other forms of cross border crime, on 20 November 2008 in Skoplje, the Ministries of the Interior of Albania, Croatia, Macedonia, Montenegro, Serbia and Ministry of Security of Bosnia and Herzegovina have signed the Memorandum on understanding, which establishes the system of exchange of statistical data on illegal migration in a concrete way and establishes the regional system of early warning with the aim of more effective and efficient management of combat against illegal immigration in the region.

During 2010, police officers of the Border Police Directorate have continued to improve the functioning of the established system for early warning in a way that they made forms on new ways of forged documents, which are available to all members of the Ministry with the direct approach to the internet portal of the Ministry of Interior. The total of 20 forms has been processed, and the new addition in relation to the previous period is that the forms which are in Serbian have also been written in English, with the possibility of potential international cooperation.

At the moment, The Border Police Directorate has 14 devices for detecting forgeries – “Projektina dokubox“, which are installed at: three border crossings to Hungary (Horgos, Kelebija and Backi Breg), two border crossing on the borders with Croatia (Batrovci and Sid), Romania (Vatin and Djerdap), Bulgaria (Gradina and Vrska Cuka), Bosnia and Herzegovina (Sremska Raca and Mali Zvornik), and on each airport (Belgrade and Nis) and at the border with Macedonia (Presevo). The problem is the lack of such device at the border crossing with Montenegro.

In addition to Projektina, for discovering of forged documents the additional equipment is used, such as magnifying glass, UV (ultraviolet) lamps and similar equipment.

Discovered Forgeries on Border Crossings				
Type of Forgery	2007	2008	2009	I-X 2010
Travel document	508	450	317	167
Visa	119	88	76	9
Resident Permit	86	78	35	19
Border stamp	563	491	297	234
Driver's licence	82	72	55	40
Identification card	88	87	57	39

Traffic licence	55	34	38	27
Green card	84	97	68	40
Total of forgeries	1 585	1 397	943	575
Forged money and credit cards				
Forged Euro	167 140	22 580	40 300	4570
Forged US Dollars	1 750	4 100		99000
Forged Serbian dinars				26000
Forged credit cards	639	288	57	1

As the part of Criminal Police Directorate- Department for International Police Cooperation conducts the check of authenticity of documents upon the request of foreign and domestic competent authorities, and the exchange of information is established through Protected Communication System of INTERPOL I-24/7. The data base which exists in General Secretariat of Interpol in Lion, with the data about stolen and lost travel documents, is also of significance. All stolen and missing travel documents of citizens of the Republic of Serbia are entered into the system of international data base and in that way are available to all other subjects abroad. The mentioned update of international data bases is performed twice a week. In addition to this, the system of checking of forged documents from other states has also spread, with the spreading of system I-24/7, and the police officers at border crossings are using it in their daily work. On the internet portal of the Ministry of Interior, the form of all identification documents from the European states is available, so that they could be recognised and checked. The checks are performed upon the request of liaison officer, as well as Diplomatic and Consular Missions of other states if there is doubt of criminal offence of forged documents. In several dozen cases the persons, who have been selling forged travel documents and visas were criminally charged. Department for International Police Cooperation participates in all other international data bases with entering, updating and deleting of data (for example fingerprints, DNA profiles, artistic work, stolen cars, wanted persons, documents and similar).

65. Describe your IT equipment and online connections at the borders. Are all border posts equipped to the same level and are all staff trained in the use of the equipment? Are communication systems compatible with those used by neighbouring countries, and/or by EU Member States?

Information System that is used to check persons at border crossing points is centralized and uses intranet network resources for establishing communication between border crossing points, police stations and the headquarters of the Ministry of Interior. At the border crossing stations, in accordance with the volume of data, or frequency of border crossings, local servers are used for receiving and transmitting data to the central system as well as for facilitating operation in case of inability to access the central server.

In addition, the communication equipment is connected through the X21 interface that allows 2 Mb/s of quality traffic by different routes (optics, copper, radio-relay links). Communication equipment of a renowned manufacturer Cisco is used, and as such is compatible with the systems used by neighbouring countries. Computer equipment and readers are operational with the Windows platform and they are also compatible with the systems used by neighbouring countries.

Communication infrastructure is based on existing resources of the communication services providers. The quality of the communication traffic is not the same in all directions since it is based on a heterogeneous environment of fibre optics, copper and radio relay links. Significant improvement in communications infrastructure was achieved in the past, but given that it establishes the basis for the use of new technological solutions (biometric data, images, video ...), it needs further upgrade. Communication equipment is connected through the X21 interface, and the connections with the police directorates are currently enabled with the ability to achieve the communication traffic of up to 2Mbps in capacity. Linking of the border police stations have been implemented through regional police directorates with the support of information technology lines of work in regional police directorates. The level of technical equipment is compatible with categorization of border crossing points and with the number of crossings accomplished. The categorization of border crossing points lies within the competence of the Border Police Directorate.

Information and communication infrastructure of the Ministry of Interior comprises standard communication and computer equipment that enables the development of interface and connectivity with both external systems of the neighbouring countries and the EU information systems.

All police officers of the border police are trained to work with the existing equipment.

The telephone system is compatible with the systems of EU member states. Analogue radio systems are also compatible and governed by the procedures that allow joint patrols/actions of the MoI border police of the Republic of Serbia and of the border services members of Macedonia, Montenegro and Bosnia and Herzegovina. In 2005, the Ministry of Interior effectively introduced the use of radio-telephone system according to TETRA standard (depending on the available funds, the existing system will expand to achieve full national coverage), which is completely in accordance with the European Union recommendations.

66. Which national databases and registers do you have in place (e.g. wanted and missing persons, stolen vehicles, stolen property, etc.)? Please describe the searching procedures and search tools.

The unique information system used in the control of state border crossing performs the automatic reading of data from travel documents with machine-readable zone, while for the documents without the machine readable zone a direct entry of data on person is performed as well as checks of the person through multiple national databases and records. This means that checks are carried out through the records of persons the wanted notice was issued for, including international notices and the notices issued by Interpol, as well as through the records of foreign nationals who have a measure of prohibited entry to /exit from the Republic of Serbia imposed on them. At border crossing points, officials have the option of checking the vehicle through the records of missing vehicles and missing license plates.

The officers responsible for state border controls can also gain insight in other records that are relevant for control of crossing the state border in accordance with their authority and the approved level of access.

Records kept in the UIS of the MoI of Serbia, pursuant to the authorisation of Article 76 of the Law on Police are:

- records of persons who are on any basis limited or deprived of liberty (detention, deprivation of liberty)

- records of persons for whom there are grounds for suspicion of committing crimes and misdemeanours
- records of committed criminal acts prosecuted ex officio, of offences and of the injured parties of criminal acts
- records of the crimes with unknown perpetrators who are prosecuted by private action
- records of wanted persons and objects and of persons who are prohibited from entering the country
- records of missing vehicles
- records of identity checks.

As for the records kept pursuant to authorisations under other laws:

- RCF (records of certain foreigners) and RCYN (records of certain Yugoslav nationals)
- SCF (Specific category of foreigners)
- The weapons in legal possession
- Registered motor vehicles
- Registration of foreigners' residence

Pursuant to the provisions of the **Law on State Border Protection**, the records are kept of the persons who:

1. Underwent border control through the travel documents reader (in electronic form)
2. Underwent the procedure of identity check – through the travel documents reader;

In addition to electronic records, the border crossing points also keep the following records in accordance with the regulations:

- Records of the measures imposed on foreign nationals
- Records of the issued permits for the movement and retention at the border crossing point
- Records of temporarily seized weapons
 - Records of issued permits to carry weapons and ammunition through territory of the Republic of Serbia and authorization to possess and carry weapons to persons who come for hunting and to members of archery organizations coming to archery competitions.
- Records of permits issued for the temporarily seized objects
- Records of inspection and search of persons, baggage and vehicles.

Access to Interpol databases is available directly from the six border crossing points (Horgos, Batrovci, Gradina, Gostun, Presevo and Surcin-Belgrade), and indirectly, it is possible to carry out checks of the databases from all other ports of entry through the said border crossing points on the basis of the internal organization of the Border Police.

Checks through the Interpol database are conducted by the I-24/7 system, as follows:

- NOM – Database with information on criminal activities and international warrants (only the Red Notice is the basis for detention under conditions provided by law and the status of "Wanted" in a NOM database)
- SLTD - Database of stolen and lost - invalid travel documents
- SMV - Database of stolen motor vehicles, a database of stolen and lost vehicle registration plates.

The search is performed on-line through direct database query, on the basis of one or more criteria. Database is accessed through the closed police network. After the request has been sent, the database offers one (or more) replies with the requested data.

Pursuant to the provisions of Article 78 of the Law on Foreigners, the following records shall be kept:

1. Foreigners who have been granted permanent residence;
2. International felons who are prohibited from entering the Republic of Serbia;
3. Foreigners who have been granted temporary residence;
4. Foreigners whose temporary residence has been revoked;
5. Prohibitions of foreigners' entry into and exit from the country;
6. Foreigners in respect of whom a protective measure of removal or security measure of expulsion is in force;
7. Travel documents and identity cards issued for the foreigners;
8. Foreigners' travel and other documents reported lost and found, in accordance with this Law;
9. Travel documents temporarily confiscated;
10. Registrations of foreigners' stays
11. Registrations of foreigners' permanent residence, terminations of permanent residence and changes of address;
12. Carriers and tour operators in respect of which a protective measure of prohibition of engagement in activity, referred to in Article 81(4) of this Law has been pronounced;
13. Legal entities and businesses in respect of which a protective measure of prohibition of engagement in activity, referred to in Article 82(3) of this Law is in force;
14. Foreign travel documents used for entry into and exit from the Republic of Serbia;
15. Foreigners in transit through the territory of the Republic of Serbia;
16. Visas issued at border crossing points and rejected applications for issuing visas at border crossing point;

The ministry competent for foreign affairs shall keep the records in which the checks of the following data can be performed indirectly:

1. Special identity cards issued ;
2. Issued visas;
3. Rejected visa applications;
4. Foreigner's travel certificates issued ;
5. Foreigners' travel and other documents reported lost and found, in accordance with this Law;

In accordance with the **Law on Identity Card** (*Official Gazette of RS* No. 62), the Ministry of Interior shall keep the records of the identity cards through the automatic data processing, consisting of the following:

1. registry of identity cards issued,
2. registry of applications submitted for issuing identity cards,
3. registry of identity cards cancelled,
4. registry of identity cards declared null and void.

At the same time, the Ministry of Interior keeps registry of identity cards issued in the old format, in accordance with the Law on Identity Card which was adopted on 10 April 1974. and published in *Official Gazette of SRS* No. 15, of 13 April 1974.

In accordance with the Law on Domicile and Residence of Citizens (*Official Gazette of SRS* No. 42/77) the following records shall be kept:

1. records of the registered temporary residence, and of cancelled temporary residence and address changes;
2. records of registered and cancelled permanent residence;
3. records of the registered stay abroad for longer than 60 days, and of temporary arrival and return to the country.

In accordance with the **Law on the Unique Identity Number of the Citizens** (*Official Gazette of SRS* No. 53/78) the records shall be kept of certain and issued identity numbers of citizens.

The central database of the citizenship is not kept within the territory of the Republic of Serbia since the jurisdiction of state authorities to keep registry of persons who are citizens of the Republic of Serbia has been changing during the previous period pursuant to applicable regulations.

The records of citizenship are kept in the Civil Register of Births, and in the citizenship registry books of the Republic of Serbia within the competence of the registry offices of municipal administrative authorities, while for the persons who acquired citizenship of the Republic of Serbia during the period 1997 – 2003, under the Law on Yugoslav Citizenship (*OJ of FRY* No. 33) by the decision of the Federal Ministry of Interior, the records of citizenship are kept in the Ministry of Interior. In addition, records of citizens of the Republic of Serbia are also kept at the competent Diplomatic and Consular Missions of Serbia, i.e. at the Ministry of Foreign Affairs through the Civil Register of Births.

Records of weapons are kept in electronic form in accordance with the Law on Weapons and Ammunition and comprise the following:

- - records of applications for the purchase of weapons and ammunition;
- - records of registered weapons;
- - records of confiscated and handed over weapons;
- - records of permits to carry weapons.

and the following records are prescribed and kept:

- records of applications for the purchase of weapons;
- records of applications for the purchase of ammunition;
- records of issued permits to keep weapons and issued firearm licences;
- records of handed over, confiscated and discovered weapons;
- records of issued permits to carry weapons.

Pursuant to the Law on Travel Documents (*Official Gazette of RS* No. 90) and the Regulation on Travel Documents (*Official Gazette of RS* No. 54), the records kept on travel documents comprise the following:

- Registry of issued travel documents;
- Registry of confiscated travel documents;
- Registry of invalid travel documents (taking over of this database is performed by the INTERPOL);
- Registry of rejected applications for the issuance of travel documents;

- Registry of issued visas;
- Registry of cancelled visas;
- Registry of rejected applications for visas.

Records of issued, confiscated, invalid travel documents and of rejected applications for issuing travel documents are kept in electronic form, in the “Travel documents” application of biometric travel documents.

Searches can be carried out through the said applications by personal information, as well as by travel documents data.

In accordance with the Agreement with EC on readmission of persons Residing without Authorization (OG of RS No. 103/07) and with other bilateral agreements implemented by the Republic of Serbia, the records are kept in electronic form in the application “Readmission”, which comprises:

- Registry of received applications for readmission of citizens of the Republic of Serbia and of third country nationals and stateless persons;
- Registry of responses to received applications for readmission of citizens of the Republic of Serbia and third country nationals and stateless persons;
- Registry of persons announced to repatriate to the Republic of Serbia under the Agreement readmission;
- Registry of persons repatriated to the Republic of Serbia by the announcement of foreign authorities under the Agreement on readmission;
- Registry of persons for whom the requests for readmission were submitted to foreign authority;
- Registry foreign authority responses to the submitted requests for readmission.

Searches can be carried out through the said applications by personal information, as well as by the case registry number.

67. Is border surveillance based on risk analysis? Is it supported by sufficient technical means? Do you have specific operational mobile units for border surveillance and if yes, in which parts of the borders?

State border surveillance is carried out in accordance with the results of risk analysis. Technical equipment is not satisfactory thus is compensated with hiring of additional police officers and introducing special tactical methods in the surveillance of the state border. At every state border, i.e. in every regional centre there is a mobile unit which undertakes measures in coordination with the regional police stations and with the regional centre.

68. Please elaborate on the role and powers of the Border Police in detecting and investigating cross border crime.

In accordance with the EU standards and the Strategy for integrated border management adopted by the Serbian Government, border police cooperates with other border services to enable rapid flow of persons, goods and funds across the border crossing points, but also to prevent all threats to national security such as terrorism, cross-border crime especially human trafficking, human smuggling, drug trafficking, proliferation of weapons of mass destruction.

The Border Police has developed the capacity to stop, recognize and detain all persons who pose a threat to national security, particularly the persons who are registered as international criminals and terrorists, the persons whose stay in the territory of our country is forbidden, and to deprive of freedom all persons against whom a wanted notice was issued. In the above mentioned tasks, as strategic security tasks of the MoI of the Republic of Serbia, the border police jointly carry out activities in cooperation with criminal police, traffic police and the police with general jurisdiction.

Border Police, as an organizational unit of the Ministry of Republic of Serbia, shall act in accordance with the powers deriving from existing legislation (Law on Police, Law on State Border Protection, Criminal Code, Criminal Procedure Code and Law on Foreigners).

Priorities in the work of the Border Police are: detection of forged travel documents and other documents, prevention and detection of illegal state-border crossings, human trafficking, smuggling of drug, weapons and different types of goods and prevention of all forms of criminal activities taking place across the state border.

69. How does your country co-operate with neighbouring countries to improve border security (formal bilateral agreements as well as practical arrangements on customs and border police activities)?

D) Cooperation with neighbouring countries - international cooperation is realized on the basis of international agreements and protocols, as well as on the basis of the Law on Police - Article 19 and the Law on State Border Protection - Article 59. and 60. International cooperation of the **Border Police Directorate** is carried out at central, regional and local level.

Bilateral and multilateral cooperation is accomplished at central level with international organizations that implement their programmes in Serbia and in the region, as well as through liaison officers, i.e. police representatives in the diplomatic and consular missions. The most important international organizations, the MoI of the Republic of Serbia – BPD, has established the cooperation with are - OSCE, DCAF, FRONTEX, IOM, HANS ZEIDEL Foundation, UNHCR, ICMPD, SECI Centre, MARRI Centre, and other EU organizations (European Commission, European Agency for Reconstruction - EAR, Stability Pact).

Particularly significant activities are carried out with the Geneva Centre for the Democratic Control of Armed Forces (DCAF), with which the programme on "Establishing a system of border security", is implemented at regional level in the field of border security. Activities take place through the work of several working groups dealing with different aspects of cross-border police cooperation and through the implementation of joint training of border police management at the local and regional level of organizing the border services in all the Western Balkans countries - two Courses for training of border police station commanders and two Courses for regional heads of border police. DCAF has been a co organizer of all seven annual conferences of the Ministers of security and interior of the Western Balkans countries, held so far, at which the issues regarding cross-border police cooperation have also been addressed.

In addition to this, the Border Police Directorate cooperates at regional level through regional Programmes and initiatives, by establishing regular police cooperation with the SECI and MARRI Centres (asylum, migrations).

At local level, international police cooperation is established between border police stations, on the basis of bilateral agreements with neighbouring countries.

Within the framework of international cooperation, numerous projects of donations in equipment and training of border police members were carried out, of which the most significant is EU assistance implemented through various programmes (construction of border crossing points Presevo, Batrovci and Horgos), purchase of vehicles - a total of 147, out of which 107 field and 40 passenger vehicles, 20 modern boats, IT, telecommunication and other equipment. The assistance in the procurement of specialized equipment for control of the validity of travel documents and other documents (for 13 border crossing points) is particularly important as well as the special equipment for securing the state border (thermo vision radar systems, night vision devices, etc.). At the time of the Socialist Federal Republic of Yugoslavia, agreements were concluded with Hungary, Romania and Bulgaria on the resolution of border regime violations and border incidents and of the rules of procedure of the central, i.e. main mixed committee and rules of procedure of local i.e. sectoral mixed committees and border plenipotentiaries. The agreements are still in force and are applied.

The Republic of Serbia is a signatory to the Police Cooperation Convention for Southeast Europe - the Vienna Convention. **Under the Vienna Convention, the protocols were concluded** on joint meetings at local, regional and central level and joint patrols with Bosnia and Herzegovina, Macedonia and Montenegro.

Agreement between the Council of Ministers of Serbia and Montenegro and the Government of the Republic of Bulgaria on border control and procedures in rail transport (signed on 15 April 2005).

Agreement between the Government of the Republic of Serbia and the Government of the Republic of Bulgaria on cross-border police cooperation (signed on 12 November 2007).

Agreement between the Government of the Republic of Serbia and the Government of the Republic of Bulgaria on the establishment and operating of the joint contact centre for police and customs cooperation (signed on 26 April 2010).

Protocol on Cooperation of border police through the experimental establishment of the Bureau between the Ministry of Interior of the Republic of Serbia, the Border Police Directorate and the Ministry of Administration and Interior of Romania, the General Inspectorate of Border Police (signed in February 2006).

Agreement between the Government of the Republic of Serbia and the Government of Romania on cooperation in the fight against organized crime, international drug trafficking and international terrorism (signed on 5 July 2007).

Protocol on improved trilateral cooperation in the fight against crime, especially cross-border crime, between the **Government of the Republic of Serbia, the Government of the Republic of Bulgaria and the Government of Romania** (signed on 29 September 2008).

Cooperation plan of the border police authorities of the Republic of Serbia and Romania, referring to the protection of observance of the state border regime, security of the joint border between Serbia and Romania, combating illegal migrations and transborder crime (signed on 6 March 2009).

Agreement between the Government of the Republic of Serbia and the Government of the Republic of Macedonia on regulating cross-border traffic regime at the state border between Serbia and Macedonia (signed on 18 September 2010).

Agreement between the State Union of Serbia and Montenegro and Bosnia and Herzegovina on determining border crossing points (signed on 24 April 2005).

Agreement between the State Union of Serbia and Montenegro and Bosnia and Herzegovina on border traffic (signed on 24 April 2005).

Agreement between the State Union of Serbia and Montenegro and Bosnia and Herzegovina on a simplified procedure of transit traffic of people and goods at the border crossing points Uvac-Uvac and Vagan-Ustibar (signed on 24 April 2005).

Agreement between the Federal Government of the SRY and the Government of the Republic of Croatia on border traffic (signed on 15 September 1997).

Agreement between the Federal Government of the SRY and the Government of the Republic of Croatia on determining border crossing points (signed on 15 September 1997).

II) Ministry of Agriculture, Forestry and Water Management has no agreements with neighbouring countries on improving border security and the agreements on phytosanitary policy are concluded by the Plant Protection Directorate.

III) Customs Administration currently implements 20 bilateral agreements on mutual administrative assistance in the customs field. Customs Administration of Serbia applies bilateral agreements on mutual administrative assistance in the customs field with all neighbouring countries, apart from Albania with which the agreement was ratified.

On the basis of the said bilateral agreements, Customs Administration of Serbia concluded protocols on exchange of information sheets in road traffic with customs administrations of Bosnia and Herzegovina, Montenegro, Macedonia and Bulgaria, which enable cross-border exchange of customs data via the Customs Information sheets-CIL in paper form.

Based on the signed protocols on exchange of information sheets, Customs Administration of Serbia concluded technical arrangements on electronic exchange of customs data through the SEED system (Systematic Electronic Exchange of Data - Electronic Data Exchange System) with the customs administrations with which it was possible (Bosnia and Herzegovina, Montenegro and Macedonia) . The arrangements define a minimum set of data to be exchanged for transit, export and empty trucks. Electronic exchange of customs data is being tested and so far has not included automatic matching of data exchanged, for which the intensive work is carried out within the regional SEED project funded by the EU.

In April 2010, the Agreement was signed between the Government of the Republic of Serbia and the Government of the Republic of Bulgaria on the establishment and operating of the joint contact centre for police and customs cooperation.

In addition to the said formal agreements and arrangements with neighbouring customs administrations, representatives of the Serbian Customs Administration and border officers maintain regular and direct contacts with colleagues from neighbouring border crossing points.

70. Please provide information on the state of play regarding cooperation with FRONTEX.

Working arrangement for the establishment of operational cooperation between the MoI of the Republic of Serbia and the European External Borders Agency (FRONTEX) was signed in February 2009.

Border Police Directorate carries out cooperation with the said organization in the following areas:

- Joint Operation "Neptune",
- Network for Risk Analysis in the Western Balkans (WB RAN),
- Frontex Border Analytics Community (FRONBAC),
- Forum for Heads of Airports,
- Unique standardized manual for the handlers of service dogs.

NEPTUNE - Neptune 2009-2010.

Eight members of the Border Police Directorate took part in the Joint Operation Neptune in 2009, which was carried out in the period March -December 2009. on the state border with the Republic of Hungary.

Implementation in 3 phases:

- The first phase – from 31 March to 28 April 2010, at the border crossing points between Hungary and Serbia and between Slovenia and Croatia, with the task of detecting illegal migrants (54 members of BPD).
- The second phase – from 30 June to 28 July 2010, the disclosure of forged documents and stolen vehicles at the border crossing points between Slovenia and Croatia, Hungary and Serbia and Romania and Serbia (52 members of BPD).
- The third phase – from 29 September to 26 October 2010, the detection of illegal crossings of the green border between Slovenia and Croatia and between Hungary and Serbia (51 member of BPD).

The aim of the operation is to combat illegal migrations and other forms of cross-border crime at the EU external borders.

The operation involves border police of three host countries on whose territory the operation is carried out (Hungary, Slovenia and Romania), as well as two visiting countries, the experts of which are sent to the territories of EU countries (Serbia and Croatia).).

WB RAN

As part of the Network for Risk Analysis in the Western Balkans (WB RAN), Border Police Directorate regularly delivers monthly statistical review to the FRONTEX agency, referring to statistical data from the field of illegal migrations, detected forgeries, confiscation of narcotics, and so on. The data are submitted in standardized formats used by all EU Member States when reporting to FRONTEX agency.

(Deficiency – insufficient feedback information from FRONTEX on the situation in the EU).

FRONBAC - FRONTEX Border Analytical Community

Three members of the Border Police Directorate took part in the courses (weekly and fortnightly) which were organized within the framework of the above mentioned programme. Processing of the collected information and risk analysis was the subject of the courses.

Forum of the heads of airports

In September 2010, FRONTEX agency has summoned all heads of the airports from the Western Balkan countries to attend a forum that brings together almost all the heads of the EU airports. The occasion for this gathering was the successfully completed regional initiative project MARRI which gathered all heads of airports from the Western Balkans during 2009. and 2010. (Memorandum of Understanding was developed).

Unique standardized manual for the handlers of service dogs

A member of the Border Police Directorate was actively involved in the preparation of manuals for training and use of service dogs.

71. What is the state of affairs concerning international agreements on borders and border co-operation with neighbouring countries? Please provide:

- a) short description of agreements existing or being planned;**
- b) summary of the content of the agreements;**

- c) level at which the agreements were or will be adopted, as well as the (expected) time of adoption;
- d) local border traffic arrangements;
- e) BCPs with neighbouring countries.

The Republic of Serbia is a signatory to the Convention on Police Cooperation in Southeast Europe - the Vienna Convention. On the basis of the said convention, the following protocols have been concluded:

- **Protocol on holding regular meetings of border services** at all levels, signed in 2008 between the MoI of the Republic of Serbia, the MoI of Montenegro and the MoI of the Republic of Macedonia (in force). The Protocol regulates matters concerning joint meetings of border services at all levels in order to exchange data and to accelerate the transport of passengers and goods.

- **Protocol on holding regular meetings of border services** at all levels, signed on 6 March 2009 between the MoI of the Republic of Serbia and the Border Police of Bosnia and Herzegovina (in force). The Protocol regulates matters concerning holding of joint meetings of border services at all levels in order to exchange data and to accelerate the transport of passengers and goods.

- **Protocol on establishing joint patrols**, signed on 6 March 2009 between the MoI of the Republic of Serbia, the MoI of Montenegro and the Border Police of Bosnia and Herzegovina (in force). The training of police officers to work in joint patrols has been conducted. The Protocol regulates all issues related to conducting joint patrols at the common border.

In accordance with Article 28 of the Law on Ministries, Protocol shall be concluded by the MoI and shall be directly applied, as opposed to the agreements which shall be concluded at government levels and shall be subject to ratification (approval).

- **Agreement between the Council of Ministers of Serbia and Montenegro and the Government of the Republic of Bulgaria on Border Control and Procedures in rail transport**, signed on 15 April 2005 (*Official Journal of Serbia and Montenegro - International Treaties* No. 13/05). The agreement includes joint work in a joint railway station in Dimitrovgrad (Republic of Serbia) and control over the movement of trains between Dimitrovgrad and Kalotina (Republic of Bulgaria), conducted by the customs and border police;

- **Agreement between the Government of the Republic of Serbia and the Government of the Republic of Bulgaria on cross-border police cooperation** (signed on 12 November 2007). The agreement regulates the issues with relevance to combating cross-border crime, in particular the fight against human trafficking, illegal migrations and all forms of smuggling of goods.

- **Agreement between the Government of the Republic of Serbia and the Government of the Republic of Bulgaria on establishment and operation of the joint contact centre for the police and customs cooperation**, signed on 26 April 2010 (*Official Gazette of RS- International Treaties*, No. 10/10). The agreement regulates the manner of exchanging data with relevance to combating all types of cross-border crime.

- **Convention between the Council of Ministers of Serbia and Montenegro and the Government of the Republic of Bulgaria** on the renewal, marking and maintenance of boundary lines and boundary markers at the common state border, signed on 12 November 2003 (*Official Journal of Serbia and Montenegro- International Treaties* No. 9/04).

- **Convention between the Government of the Republic of Serbia and the Government of Romania** on the renewal, marking and maintenance of boundary lines and boundary

markers at the common state border (signed on 4 September 2007 *Official Gazette of RS - International Treaties*, No. 42/09).

- **Protocol on Cooperation between the Border Police** through the experimental establishment of the Bureau of the Ministry of Interior of the Republic of Serbia, the Border Police Directorate and the Ministry of Administration and Interior of Romania, the General Inspectorate of Border Police (signed in February 2006).

- **Agreement between the Government of the Republic of Serbia and the Government of Romania on cooperation in the fight against organized crime, international drug trafficking and international terrorism** (signed on 5 July 2007). The agreement regulates the issues related to prevention of drug trafficking, the fight against organized crime and international terrorism.

- **Protocol between the Government of the Republic of Serbia, the Government of Republic of Bulgaria and the Government of Romania** on enhanced trilateral cooperation in the fight against crime, especially cross-border crime (signed on 29 September 2008).

- **Cooperation Plan between the border police of the Republic of Serbia and Romania, referring to the observance of the border regime, the provision of joint Serbian-Romanian border, combating illegal migrations and cross-border crime** (signed on 6 March 2009). It regulates issues with relevance to combating illegal migrations and cross-border crime, as well as to holding of meetings of border services of the two countries.

- **Agreement between the Council of Ministers of Serbia and Montenegro, the Republic of Hungary and the Government of Romania** on the meeting point of the state borders between Serbia and Montenegro, the Republic of Hungary and Romania, marked with the triangle marker, and on its maintenance, signed on 19 April 2006 (*Official Gazette of RS- International Treaties* No.102/07).

- **Agreement between the Government of the Republic of Serbia and the Government of the Republic of Macedonia** on regulating cross-border traffic regime at the Serbian-Macedonian state border (signed on 18 September 2010). The agreement includes facilitated regime of crossing the state border to population in the border zone (of 30 to 35 km in depth), for those who have border passes in their possession.

- **Agreement between the Federal Republic of Yugoslavia and the Republic of Macedonia** on the extension and description of the state border, signed on 23 February 2001 (*Official Journal of FRY - International Treaties* No. 1/01).

- **Agreement between Serbia and Montenegro and Bosnia and Herzegovina on determining of border crossing points**, signed on 24 April 2005 (*Official Gazette of RS-International Treaties* No.19/10). The agreement regulated in more details the number and type of border crossing points at the border between the Republic of Serbia and Bosnia and Herzegovina.

- **Agreement between Serbia and Montenegro and Bosnia and Herzegovina on border traffic**, signed on 24 April 2005 (*Official Gazette of RS-International Treaties* No. 19/10). The agreement includes facilitated regime of crossing the state border to population in the border zone without special passes, since the crossing of the common border is enabled to persons in possession of identity cards. -

- **Agreement between Serbia and Montenegro and Bosnia and Herzegovina on the simplified procedure for transit traffic of people and goods at border crossings Uvac-Uvac and Vagan-Ustibar**, signed on 24 April 2005 (*Official Gazette of RS-International Treaties* No. 6/05). The agreement has provided benefits for crossing the border to population that gravitates and was referred to the border crossing points Uvac (Republic

of Serbia) - Uvac (Bosnia and Herzegovina) and Vagan (Republic of Serbia) - Ustibar (Bosnia and Herzegovina)).

- **Agreement between the SRY Federal Government and the Government of the Republic of Croatia on border traffic**, signed on 15 September 1997 (Official Journal of FRY - International Treaties No.1/98). The Agreement includes facilitated regime of border crossing to population in the border zone, who are in possession of border passes. With abolition of visas for citizens of both countries, the need of the use of border passes ended.

- Agreement between the FRY Federal Government and the Government of the Republic of Croatia on determining border crossing points, signed on 15 September 1997. The agreement regulated in more detail the number and type of border crossing points at the border between the Republic of Serbia and the Republic of Croatia..

- **Agreement between the Government of the Republic of Serbia and the Government of Montenegro on rail transport border control** (signed on 9 March 2009). The agreement includes joint work in a joint railway station in Bijelo Polje (Montenegro) and control over the movement of trains between Bijelo Polje and Prijepolje (Republic of Serbia), conducted by customs and border police.

Agreements with the following international organizations have also been concluded: OSCE, DCAF, FRONTEX, MARRI Centre, SECI Centre, Hans Zeidel Foundation, IOM, and UNHCR.

The following international acts are in preparation for being concluded:

- **Agreement** between the Government of the Republic of Serbia and the Government of the Republic of Hungary on road, rail and river control of crossing the state border and the establishment of a joint liaison office). - The agreement will regulate in more detail all issues related to border control in road, rail and river transport, as well as the operation of the joint liaison offices).

- **Convention** between the Government of the Republic of Serbia and the Government of Romania on local cross-border traffic. The Convention includes facilitated regime of border crossing to population in the border zone, with border passes, while respecting Schengen rules on the local traffic flow.

Protocol on the establishment and operation of the joint contact office at the Serbian-Romanian state border. The Protocol includes the method of operation and exchange of information in the joint contact office at the Serbian-Romanian border, at the Romanian cross border point Portile de Fier 1.

Protocol on the establishment and functioning of the joint contact centre for the cooperation between the police and customs of the Republic of Serbia and the Republic of Bulgaria. The Protocol includes the method of operation and exchange of information in the joint contact office at the Bulgarian border crossing point Kalotina.

Protocol between the MoI of the Republic of Serbia and the MoI of the Republic of Croatia on the establishment of joint contact service. The Protocol includes the method of operation and exchange of information in the joint contact service at the border crossing point Bajakovo (Republic of Croatia).

Protocol on conducting of joint border controls at the crossing point for border traffic Goles, at the Serbian-Macedonian border. The Protocol regulates the method of joint border control conducted by the authorities of the Republic of Serbia and Republic of Macedonia at the border crossing point for border traffic Goles.

Implementation of the project on "Regional support to the promotion, implementation and monitoring of integrated border management strategy and corresponding action plans and for development of regional and cross-border initiatives" has been initiated and is coordinated by the International Organization for Migration (IOM), with the support of FRONTEX (June 2009).

For the purpose of active participation and implementation of international actions to prevent cross-border organized crime, the MoI and Customs Administration have designated their representatives to the SECI Center, with headquarters in Bucharest.

1. The Customs Administration of the Republic of Serbia has concluded agreements on customs cooperation with all the neighbouring countries (**Hungary, Romania, Bulgaria, Macedonia, Montenegro, Bosnia and Herzegovina and Croatia**), **except with Albania**, with which the Agreement has been initialled. The agreements on customs cooperation are a legal framework for the data exchange and their fundamental purpose is to: provide mutual assistance in preventing and investigating customs, foreign exchange currency and foreign trade offences; provide assistance in the exchange of information used for countering smuggling; take measures for accomplishing cooperation in studying, processing and implementing new customs procedures, staff training and exchange of experts; advance customs techniques and solve problems arising from the application of customs regulations, etc. Moreover, the purpose of those agreements is to improve the control of movement of goods and passengers and fight against smuggling, as well as to enhance the mutual collaboration. The agreements also define the manner of submitting and use of information and documents, their use in potential court proceedings, participation of experts in those proceedings, as well as the protection of personal data occurring in the exchanged data.

2. Based on the above mentioned bilateral agreements on customs cooperation, the Customs Administration of Serbia has signed **protocols on exchange of customs information lists** in road transport with the Customs Administrations of **Bosnia and Herzegovina** (2007), **Montenegro** (2003), **Macedonia** (2003) and **Bulgaria** (2003), which enable cross-border exchange of customs data on loaded or empty trucks in paper format by using Customs Information Lists. Having signed the **protocols on exchange of information lists** with the Customs Administrations of Bulgaria (concluded in 2003), Montenegro (concluded in 2003), Macedonia (concluded in 2003) and Bosnia and Herzegovina (concluded in 2007), that is, the Annex to the Protocol and the concrete Agreement, the Customs Administration of Serbia has established the exchange of customs data in paper format with the said customs services by using the Customs Information Lists for all trucks (both loaded and empty) crossing the border. The CIL form and the manner of CIL data matching and collating have been defined. The data that are exchanged are as follows: registration plate number, information whether a truck is loaded or empty, whether the truck is under transit or export procedure, type of goods, value of goods, number of invoice accompanying the consignment, total number of CMRs and the truck gross weight. Customs officers, i.e. heads of border crossing points or authorised persons are obliged to daily compare the issued/received CILs for the prior 24 hours and make a record of it, then in case of discrepancies, if any, make and deliver a monthly report to the Risk Analysis Department which processes, analyzes and uses the data concerned.

3. Pursuant to the signed protocols on exchange of CILs, in 2009 the Customs Administration of Serbia concluded, where possible, technical agreements on electronic exchange of customs data on loaded and empty trucks via SEED (Systematic Electronic Exchange of Data) with the Customs Administrations of **Bosnia and Herzegovina, Montenegro and Macedonia**. Having signed the agreements on harmonised set of data to be electronically exchanged by the SEED

system, the Customs Administration of Serbia defined with the Customs Administrations of Bosnia and Herzegovina, Montenegro and Macedonia the software and the minimum set of data to be exchanged until the establishment of the system exchange of all Single Administrative Document (SAD) data. The establishment of this electronic data exchange is in pilot phase, because it does not include automated matching of exchanged data, nor the exchange of all data specified in the customs documents.

E) The annex introduces a list of border crossing points with neighbouring countries (Annex 4)

72. Please describe in detail the situation at the Administrative Boundary Line with Kosovo in light of all the above questions. Describe the practical cooperation with EULEX.

The state of security in the Ground Security Zone at the administrative boundary line with Kosovo and Metohija is peaceful and relatively stable, but sensitive due to negative events in the area of Kosovo and Metohija, which may spread very quickly to the area of the Ground Security Zone. The following strongly affects such state:

- exchange of powers between UNMIK and EULEX,
- exchange of jurisdiction from international institutions to provisional institutions of self- government of the self- proclaimed “Republic of Kosovo”,
- Reorganisation of KFOR,
- Criminal offences in the area of the administrative boundary line (drug smuggling, human trafficking, arms and military equipment smuggling and consumer goods smuggling, unlawful forest cutting etc),
- provocation from representatives of provisional institutions in the area of administrative boundary line.

Coordination Directorate for Kosovo and Metohija and Headquarters of the Ministry of Interior for AP Kosovo and Metohija, in the line of their regular duties, maintain everyday contact and have meetings with the representatives of International Security Forces on the territory of Kosovo and Metohija- UNMIK Police and EULEX Police.

The cooperation is established pursuant to the signed documents- The Protocol on Police Cooperation between UN Interim Administration Mission in Kosovo (UNMIK) and Federal Republic of Yugoslavia and the Government of the Republic of Serbia (signed on 31 May 2002) and Protocol on Police Cooperation between the Ministry of Interior of the Republic of Serbia and EULEX (signed in September 2009).

During October and November 2009, instead of the expected signing of the Annex to the Protocol on Police Cooperation between the chief of Component Police Mission in Kosovo and Deputy Director of Police of Serbia, the letters were exchanged with the lists of persons and contact points on both sides, where the main contact points set on the behalf of the Ministry of Interior of Serbia were the Coordination Directorate for Kosovo and Metohija and Headquarters of the Ministry of Interior for AP Kosovo and Metohija.

Coordination Directorate for Kosovo and Metohija and Headquarters of the Ministry of Interior for AP Kosovo and Metohija maintain contact with representative of EULEX police and during joint meetings on local, coordination and command level, in which representatives of Serbia participate as delegation members on Meetings of the Joint Implementation Commission (JIC) for implementation of Military Technical Agreement with the representatives of international security forces in Kosovo and Metohija (ISF of KFOR, UNMIK and EULEX) The main topic of these meetings is prevention of all forms of crime in the area of administrative boundary line, and the exchange of information on the events of interest for security in the area of Ground Security Zone as well as near the administrative boundary line.

The main principle on which the representatives of the Ministry of Interior of RS insist on in this mutual cooperation, is the principle of reciprocity, and therefore expect that there should be additional effort on behalf of EULEX in order to improve the scope and quality of cooperation.

On the last held meetings, the EULEX Police stated its readiness to intensify the cooperation through regular meetings and the exchange of information on the events of interest for security in the area of administrative boundary line and in the area of Kosovo and Metohija, and there was a special talk on the improvement of cooperation in the field of trafficking of human beings, migrant smuggling, drug and firearms trafficking and other ways of illegal trade and the first steps in this direction have already been taken.

Control of administrative boundary line crossings to AP Kosovo and Metohija is established on 11 security checkpoints, out of which at six checkpoints the crossing of goods and persons is allowed (Rudnica, Merdare, Mutivoda, Konculj, Depce, Tabalijs), and at five checkpoints only crossing of persons (Breznica, Muhovac, Dobrosin, Sponce, Mramor).

All administrative crossings are connected to the central data base through the General Information System of Ministry of Interior of the Republic of Serbia, with installed electronic readers of travel documents.

In addition to this, they are equipped with the basic technical equipment for checking vehicles and documents, such as PD mirrors, UV lamps, magnifying glasses and similar. According to their needs, the equipment for discovering of the presence of carbon monoxide in vehicles and heartbeat detectors are used at the administrative crossings.

Only two crossings have installed video monitoring for now.

Regulation on the Control of Crossing the Administrative Boundary Line to Kosovo and Metohija, establishes the conditions under which it is possible to stay in the area, move and cross over the administrative boundary line. This act establishes the legal foundation for action of Serbian authorities on duties of securing and controlling the administrative boundary line. The main responsibility for these duties lies on the Ministry of Interior, which is responsible for the procedures of crossing the administrative boundary line at administrative crossings and monitoring of administrative boundary line between crossings and the control of the Ground

Security Zone, established by Military Technical Agreement between FRY and KFOR in 1999.

With the signing of Military Technical Agreement on 9 June 1999 in Kumanovo, between international forces of KFOR and security forces of FRY, the Ground Security Zone and Air Security Zone (GSZ and ASZ) were defined and established on the part of territory of the Republic of Serbia within the administrative boundary line with Kosovo and Metohija, in which special activity regimes of the Ministry of Interior of Serbia and Serbian Armed Forces are in force. The length of GSZ is 402 km, depth 5 km and it occupies the area of 2010 square kilometres, mainly of hills and mountains with dense forests, where population are mainly farmers and stockmen.

Security regiment in the GSZ is established through the Military Technical Agreement (MTA) and the Agreement on Temporary Operating Procedures for Cooperation and Coordination on both sides of the administrative boundary line with Kosovo and Metohija (TOPA).

As the part of control of territory near the administrative boundary line with AP Kosovo and Metohija, Gendarmerie as the organisational unit of the Police Directorate of the Ministry of Interior of Serbia carries out duties as the integral part of the Security forces of the Republic of Serbia, which comprise of Regional Police Directorates (PD Vranje, PD Leskovac, PD Prokuplje, PD Krusevac, PD Kraljevo, PD Novi Pazar) and Serbian Armed Forces. The main activities of Security forces under the positive legal provisions are directed towards combat against terrorism and organised crime and preventing firearms trafficking, human beings trafficking, illegal traffic of drugs, prevention of trafficking of human beings and illegal migration, with the aim of raising the security level within the administrative boundary line and creating conditions for safe and secure life for all citizens and the protection of their property. Control of persons and vehicles crossing the official administrative border points is performed by police officers of the Regional Police Directorates, and the control of space between the zones within the administrative boundary line between administrative crossings is performed by police officers of Gendarmerie in cooperation with the local police.

Scope and way of cooperation between Security Forces and KFOR is defined in international agreements as follows:

1. Temporary Operating Procedures Agreement for Cooperation and Coordination on both sides of the administrative boundary line with Kosovo and Metohija,
2. Guidelines for Implementation of Agreement on Temporary Operating Procedures for Cooperation and Coordination on both sides of the Administrative boundary line with Kosovo and Metohija, and
3. Didactic rulebook for exercising the implementation of Temporary Operating Procedures Agreement (TOPA) and the guidelines for implementation of Temporary Operating Procedures Agreement (DOPA) between KFOR and security forces in the Ground Security Zone.

The carrier of activities in cooperation with KFOR is the Department for Cooperation with KFOR of the Command of Land Forces, and the coordination of activities between the forces of the Ministry of Interior and Serbian Armed Forces in the Ground Security Zone is done by the Headquarters of Ministry of Interior for AP Kosovo and Metohija.

As the part of the established cooperation, joint meetings between Security Forces of the Republic of Serbia and KFOR are held on local, coordination and command level regularly (monthly basis). On the meetings between coordination and command level, there are working bodies for matters of police cooperation with the aim of exchanging information and improving cooperation for joint combat against organised crime and terrorism. Police officers of the Regional Police Directorates and Gendarmerie with territorial competence on one side and representatives of EULEX and army police on the other, participate in activities of working bodies. Representatives of EULEX started to be present at these meetings in March 2010, when they replaced the representatives of UNMIK, who have participated in working bodies for police cooperation on meetings of coordination and command level until then.

The second level of police cooperation is on the level of Headquarters of the Ministry of Interior for AP Kosovo and Metohija and EULEX. Under the Protocol on Police Cooperation between EULEX and Ministry of Interior of the Republic of Serbia, the meetings are held periodically, according to needs in Kursumlija, where the Headquarters is situated. On these meetings certain questions regarding the performing of police duties within the administrative boundary line are discussed, in order to improve police cooperation between Ministry of Interior and EULEX.

73. Please describe the checking procedures with regards to the entry of foreigners in Serbia through the Administrative Boundary Line with Kosovo.

Foreigners can enter the Republic of Serbia through the AP Kosovo and Metohija administrative boundary line in accordance with the visa regime, only if they previously passed the control at one of the official border crossing points controlled by border police of the Ministry of Interior. Crossing the border takes place solely at the administrative border crossing points.

When crossing the border at one of the border crossing points, a foreigner must have a valid travel document. On that occasion, the foreigner's travel document shall undergo the process of authentication, validity of the travel document and the foreigner shall be checked through the databases of persons for whom the wanted notice was being issued. Thereafter, the examination of persons, baggage and vehicles shall be conducted to detect the possible smuggling. The vehicle, by which the person travels, shall also be checked through the databases of missing vehicles, as well as the accuracy and validity of vehicle documents.

After the completed checks, crossings of persons and vehicles shall be registered in the database.

Judicial co-operation in civil matters

74. Please provide information on legislation or other rules governing the area of judicial cooperation in civil matters, i.e. on issues of international jurisdiction, recognition, enforcement, access to justice and legal assistance in civil and commercial matters including family law. Please explain the situation of Serbia as regards your adhesion to relevant international conventions.

In the area of mutual legal assistance in civil matters the following legislation is applied:

Civil Procedure Law (*Official Gazette of the RS*, No 125/04 and 111/09);

Law on Resolving Conflict of Laws with Regulations of Other Countries (*Official Journal of the SFRY*, No 43/82, 72/82, *Official Journal of the SRY*, No 46/96 and *Official Gazette of the RS*, No 46/06)

Law on Legalisation of Documents in International Communication (*Official Journal of the SFRY*, No 6/73)

The Law on the Organisation of Courts (*Official Gazette of the RS*, No 116/08, 104/09 and 101/10)

Law on Seats and Areas of Jurisdiction of Courts and Public Prosecutors' Offices (*Official Gazette of the RS*, No 116/2008)

The Law on Family (*Official Gazette of the RS*, No 18/05)

Law on Resolving Conflict of Laws and Jurisdiction in Status, Family and Succession Relations (*Official Journal of the SFRY*, No 9/79 and 20/90, *Official Journal of the SRY*, No 46/96 and *Official Journal of SCG*, No 1/2003 – Constitutional Charter)

Court Rules of Procedure (*Official Gazette of the RS*, No 110/09)

Relation between the sources of law and international treaties

Article 16 of the Constitution of the Republic of Serbia (*Official Gazette of the RS*, No 98/06), stipulates that the generally recognised rules of international law and ratified international treaties form an integral part of the legal order of the Republic of Serbia and they are applied directly. The ratified international treaties must be in line with the Constitution.

Bilateral international agreements applied:

Convention on establishment and consular service between the Kingdom of Serbs, Croats and Slovenes and the Albanian Republic of 22 June 1926 (*Official Journal*, No 117/1929), entered into force on 17 May 1929;

Agreement on Trade and Navigation between the Kingdom of SCS and the Albanian Republic of 22 June 1926 (*Official Journal*, No 117/1929), entered into force on 6 June 1929;

Agreement on Mutual Legal Assistance in Civil and Criminal Matters between the SFRY and the Democratic People's Republic of Algiers of 31 March 1982 (*Official Journal of the SFRY – International Treaties*, No 2/83, *corrigendum* published in *Official Journal—International Treaties*, No 10/84), entered into force on 20 December 1984.

Agreement on Mutual Legal Communication between the FPRY and the Republic of Austria of 16 December 1954 (*Official Journal of the FPRY – Addendum*, No 8/55), came into effect on 13 December 1955;

Agreement on Mutual Recognition and Execution of Judgements on Maintenance between the FPRY and the Republic of Austria of 10 October 1961 (*Official Journal SFRY – Addendum*, No 2/63), came into force on 25 December 1962;

Consular Agreement between the FPRY and the Republic of Austria of 18 March 1960 (*Official Journal of the SFRY - addendum*, No 5/69), entered into force on 26 September 1968;

Agreement on Mutual Legal Assistance in Civil and Commercial Matters between the SFR Yugoslavia and the Kingdom of Belgium of 24 September 1971 (*Official Journal of the SFRY-addendum*, No 7/74), entered into force on 1 June 1972;

Convention on Recognition and Execution of Judgments on Maintenance between the SFRY and the Kingdom of Belgium of 12 December 1973 (*Official Journal-addendum*, No 45/76), entered into force on 8 March 1976;

Convention on the Issue of Extracts from Civil Service Records and Abolishing of the Legalisation Requirement between the SFRY and the Kingdom of Belgium of 24 September 1971 (*Official Journal of the SFRY*, No 55/72), entered into force on 1 December 1972;

Consular Convention between the SFRY and the Kingdom of Belgium of 30 December 1969 (*Official Journal of the SFRY-addendum*, No 49/74), entered into force on 5 January 1974;

Consular Convention between the FPRY and the Republic of Bolivia of 21 May 1962 (*Official Journal of the FPRY-addendum*, No 11/63), entered into force on 22 April 1988;

Agreement on Mutual Legal Assistance in Civil and Criminal Matters between the SCG and Bosnia and Herzegovina of 24 February 2005 (*Official Journal of SCG-Intl Agreements*, No 6/05), entered into force on 9 February 2006;

Agreement between the Republic of Serbia and Bosnia and Herzegovina on amendments and supplements to the Agreement between Serbia and Montenegro and Bosnia and Herzegovina on legal assistance in civil and criminal matters of 26 February 2010 (effective as of the date of signature);

Agreement on Mutual Legal Assistance between the FPRY and the People's Republic of Bulgaria of 23 March 1956 (*Official Journal of FPRY-addendum*, No 1/57), entered into force on 17 January 1957;

Consular Convention between the SFRY and the People's Republic of Bulgaria of 17 November 1987 (*Official Journal of the SFRY – International Treaties*, No 10/91), entered into force on 16 January 1989;

Agreement between the Republic Serbia and Montenegro on Mutual Legal Assistance in Civil and Criminal Matters of 29 May 2009 (*Official Gazette of the RS – International Treaties*, No 1/10

Agreement Regulating Legal Relations in Civil, Family, and Criminal Matters between the SFRY and the Czechoslovak Socialist Republic of 20 January 1964 (*Official Journal of the SFRY - addendum*, No 13/64), entered into force on 2 August 1964 (applied with respect to the Czech Republic and the Slovak Republic as successors of the CSSR)

Consular Convention between the SFRY and Czechoslovak Socialist Republic of 10 December 1981 (*Official Journal of the SFRY – International Treaties*, No 6/84), entered into force on 11 November 1982;

Agreement on Facilitating the Application of the Hague Convention on Civil Procedure of 1 March 1954 between the SFRY and the Republic of France of 29

October, 1969 (*The Official Journal of the SFRY – Addendum No 21/71*), entered into force on 1 January 1971;

Convention on the Issuing of Documents on Personal Status and Abolishment from Legalisation between the SFRY and the Republic of France of 29 October, 1969 (*Official Journal of the SFRY – Addendum No 3/71*), entered into force on 1 November, 1970;

Convention on Recognition and Execution of Judgements in Civil and Commercial Matters between the Government of the SFRY and the Government of the Republic of France of 18 May 1971 (*Official Journal of the SFRY – Addendum No 7/72*), entered into force on 1 February 1972;

Consular Convention between the Kingdom of SCS and the Republic of France on Establishment of 30 January 1929 (*Official Journal, No 112/1929*), entered into force on 18 September 1931;

Convention on Jurisdiction and Applicable Law in the area of Private and Family Law between the SFRY and the Republic of France of 18 May 1951 (*Official Journal of the SFRY, No 5/72*), entered into force on 1 December 1972.

Convention on Mutual Legal Relations between the FPRY and the Kingdom of Greece of 18 June 1959 (*Official Journal of the FPRY – Addendum, No 7/60*), entered into force on 31 March 1960;

Agreement on Mutual Recognition and Execution of Judgements between the FPRY and the Kingdom of Greece of 18 June 1959 (*Official Journal of the FPRY – Addendum No 6/60*), entered into force on 31 March 1960;

Agreement on Trade and Navigation between the Kingdom of SCS and the Republic of Greece of 2 November 1927 (*Official Journal, No 254/1928*), entered into force on 1 November 1928;

Consular Convention between the SFRY and the Republic of Greece of 17 December 1974 (*Official Journal of the SFRY, No 9/76*), entered into force on 5 May 1976;

Agreement on Trade and Navigation between the Kingdom of Yugoslavia and the Kingdom of The Netherlands of 28 May 1930 (*Official Journal, No 85/1932*), entered into force on 17 April 1932;

Agreement on Mutual Legal Assistance in Civil and Criminal Matters between the FRY and the Republic of Croatia of 15 September 1997 (*Official Journal of the FRY – International Treaties, No 1/98*), entered into force on 28 May 1998;

Consular Convention between the FRY and the Republic of Croatia of 27 May 1997 (*Official Journal of the FRY - International Agreements No 9/76*), entered into force on 17 September 1998;

Agreement between Yugoslavia and India on Reciprocal Recognition of Diplomatic-Consular form of Entering into Marriage of 26 November 1956 and 3 May 1957 (*Official Journal of the FPRY, No 3/58*), entered into force on 3 May 1957;

Agreement on Legal and Judiciary Cooperation between the SFRY and the Republic of Iraq of 23 May 1986 (*Official Journal of the SFRY - International Treaties, No 1/87*), entered into force on 11 August 1987;

Consular Convention between the SFRY and the Republic of Iraq of 28 February 1980 (*Official Journal of the SFRY – International Treaties, No 1/82*), entered into force 10 April 1981;

Agreement between Yugoslavia and Iran on Mutual Exemption from Providing CAUTIO IUDICATU SOLVI before Yugoslav and Iranian courts of 19 and 14 May 1956 (*Official Journal of the SFRY – Addendum, No 2/57*) entered into force on 14 May 1956.

Convention between the Kingdom of Serbs, Croats, and Slovenes and Italy on legal and judicial protection of their respective citizens of 6 April 1922 (Official Journal, No 42/31), Articles 13-16 of this Convention are applied under Article 26 of the Convention on Mutual Legal Assistance in Civil and Administrative matters between the FPRY and the Italian Republic of 3 December 1960;

Convention on Mutual Legal Assistance in Civil and Administrative Matters between the FPRY and the Italian Republic of 3 December 1960 (*Official Journal of the FPRY - addendum*, No 5/63), entered into force on 20 January 1967;

Consular Convention between the FPRY and the Italian Republic of 3 December 1960 (*Official Journal of the FPRY-addendum*, No 6/63), entered into force on 1 June 1963;

Agreement on Trade and Navigation between the Federal People's Republic of Yugoslavia and Japan of 28 February 1959 (*Official Journal of the FPRY - addendum*, No 7/59), entered into force on 20 July 1959;

Consular Convention between the SFRY and the People's Republic of China of 4 February 1982 (*Official Journal of the SFRY – International Treaties*, No 2/84), entered into force on 29 November 1982;

Agreement on Mutual Legal Assistance in Civil and Criminal Matters between the SFRY and the Republic of Cyprus of 19 September 1984 (*Official Journal of the SFRY – International Treaties*, No 2/86), entered into force on 15 February 1987;

Convention on Consular Relations between the SFRY and Socialist People's Libyan Arab Jamahiriya of 1 July 1981 (*Official Journal of the SFRY – International Treaties*, No 2/84), entered into force on 20 November 1982;

Agreement on Mutual Legal Communication between the SFRY and the People's Republic of Hungary of 7 March 1968 (*Official Journal of the SFRY - addendum*, No 3/68), entered into force on 18 January 1969, updated on 25 April 1986, amendments published in *Official Journal of the SFRY – International Treaties*, No 1/87), entered into force on 5 December 1987;

Consular Convention between the FPRY and the People's Republic of Hungary of 20 February 1963 (*Official Journal of the FPRY - addendum*, No 13/63), entered into force on 3 January 1964, updated by the Convention Amending the Convention of 5 June 1980 (*Official Journal of the SFRY – International Treaties*, No 12/81), entered into force on 28 December 1980;

Consular Convention between the FRY and the Republic of Macedonia of 3 July 1997 (*Official Journal of the FRY - International Treaties*, No 1/98), entered into force on 11 April 1998;

Agreement on Mutual Legal Assistance in Civil and Criminal Matters between the SCG and the Republic of Macedonia of 6 July 2004 (*Official Journal of SCG – International Treaties*, No 22/04), entered into force on 9 March 2005;

Agreement on Mutual Legal Assistance in Civil, Family and Criminal Matters between the SFRY and the Mongolian People's Republic of 8 June 1981 (*Official Journal of the SFRY – International Treaties*, No 7/82), entered into force on 27 March 1983;

Consular Convention between the SFRY and the Mongolian People's Republic of 19 April 1966 (*Official Journal of the SFRY-addendum*, No 10/67), entered into force on 6 March 1967;

Agreement on Reciprocal Recognition of Diplomatic-Consular Form of Marriage between Yugoslavia and Norway, reached by exchange of notes of 10 April and 31 August 1957 (*Official Journal of the FPRY – Addendum*, No 6/58), entered into force on 31 August 1957;

Agreement on Mutual Legal Assistance in Civil and Criminal Matters between the FPRY and the People's Republic of Poland of 6 February 1960 (*Official Journal of the FPRY – addendum*, No 5/63), entered into force on 5 June 1963;

Consular Convention between the Federal Executive Council of the SFRY Assembly and the Government of the People's Republic of Poland of 2 December 1982 (*Official Journal of the SFRY—International Treaties*, No 9/84), entered into force on 6 November 1983;

Agreement on Legal Assistance between the FPRY and the Romanian People's Republic of 18 October 1960 (*Official Journal of the FPRY - addendum*, No 8/61), entered into force on 1 October 1961 with an Additional Protocol of 21 January 1972 (*Official Journal of the SFRY – addendum*, No 4/73), entered into force on 8 November 1972;

Consular Convention between the SFRY and the Socialist Republic of Romania of 24 January 1974 (*Official Journal of the SFRY*, No 66/74), entered into force on 22 August 1975;

Agreement on Legal Assistance in Civil, Family and Criminal Matters between the FPRY and the USSR of 24 February 1962 (*Official Journal of the FPRY – addendum*, No 5/63), entered into force on 26 May 1963;

Consular Convention between the SCG and the Russian Federation of 7 November 2005 (*Official Journal of SCG – International Treaties*, No 4/06), entered into force on 7 April 2008;

Trade Agreement between Serbia and the United States of America of 2/14 October 1881 (*Serbian Journal*, No 268/1882), entered into force on 15 November 1882;

Convention Defining the Rights, Immunities and Privileges of Consular Agents between Serbia and the United States of America of 2 October 1881 (*Serbian Journal*, No 268/1882), entered into force on 15 November 1882;

Convention on Trade and Navigation between the Kingdom of Serbs, Croats and Slovenes, and Kingdom of Spain of 27 September 1929 (*Official Journal of the KJ*, No 307/1929), entered into force on 28 December 1929;

Consular Convention on Establishment and Consular Service between the Serbia and Switzerland of 4 February 1888 (*Official Journal*, No 83/1888), entered into force on 3 August 1888;

Agreement on Trade between the FPRY and the Swiss Confederation of 27 September 1947 (*Official Journal of the FPRY*, No 15/49) entered into force on 15 March 1949;

Agreement on Trade and Navigation between the Kingdom of Yugoslavia and the Kingdom of Sweden of 14 May 1937 (*Official Journal*, No 254/1938), entered into force on 8 December 1938;

Agreement on Facilitating the Application of the Hague Convention on Civil Procedure of 1 March 1954 between the SFRY and the Kingdom of Sweden of 22 November, 1990 (it is not ratified, and it has not entered into force);

Agreement between the SFRY and the Kingdom of Sweden on Abolishing the Legalisation of Documents of 22 November 1990 (it is not ratified, and it has not entered into force);

Convention between the Kingdom of Yugoslavia and the Republic of Turkey on Mutual Relations in Judicial, Civil and Commercial Matters of 3 July 1934 (*Official Journal*, No 26/1936), entered into force on 27 July 1937;

Consular Convention between the SFRY and the Republic of Turkey of 31 March 1968 (*Official Journal of the SFRY – addendum*, No 9/72), entered into force 4 December 1971;

Agreement on Trade and Navigation between the Kingdom of Serbs, Croats and Slovenes, and the United Kingdom of Great Britain and Ireland of 12 May 1927 (*Official Journal*, No 46/1928), entered into force on 9 February 1928;

Convention between the Kingdom of Yugoslavia and the Great Britain on Mutual Assistance in Civil and Commercial Matters that are Pending or May be Pending between the Respective Judicial Authorities of 27 February 1936 (*Official Journal*, No 116/1937), entered into force on 18 August 1937;

Consular Convention between the SFRY and the United Kingdom of Great Britain and Northern Ireland of 21 April 1965 (*Official Journal of the SFRY – addendum*, No 10/66), entered into force on 5 May 1966;

Consular Convention between the FRY and Ukraine of 1 October 2001 (*Official Journal of the FRY - International Treaties*, No 7/02), entered into force on 7 June 2005;

Multilateral international agreements applied:

In the area of mutual legal assistance in civil matters the following multilateral international treaties are relevant:

The Hague Convention of 17 July 1905 (*Official Journal*, No 100/1930), entered into force on 7 January 1930;

The Hague Convention on Civil Procedure of 1 March 1954 (*Official Journal of the FPRY - addendum*, No 6/62), entered into force on 11 May 1962;

The Hague Convention on Facilitating International Access to Justice of 25 October 1980 (*Official Journal of the SFRY – International Treaties*, No 4/88), entered into force on 1 October 1988;

The Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents of 5 October 1961 (*Official Journal of the FPRY - addendum*, No 10/62), entered into force on 24 January 1965, amendment published in *Official Journal of the FRY – International Treaties*, No 10/02;

The Hague Convention on Civil Aspects of International Child Abduction of 25 October 1980 (*Official Journal of the SFRY – International Treaties*, No 7/91), entered into force on 1 December 1991;

European Convention on Information on Foreign Law of 7 June 1968 (*Official Journal of the SFRY – International Treaties*, No 7/91), entered into force on 31 August 2002;

Paris Convention on the Issue of Certain Extracts from Civil Status Records for Use Abroad of 27 September 1956 (*Official Journal of the SFRY - addendum*, No 9/67), entered into force on 8 July 1967;

Vienna Convention on the Issue of Multilingual Extracts from Civil Status Records of 8 September 1976 (*Official Journal of the SFRY – International Treaties*, No 8/91), entered into force on 20 July 1990;

Convention on the Recovery of Maintenance Abroad of 20 June 1956 (*Official Journal of the FPRY – Addendum*, No 2/60) entered into force on 25 May 1957.

Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages of 10 December 1962 (*Official Journal of the SFRY – Addendum*, No 13/64) entered into force on 9 December 1964;

Convention Providing a Uniform Law on the Form of International Will of 26 October 1973 (*Official Journal of the SFRY – International Agreements*, No 3/77) entered into force on 9 February 1978;

European Agreement on Transferring Requests for Legal Assistance of 27 January 1977 (*Official Journal of the SRY – International Treaties*, No 9/2001) entered into force on 28 February 1977;

Convention on Conflict of Laws with Respect of Provisions on Will with respect to testamentary provisions of 5 October 1961 (*Official Journal of the FPRY*, No 19/1962) entered into force on 5 January 1964.

Convention on the Recognition and Enforcement of Foreign Arbitration Decisions of 10 June 1958 (*Official Journal of the SFRY – International Treaties*, No 11/1981) entered into force on 7 June 1959.

European Convention on the International Commercial Arbitration of 21 April 1961 (*Official Journal of the FPRY*, No 12/1963) entered into force on 7 January 1964.

Civil-Law Convention on Corruption (*Official Gazette of the RS - International Treaties*, No 102/2007)

European Convention of the Recognition and Enforcement of Decision Concerning Custody of Children and Restoration of Custody of Children of 20 May 1980(*Official Journal of the FRY – International Treaties*, No 1/2001;

Vienna Convention on Consular Relations of 24 April 1963 (*Official Journal of the SFRY – addendum*, No 5/1966) entered into force on 19 March 1967;

Convention on the Service Abroad of Documents in Civil and Commercial Matters of 15 November 1965 (*Official Gazette of the RS – International Treaties*, No 1/10);

Convention on Taking of Evidence Abroad in Civil and Commercial Matters of 18 March 1970 (*Official Gazette of the RS – International Treaties*, No 1/10).

75. How are foreign judicial decisions, in particular originating from the Member States of the European Union, in civil and commercial matters recognised/ adopted and enforced? Please provide statistics on the number of cases and the results achieved.

The matter of recognition and enforcement of foreign judicial decisions is regulated pursuant to Article 86- 96 and Article 101 of the Law on Settling of Conflict of Law Rules with Foreign Countries (*Official Journal of SFRY* No. 43/82, 72/82, *Official Journal of FRY*, No 46/96 and *Official Gazette of RS* No 46/06).

Foreign judicial decision is equal to decision of the court in the Republic of Serbia and has the legal enforcement in the Republic of Serbia, only if recognised by the court of the Republic of Serbia. Foreign court decision could be arrangements before the court (judicial arrangement) as well as the decision by other authority, which is equal in force to the court decision in the state where adopted, that is judicial arrangement if it regulates the relations, which are the subject of the stated law.

Foreign judicial decision will be recognised if the submitter of the request for recognition of the decision submits the notification of confirmation from the competent foreign court that is other foreign competent authority on the binding of the decision pursuant to the law of the state in which it was judged.

The Court from the Republic of Serbia shall decline to recognise foreign judicial decision if in relation to the objection of the person against whom it was judged, it is established that the person could not participate in the procedure due to irregularities in procedure. It should especially be considered that that the person against whom foreign judicial decision was brought, could not participate in the procedure, because his/her court summons, lawsuit or decision initiating the proceedings, was not delivered to him/her in person, or there was no attempt to do so, unless he/she had engaged in any way in the proceedings on the main matter in the first degree proceedings.

Foreign judicial decision shall not be recognised if the matter is of exclusive competence of the Court or other authority of the Republic of Serbia. If the defendant asks for recognition of the foreign judicial decision, judged in marriage proceedings or if it is asked by the plaintiff and the defendant does not object, the exclusive competence of court in the Republic of Serbia is not an obstacle for recognising the decision.

Foreign judicial decision will not be recognised if the Court or other authority of the Republic of Serbia rules the final decision on the matter or if some other foreign judicial decision ruled on the same matter is recognised in the Republic of Serbia. The court shall pause with recognising the foreign decision if previous proceedings on the same legal matter and among the same parties had already started before the court in the Republic of Serbia, until the binding finish of that litigation

Foreign judicial decision shall not be recognized if it is in collision with the fundamentals of social system as stipulated under the Constitution.

Foreign judicial decision shall not be recognised if there is no reciprocity. Non-existence of reciprocity is not an obstacle for recognising foreign judicial decision ruled in the marriage dispute or dispute for determining and denying fatherhood or motherhood, as well as if the recognition or enforcement of the foreign judicial decision is asked by the citizen of the Republic of Serbia. Reciprocity regarding the recognition of the foreign judicial decision is supposed until proven differently, and in the case of doubt in existence of reciprocity, the explanation is provided by the ministry competent for judicial matters.

If the legislation of the Republic of Serbia should have been applied, when deciding on the personal state (status) of the citizen of the Republic of Serbia, pursuant to the

mentioned law, foreign judicial is to be recognised even when foreign legislation is applied, if that decision does not significantly derogates from the legislation of the Republic of Serbia recognised in such relation.

Judicial decisions of foreign courts regarding the personal state (status) of the citizen of the state, whose decision is in question, are recognised in the Republic of Serbia without the questioning on the behalf of court under Article 89, 91 and 92 of the mentioned law. If competent authority of the Republic of Serbia considers that foreign judicial decision is in connection to the personal state (status) of the citizen of the Republic of Serbia, such decision, in order to be recognised, is the subject of questioning pursuant to Article 87- 92 of the mentioned law.

If foreign judicial decision is in connection to the personal state (status) of the foreigners, who are not citizens of the state, which reached the decision, the decision shall be recognised only if it fulfils the conditions for recognition in the state, whose citizens are parties in the case.

The provisions of Article 87-92 of the mentioned law shall be applicable to enforcement of foreign judicial decision. The submitter of the request for enforcing the court decision, in addition to certificate on legality, should submit the certificate on enforceability of that decision pursuant to the law of the state in which it has been ruled.

In the matter of recognition and enforcement of foreign judicial decisions, the competent court is the one with territorial jurisdiction, on territory where the procedure of confirmation, that is enforcement, should be implemented. Court shall maintain the limitations when questioning if legal conditions exist, and if it finds it necessary may ask for the explanation from the court, which ruled the decision as well as from parties themselves. Against the decision on recognition that is enforcement of the court decision, the parties in dispute may appeal within 15 days from the date of delivery of the decision. The second- instance court shall decide on the appeal against decision. If no special decision was ruled on the recognition of the foreign decision, every court may rule on the recognition of that decision in the same proceedings as in the previous matter, and only with effectiveness to those proceedings. Everyone with legal interest may ask for the recognition of the decision of foreign court in matters regarding personal state (status).

The matter of actual competence in the procedure for recognition and enforcement of foreign judicial decisions is regulated by Articles 23 and 25 of the Law on Organisation of Courts (*Official Gazette of RS*, No 116/08, 104/09 and 101/10). Decision in the procedure of recognition and enforcement of foreign judicial decisions is ruled by higher court that is Commercial Court.

In recognising and enforcement of foreign judicial decisions the following agreements are applied:

Agreement on Mutual Recognition and Enforcement of Decisions on Support between FPRY and the Republic of Austria from 10 October 1961 (*Official Journal of SFRY* – addition, No 2/63), entered into force 25 December 1962.

Convention on Recognition and Enforcement of Judicial Decisions on Support between SFRY and the Kingdom of Belgium from 12 December 1973 (*Official Journal of SFRY* – addition, No 45/76), entered into force 8 March 1976.

Agreement on Mutual Legal Aid between FPRY and the People's Republic of Bulgaria from 23 March 1956 (*Official Journal of FPRY* – addition, No 1/57), entered into force 17 January 1957.

Agreement on Regulation of Legal Relations in Civil, Family and Criminal Matters between SFRY and the Socialist Republic of Czechoslovakia from 20 January 1964 (*Official Journal of SFRY* – addition, No 13/64), entered into force 2 August 1964.

Convention on Recognition and Enforcement of Judicial Decisions in Civil and Commercial Matters between SFRY and the Government of the republic of France from 18 May 1971 (*Official Journal of SFRY* – addition, No 7/72), entered into force 1 February 1972.

Agreement on Mutual Recognition and Enforcement of Judicial Decisions between FPRY and the Kingdom of Greece from 18 June 1959 (*Official Journal of FPRY* – addition, No 6/60), entered into force 31 March 1960.

Agreement on Legal Aid in Civil and Criminal Matters between SFRY and the Republic of Cyprus from 19 September 1984 (*Official Journal of SFRY* – mu, No 2/86), entered into force 15 February 1987.

Agreement on Mutual Legal Traffic between SFRY and the People's Republic of Hungary from 7 March 1968 (*Official Journal of SFRY* – addition, No 3/68), entered into force 18 January 1969, updated 25 April 1986, amendments published in *Official Journal of SFRY* – mu, No 1/87), entered into force 5 December 1987.

Agreement on Legal Aid in Civil and Criminal Matters between FPRY and the PR of Poland from 6 February 1960 (*Official Journal of FPRY* – addition, No 5/63), entered into force 5 June 1963.

Agreement on Mutual Legal Aid between FPRY and the People's Republic of Romania from 18 October 1960 (*Official Journal of FPRY* – addition, No 8/61), entered into force 1 October 1961 wit Additional Protocol from 21 January 1972 (*Official Journal of SFRY*- addition, No 4/73), entered into force 8 November 1972.

Statistical data of Commercial Appellate Court on recognition of foreign judicial decisions

As stated, pursuant to Article 25 of the Law of Organisation of Courts, Commercial Courts are competent for recognising and enforcement of foreign judicial decisions and decision on arbitrage in proceedings between domestic and foreign companies.

The proposal for recognising foreign judicial decision is ruled in extra- judicial procedure, having in mind that pursuant to Article 86 - Article 101 of the Law on Settling of Conflict of Law Rules with Foreign Countries (*OJ of SFRY*, No. 43/82 and 72/82 – corrigendum, *OJ of FRY*, No 46/96 and “*OG of RS*” No. 46/2006 - other Law) it does not question the regularity of foreign judicial decision, whose recognition on the matter of dispute is requested, but whether the conditions stipulated by the mentioned provisions of the Law have been fulfilled, in order to recognise the decision.

In the period from 1 January 2010 to 15 December 2010, Council of three judges of the Commercial Appellate Court specialised in cases with foreign elements has received the total of 10 appeal decisions of Commercial Courts, ruled upon the requests for recognition of foreign judicial decisions. The Council confirmed 7 first-instance decisions, in which the proposal for recognition of foreign judicial decision was ruled, while 3 were refused and returned for additional procedure.

Out of 10 first- instance decisions, 2 were ruled on the proposal for recognition of foreign judicial decisions ruled in countries of European Union (Italy and Romania). In both cases the first- instance decisions on recognition were confirmed.

Article 25 of the Law on Enforcement Procedure (*Official Gazette of RS* No. 125/2004) establishes rules for enforcement of foreign executive document and also establishes that the decision must be submitted in the original form or certified transcript together with the evidence on its enforcement that is implementation according to the law of the state, whose executive document is in question. If the foreign executive document is previously recognised before a domestic court in accordance with the conditions from the Law on Settling of Conflict of Law Rules with Foreign Countries, it is enforced in the same way and in the same procedure as the domestic executive documents.

In case the executive procedure is launched before the competent court in the Republic of Serbia on the basis of foreign executive decision, which has not been previously recognised before a domestic court, the executive court decides on the recognition of that document as in the previous matter.

Statistical data of the Higher Court in Belgrade on recognition of foreign judicial decisions

According to statistical data of Higher Court in Belgrade from 1 January 2010 in the Krel Register, which registers the cases in which the recognition of foreign judicial decision is requested, the total number of registered cases is 79. This number includes 30 cases taken from Basic Court in Belgrade as non- decided cases and 49 cases, which were accepted as new during the previous year. In 60 cases the decision were ruled during 2010 that is decisions on requests for recognition of foreign judicial decision were ruled. It should also be kept in mind that the procedure of transfer of person, who in all cases requested the recognition of foreign judicial decision before that, demands for complicated procedure of gathering documents necessary for ruling. We also wish to mention that in the past years the number of cases with requests for recognition of foreign judicial decision ruled by the judicial authorities in the Republic of Montenegro has increased, taking into account the connection between our states, especially with large number of citizens from Montenegro residing on the territory of the Republic of Serbia and vice versa.

76. Are there special, simplified procedures available in your country for claiming and recovering non-contested and small claims? Please provide statistics on the number of cases and the results achieved.

Special, simplified procedures are the payment order and procedure in low-value disputes.

Payment order

The issue of payment orders is regulated in Chapter 32 of the Civil Procedure Law (*Official Gazette of the RS*, No 125/04 and 111/09), Articles 453-464.

According to Article 453 of the Civil Procedure Law, when the complaint is related to a money claim, and such claim is supported by an original or certified copy of a valid document attached to the complaint, the court will order the defendant to settle the claim (payment order).

The following are considered valid documents, in particular:

- 1) public documents;
- 2) private documents where the signature of the debtor is certified by a competent body;
- 3) draft protest and cheque protest with return bills if necessary to support a claim;
- 4) excerpts from certified business books;
- 5) invoices;
- 6) documents which are considered official documents pursuant to special provisions.

If all the requirements have been met for a payment order, the court will issue the payment order even if the plaintiff failed to do so in the complaint.

When on the basis of a valid documents enforcement can be requested according to the Law on the Enforcement Procedure, the court will issue the payment order only if the plaintiff satisfies the court that there is legal interest to issue a payment order.

If the plaintiff fails to satisfy the court regarding the existence of a legal interest to issue a payment order, the court will dismiss the complaint.

Pursuant to Article 454 of the above Law, Where the complaint is related to a money claim which is due and does not exceed the amount of EUR 2,000 at the National Bank of Serbia median rate on the date of complaint, the court issues a payment order against the defendant although no valid documents were filed with the complaint, but the complaint indicates the basis and amount of debt and evidence which can prove the truthfulness of allegations from the complaint.

The payment order referred to in Para 1 of this Article may be issued only against the main debtor.

The chair of the court panel issues the payment order, without a hearing.

A payment order should state that the defendant is obliged to fulfil the request within eight days, whilst in litigation concerning drafts and checks within three days, and to pay the costs assessed by the court, or to file an objection against the payment order. The court will advise the defendant in the payment order that late objections will be dismissed.

The payment order is to be sent to both parties.

Along with the payment order, the defendant receives also a copy of the complaint along with any attachments.

If the court does not accept a request to issue a payment order, it will continue the proceedings in the matter pursuant to the provisions governing the general litigation procedure.

No appeal is allowed against a decision of the court not to accept the motion to issue a payment order.

The defendant may challenge the payment order only by an objection. If a payment order is challenged only as regards the specific decision on costs, such specific decision may be challenged only by appeal against the whole decision.

The part of the payment order which has not been challenged by an objection becomes enforceable.

The court dismisses untimely, incomplete or inadmissible objections without a hearing.

If an objection is filed on time, the court promptly schedules a session for the main hearing.

In the course of the main hearing, parties may present new facts and propose new evidence, and the defendant can file new objections with respect to the contested part of the payment order.

In its decision on the merits, the court decides whether a payment order should remain valid fully or partially or it should be cancelled.

If the defendant states in his objection that there was no legal basis for payment order to be issued (Art. 453 and 454) or that there are obstacles for further proceedings, the court shall first make a decision about such objection. If it finds the objection grounded, the court cancels the payment order by a decision and, after such decision is final, the court shall start a hearing on the merits, if appropriate.

If the court does not accept such objection, it will proceed with the hearing on the merits of the case, and the decision on the objection will be included in the decision on the merits.

If, upon an objection that the debt is not due, the court finds that the claim became due after the issuing of the payment order, but before the conclusion of the main hearing, the court will cancel the payment order and decide on the complaint in its judgment (Article 331, Para 1).

The court can declare, *ex officio*, that it has no territorial jurisdiction, but only before the issue of the payment order.

The defendant may make an objection about of the lack of territorial jurisdiction only in an objection against a payment order.

If after a payment order has been issued, the court declares that it has no jurisdiction *ratione materiae*, it shall cancel the payment order and transfer the case to the competent court after the passing of the final decision on the lack of jurisdiction.

If the court finds, following the issue of a payment order, that it has no territorial jurisdiction, it will not cancel the payment order, but transfer the case to the competent court after passing the final decision on the lack of jurisdiction.

If the court passes a decision to dismiss the complaint, in cases set out in this Law, it will also cancel the payment order.

The plaintiff may withdraw the complaint in absence of defendant's consent only before any objections by the defendant. If the complaint has been withdrawn, the court will cancel the payment order by its decision.

If the defendant withdraws all objections before the main hearing is closed, the payment order remains in force.

In payment order procedures before commercial courts, the document on the basis of which the payment order is issued need not be original or certified copy.

The copy of this document can be validated by the legal person's authorised employee.

Civil procedure in small claim disputes

This procedure is regulated in Chapter 33 of the Civil Procedure Law (Articles 465-478).

Unless this Chapter contains special provisions, other provisions of the above Law apply to small claims.

The defendant will be served with the complaint together with the summons for main hearing, unless the complaint has already been served.

According to Article 467 of the Civil Procedure Law, small claim disputes, pursuant to the provisions of this Chapter, means money claims not exceeding the RSD equivalent of EUR 3000 at the National Bank of Serbia median rate on the date of complaint.

Small claim disputes also include claims where complaint is not related to a money claim, but the plaintiff stated that he/she would accept to be paid an amount of money not exceeding the amount specified in paragraph 1 of this Article instead of the settlement of a specific claim (Article 34, Para 1).

Small claim disputes also include claims where the subject-matter of complaint does not involve a money claim but the surrender of movable assets whose value, as stated by the plaintiff in the complaint, does not exceed the amount specified in paragraph 1 of this Article (Article 34, paragraph 2).

In the terms of this Chapter, claims related to real estate, employment relations and trespassing are not considered small-value claims.

Small claim proceedings are also conducted in case of an objection against a payment order, if the value of the disputed part of the payment order does not exceed the amount of EUR 3000 at the National Bank of Serbia median rate on the date of complaint.

Small claim proceedings are conducted before the lower first instance courts, unless this Law provides otherwise.

In small claim disputes proceedings, the complaint is not delivered to the defendant for response.

Also, there is no preliminary hearing in this sort of proceedings.

According to Article 472 of this Law, in small-value claim proceedings, an appeal is allowed only against the decision which concludes the proceedings.

Other decisions which may be appealed pursuant to this Law may be challenged only by an appeal against the decision concluding the proceedings.

Decisions referred to in paragraph 2 of this Article are not delivered to the parties, but announced at a hearing and included into the written part of the decision.

In small claim disputes, a transcript of the main hearing contains, apart from the information specified under Article 118, paragraph 1 of this Law, as follows:

- 1) Relevant statements made by the parties, and especially the statements which admit the claim in whole or in part, withdraw the claim, modify or withdraws the complaint, or waives the appeal;
- 2) Relevant content of evidence presented;
- 3) Decisions which may be appealed and which were pronounced at the main hearing;
- 4) Whether the parties were present when the judgement was pronounced and, if they were present, whether they were advised about the requirements to file an appeal.

If the plaintiff alters the claim so that the value of the litigation matter exceeds the amount of EUR 3000 at the National Bank of Serbia median rate on the date of complaint, the proceedings will be completed in accordance with the provisions of this Law governing regular proceedings.

If the plaintiff decreases the claim before the closing of the main hearing that is conducted pursuant to the provisions of this Law governing regular proceedings, so that it does not exceed the RSD equivalent of EUR 3000 at the National Bank of Serbia median rate on the date of the complaint, the proceedings will be continued pursuant to the provisions of this Law governing small-value claim proceedings.

If the plaintiff does not appear at the first or a later hearing of the main hearing or any other subsequent hearing, while having been properly summoned, it shall be deemed that he/she has withdrawn the complaint.

If both parties fail to appear at any subsequent hearing, the complaint will be considered withdrawn.

The summons for the main hearing shall also inform the parties that it will be deemed that the plaintiff has withdrawn the complaint if he/she does not appear at the first session of the main hearing; that the parties should present all facts and evidence before the closing of the main hearing, because new facts and evidence may not be presented in an appeal against the judgement; that the judgement may be challenged only due to a significant violation of litigation procedure provisions and improper application of material law.

According to Article 476 of this Law, if the defendant fails to appear at the opening session of the main hearing, and was properly summoned, the court will pass a judgement upholding the claim (default judgement).

The court will reject a claim by the judgment specified in paragraph 1 of this Article if the facts in support of the claim are contradictory to the evidence that the plaintiff presented or to generally known facts.

The court will reject a claim by the decision specified in paragraph 1 of this Article if the parties cannot dispose with such claim (Article 3, paragraph 3).

The judgement in small-value claim proceedings is announced immediately after the closing of the main hearing.

A copy of the judgement is always delivered to the party who was not present at its reading, while it may be delivered to the party who was present only upon his/her request. The party may make such request at the hearing at which the judgement is read, at the latest.

Upon pronouncing the judgement, the court will advise any lay party about the conditions to file an appeal (Article 478).

According to Article 478 of this Law, a judgement or decision which concludes small-value claim proceedings may be challenged only due to significant violations of the litigation procedure provisions in Article 361, paragraph 2 of this Law and due to improper application of material law.

The provisions of Article 377 of this Law do not apply to appeal procedure for small claim disputes.

Parties may file an appeal against the first instance judgement or decision referred to in paragraph 1 of this Article within eight days.

The time limit for an appeal starts to run from the day when the judgement, or decision, is announced, and if the judgement, or decision, was delivered to the party, the time limit starts to run from the date of delivery.

In small claim dispute proceedings, the time limit specified in Article 333, paragraph 2 and Article 343, paragraph 1 of this Law is eight days.

No review is allowed against a decision of the second instance court.

There are no statistics.

77. How are foreign decisions, in particular originating from the Member States of the European Union, in family law matters (i.e., legal separation, divorce, marriage annulment, custody, maintenance obligations) recognised and enforced? Please provide statistics on the number of cases and the results achieved.

The matter of recognition and enforcement of foreign judicial decisions is regulated by provisions of Articles 86- 96 and Article 101 of Law on Resolving Conflict of Laws with Regulations of Other Countries (*Official Journal of SFRY* No. 43/82, 72/82, *Official Journal of FRY*, No 46/96 and *Official Gazette of RS* No 46/06).

The procedure is explained in detail in the answer to question no 75.

There is no statistical data.

78. How are cases of international child abduction dealt with under the 1980 Hague Convention on the Civil Aspects of International Child Abduction? Please specify the number of applications made under the Convention for the return of children for the last three years, the outcome of the applications (return or non-return of the child) as well as the average duration of the procedure. Please provide statistics on the number of cases and the results achieved.

The claims for return of children, or seeing children in terms of the The Hague Convention on Civil Aspects of International Child Abduction sent to the Ministry of Justice of the Republic of Serbia as the Central Executive Authority (CEA) are transferred, following their receipt, to the competent court for appropriate action.

The territorial jurisdiction of the court is determined based on the assumed temporary residence of the child stated in the request which was taken away from or withheld in the territory of Serbia.

In case of a request for return/seeing of children to Serbia, the request is transferred to the Central Executive Authority of the signatory in whose territory the assumed temporary residence of the child is located.

The average duration of court proceedings is 6 months.

In the period 2007-2010, the total number of request, both incoming and outgoing, was 60.

Out of this number, 53 requests were received by the Serbian Central Executive Authority, whilst 7 requests were sent to other countries.

The number of requests sent to Serbia which are pending (court proceedings are pending) is 31.

The number of requests responded is 29, as follows:

- 20 finished in returning the child to the parent – applicant (successful)
- 4 finished in refusing to return the child (unsuccessful)
- 5 finished in withdrawing the request by the applicant.

79. How does your legislation solve conflicts of jurisdiction and applicable law as regards international insolvency proceedings? How are foreign decisions on insolvency recognised and enforced? Please provide statistics on the number of cases and the results achieved.

International insolvency is regulated in the Law on Bankruptcy (*Official Gazette of the RS*, No 104/09) – Chapter 12, Articles 174-203.

Applicable law

According to Article 175 of the Law on Bankruptcy, the law of the state where the bankruptcy procedure was instituted is applied to the bankruptcy proceedings and its effects, unless otherwise stipulated in this Law.

In case of recognition of foreign proceedings under this Law, the laws of Serbia area applied to assets subject to excluding rights or secured assets located in Serbia.

The law applicable to employment contracts is applied in case of bankruptcy procedure effects to employment contracts.

In Rem Jurisdiction

According to Article 15 of the Law on Bankruptcy, the bankruptcy procedure is conducted by the court specified in the law governing the jurisdiction of courts. Executive actions in bankruptcy proceedings are conducted by a bankruptcy judge in accordance with this law. According to Article 25 of the Law on the Organisation of Courts (*Official Gazette of the RS*, Nos 116/08, 104/09 and 101/10), the Commercial

Court adjudicates in first instance in bankruptcy disputes and runs the bankruptcy procedure and reorganisation.

Territorial jurisdiction

The bankruptcy procedure is conducted by the court in whose territory the seat of the bankruptcy debtor is located. The bankruptcy procedure over a bankruptcy debtor whose seat is not located in the Republic of Serbia is conducted by the court in whose territorial jurisdiction is the centre of the bankruptcy debtor's main interests, if conditions laid down in this Law (Article 16 of the Law on Bankruptcy). According to Article 57 of the Civil Procedure Law (*Official Gazette of the RS*, No. 125/04 and 111/09) the competent court to try disputes arising in the course of and due to the bankruptcy proceedings is exclusively the court in whose territorial jurisdiction is the court conducting the bankruptcy proceedings.

INTERNATIONAL BANKRUPTCY

Application of international bankruptcy provisions

According to Article 174 of the Law on Bankruptcy, the provisions on international bankruptcy are applied under the condition that the:

- 1) Foreign court or other foreign authority controlling or supervising the property or operation of the debtor, or foreign representative requests assistance in relation to foreign proceedings;
- 2) Court or bankruptcy administrator requests assistance in a foreign country in relation to bankruptcy proceedings conducted in Serbia under this Law;
- 3) A foreign proceeding is conducted simultaneously with the bankruptcy proceedings conducted in Serbia under this Law;

Foreign proceedings, for the purposes of this law, means any judicial or administrative proceedings, including preliminary proceedings, that are conducted for the purpose of collective settlement of creditors through reorganisation, bankruptcy of liquidation in a foreign country, according to the regulations governing insolvency, and in which the assets and affairs of the debtor are subject to control or supervision of a foreign court or other competent body,

A debtor, within the meaning of Para 2 of this Article, can be:

- 1) any legal person that does not have a registered seat in the Republic of Serbia;
- 2) any natural person that is not resident in the Republic of Serbia, in terms of the law regulating personal income.

Foreign representative, in terms of Para 1 of this Article, is a person or body, including one appointed on a interim basis, authorized in foreign proceedings to administer reorganisation, bankruptcy, or liquidation of the debtors assets or affairs, or to act as a representative of the foreign proceedings.

In Rem Jurisdiction for Recognition of Foreign Proceedings and Cooperation

The recognition of foreign proceedings and cooperation with foreign courts and other competent authorities is conducted by the court referred to in Article 15, Para 1, of this Law, according to the Law - Article 176.

Territorial Jurisdiction for Recognition of Foreign Proceedings and Cooperation

The recognition of a foreign proceeding and cooperation with foreign courts and other competent authorities is conducted by the court in whose area of jurisdiction the greatest part of the debtor's assets in Serbia are located, in the case referred to in Article 174, Para 1, item 1) of this Law, or the court conducting the bankruptcy proceedings in the case referred to in Article 177, Para 1, items 2) and 3) of this Law - Article 177.

Authorisation of Bankruptcy Administrator to Act in a Foreign Country

A bankruptcy administrator appointed under this Law is authorised to act in a foreign country for and on behalf of the bankruptcy debtor or bankruptcy estate as permitted by the law of that country.

Exemption in Cases Contrary to Public Order

The competent court may refuse to act in international proceedings if such action would be contrary to the public order of Serbia - Article 179 of the Law.

Assistance under Other Laws

The competent court or bankruptcy administrator may provide other assistance to a foreign representative, in accordance with law.

Interpretation

While applying the provisions on international bankruptcy the competent court will particularly have in mind their international character and the need to improve uniformity in their application in good faith.

Right of Direct Access

Under Article 182 of the Law on Bankruptcy, a foreign representative is entitled to direct access to courts in Serbia.

When taking actions referred to in Para 1 of this Article, by filing an appropriate request or otherwise, the foreign representative is required to submit the following for the purposes of proving his capacity:

- 1) The original or certified copy of the decision opening the foreign proceeding or appointing the foreign representative, translated into the language in official use at the competent court in the Republic of Serbia, together with evidence of its enforceability according to the law of the foreign country;
- 2) A certificate from the foreign court or other competent body testifying to the existence of the foreign proceeding and of the appointment of the foreign representative;
- 3) Any other evidence testifying to the existence of foreign proceedings and the appointment of the foreign representative deemed admissible by the competent

Serbian court, in absence of evidence referred to in Items 1) and 2) of this Paragraph.

Jurisdiction in Case of Application by Foreign Representative

An application filed to the competent court in Serbia by the foreign representative, under this law, establishes the jurisdiction of such court solely in the matter of the application.

Motion by Foreign Representative to Institute Proceedings

A foreign representative is entitled to file a motion for bankruptcy proceedings if the requirements for such proceedings have been met under the law.

Participation of Foreign Representative in Proceedings

Following the recognition of foreign proceedings, a foreign representative is entitled to participate in the proceedings against the debtor under this Law.

Request for Recognition of Foreign Proceedings

A foreign representative may apply to the competent court in Serbia for recognition of foreign proceedings in which he has been appointed, in which case he proves his capacity in a manner stipulated under Article 182, Para 2 of this Law.

The request for recognition must be accompanied by the foreign representative's statement identifying all foreign proceedings regarding the debtor which are known to the foreign representative, translated into the language in official use at the competent Serbian court.

Presumptions Concerning Recognition

If a decision, or certificate referred to in Article 182, Para 2, of this Law contains evidence that foreign proceedings contain elements of the proceedings referred to in Article 174, Para 2 of this Law, and that the foreign representative is the person or body under Article 174, Para 4, of this Law, the court can take these facts as proven.

The court can consider the documents submitted with the request for recognition authentic, regardless of whether they are legalised in terms of the law governing legalisation of documents in international legal communication.

Unless proven otherwise, the registered seat of the debtor or the debtor's permanent residence, in case of a natural person, is considered the centre of debtor's main interests.

Decision on Recognition of Foreign Proceedings

Except in cases referred to in Article 179 of this Law, foreign proceedings are recognised if:

- 1) The foreign proceedings have the characteristics of the proceedings referred to in Article 174, Para 2, of this Law;
- 2) The foreign representative submitting the request for recognition is the person or body under Article 174, Para 4, of this Law;
- 3) The request meets the requirements under Article 182, Para 2, of this Law;
- 4) The request has been filed with the competent court, in line with Articles 176 and 177 of this Law.

Foreign proceedings are recognised as:

- 1) Foreign main proceedings, if conducted in the country where the centre of the main interests of the debtor are located;
- 2) Foreign non-main proceedings, if the debtor has a permanent establishment in that foreign country.

For the purposes of Para 2, Item 1) of this Article, foreign main proceedings means foreign proceedings conducted in the country where the centre of the main interests of the debtor, who does not have a registered seat in Serbia, is located. Exceptionally, the main foreign proceedings means foreign proceedings conducted in the country where the debtor's seat is registered, if the main foreign proceedings can not be conducted according to the law of the country where the centre of the debtor's main interests is located.

For the purposes of Para 2, Item 2) of this Article, foreign non-main proceedings means foreign proceedings conducted in the country in which the debtor has a permanent establishment.

In terms of Para 4 of this Article, permanent establishment means any place of business where the debtor conducts economic activity that is not transitory in nature, by using human workforce and goods or services.

The court decides on the application for recognition of the foreign proceedings as a matter of urgency.

The decision on the recognition of foreign proceedings will be made by the first instance court *ex officio* or it will alter or cancel it at the request of an interested party if it is established that the requirements for recognition were not met or that they ceased to exist after the recognition of the foreign proceedings.

Following the opening of the bankruptcy proceedings over the bankruptcy debtor whose registered seat is in Serbia, or whose centre of the main interests is in Serbia, the foreign proceedings can be recognised only as foreign non-main proceedings (Article 188 of the Law).

Reporting Requirement

Following the filing of the application for recognition of foreign proceedings, the foreign representative is required to promptly report to the court at which the application was filed the following:

- 1) Any substantial change of status of the foreign proceedings or of the status of the foreign representative;
- 2) Any other foreign proceedings concerning the same debtor that becomes known to the foreign representative.

Assistance Provided After the Filing of Application for Recognition of Foreign Proceedings

From the moment of filing of the application for recognition of foreign proceedings until the decision about the application, the court can provide, at the request of the foreign representative, temporary assistance in case that such assistance is urgently required for the purpose of protection of bankruptcy debtor's assets or of the interests of creditors.

The assistance under Para 1 of this Article includes the following measures:

- 1) Prohibition of compulsory execution against the debtor's assets;
- 2) Entrusting the managements or sale of assets or part of the assets of the debtor located in Serbia to the foreign representative or other person designated by the court, in order to protect and maintain the value of the assets which, given its nature or other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy.
- 3) Other measures that can be imposed under this Law following the recognition of the foreign proceedings.

Provisions of this Law regulating security measures in preliminary bankruptcy proceedings apply accordingly to the establishment, duration, repeal and modification of measures referred to in paragraph 2) of this Article.

Measures granted by the court under Para 2 of this Article cease to be effective upon adoption of the decision on the application for recognition, except where they have been extended under this Law within the relief granted after the recognition of the foreign proceedings.

The court may refuse to grant relief under this Article if such relief would interfere with the administration of the main proceedings (Article 190 of this Law).

Legal effects of Recognition of Foreign Main Proceedings

The consequences of recognition of foreign main proceedings are as follows:

- 1) Prohibition of new and stay of the initiated proceedings concerning the debtor's assets, rights, obligations or liabilities;

- 2) Prohibition of compulsory execution against the debtor's assets; and
- 3) Prohibition of transferring, encumbering or otherwise disposing of the debtor's assets.

The court may allow for exemptions from application of consequences referred to in paragraph 1 of this Article only in cases provided for by this Law for exemption of application of consequences of opening of bankruptcy, as well as where it establishes that foreign main proceedings do not provide for adequate protection of interests of creditors in the Republic of Serbia.

The prohibition referred to in Para 1, item 1) of this Article does not affect the rights to individual actions or proceedings to the extent necessary to preserve a claim against the debtor.

The prohibitions referred to in Para 1 of this Article does not affect the right to request bankruptcy proceedings in Serbia or the right to file claims in such proceedings (Article 191 of the Law).

Relief That May Be Granted Upon recognition of Foreign Proceedings

Upon recognition of foreign proceedings, whether main or non-main, where necessary to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief by imposing the following measures::

- 1) Prohibiting the commencement or stay of the existing proceedings concerning the debtor's assets, rights, obligations or liabilities, to the extent they have not been stayed under Article 191, Para 1, Item 1) of this Law;
- 2) Prohibition of execution against the debtor's assets to the extent that the execution has not been stayed under Article 191, Para 1, Item 2), of this Law;
- 3) Prohibition of transfer, encumbering or otherwise disposing of the debtor's assets to the extent that such prohibition is not a consequence of application of Article 191, Para 1, Item 3), of this Law;
- 4) Taking of evidence by hearing the witnesses or otherwise, as well as provision of data regarding the debtor's property, business operations, rights, obligations, or liabilities;
- 5) Entrusting the administration or sale of all or part of the debtor's assets located in Serbia to the foreign representative or another person designated by the court;
- 6) Extending validity of measures imposed under Article 190, Paragraphs 1 and 2 of this Law;
- 7) Granting other powers enjoyed by the bankruptcy administrator under this Law or imposing other prohibitions under this Law.

Upon recognition of foreign proceedings, whether main or non-main, the court may, at the request of the foreign representative entrust the distribution of all or part of the debtor's assets located in Serbia to the foreign representative or another

person designated by the court, provided that the court establishes that the interests of creditors in the Republic of Serbia are adequately protected.

In granting relief under this article to the foreign representative in case of foreign non-main proceedings, the court is obliged to establish that such relief relates to assets that, under the provisions of this Law, should be administered in the foreign non-main proceedings or to information required in such proceedings (Article 192 of this Law)

Protection of Creditors and Other Interested Persons

In granting or denying relief under Articles 190 and 192 of this Law, or in modifying or terminating such measures under paragraph 3 of this Article, the court is obliged to establish that interests of creditors and other interested parties, including the debtor, are adequately protected.

The court may subject certain relief measures to conditions it considers appropriate. The court may, at the request of the foreign representative or a person affected by measures imposed as part of relief granted under Articles 190 and 192 or *ex officio*, modify or terminate such measures (Article 193 of this Law).

Contesting Debtor's Legal Transactions

Upon recognition of foreign proceedings, the foreign representative may contest the debtor's legal actions in line with the rules on contesting bankruptcy debtor's legal actions.

In case of foreign non-main proceedings, the court is required to establish that the contest relates to assets that should be administered, under this Law, in the foreign non-main proceedings.

Intervention by a Foreign Representative in Proceedings Conducted in Serbia

According to Article 195 of the Law on Bankruptcy, upon recognition of foreign proceedings, the foreign representative may, in accordance with the law, intervene in any proceedings in which the debtor is a party.

The authority of a foreign representative constitutes a preliminary issue in the proceedings referred to in paragraph 1 of this Article.

Cooperation and Direct Communication between Courts of the Republic of Serbia and Foreign Courts or Other Competent Authorities or Foreign Representatives

In cases referred to in Article 174 of this Law, the court is required to cooperate to the maximum extent possible with foreign courts and other appropriate bodies or foreign representatives, either directly or through a bankruptcy administrator.

The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts and other competent authorities or foreign representatives (Article 196 of this Law).

Cooperation and Direct Communication between the Bankruptcy Administrator and Foreign Courts and Other Competent Authorities or Foreign Representatives

In matters referred to in Article 174 of this Law, a bankruptcy administrator is required to cooperate, in the exercise of its functions and subject to the supervision by the court, cooperate to the maximum extent possible with foreign courts and other appropriate bodies or foreign representatives.

The bankruptcy administrator is entitled to communicate directly, in the exercise of its functions and subject to the supervision of the court, with foreign courts and other appropriate bodies of foreign representatives (Article 197 of this Law).

Forms of Cooperation

Cooperation referred to in Articles 196 and 197 of this Law may be implemented in any appropriate manner, in particular by:

- 1) Appointing a person or body to act at the order of the court;
- 2) Exchanging information in any manner considered appropriate by the court;
- 3) Coordinating administration and supervision of the debtor's assets and affairs;
- 4) Approving or implementing agreements by courts concerning the coordination of proceedings;
- 5) Coordinating of concurrent proceedings regarding the same debtor.

Opening of Bankruptcy Proceedings after the Recognition of Foreign Main Proceedings

Upon recognition of foreign main proceedings, bankruptcy proceedings may be opened only if the debtor has assets in the Republic of Serbia.

The bankruptcy proceedings referred to in Paragraph 1 of this Article is conducted only with respect to the assets of the debtor that are located in the Republic of Serbia, to the extent necessary to implement cooperation and coordination under Articles 196, 197 and 198 of this Law, and to other assets of the bankruptcy debtor that, under this Law, should be administered in such bankruptcy proceedings (Article 199 of this Law).

Coordination of Proceedings under this Law and of the Foreign Proceedings

Where foreign proceedings and bankruptcy proceedings under this law are taking place concurrently regarding the same debtor, the court seeks cooperation and coordination according to Articles 196, 197, and 198 of this Law.

In cases when the bankruptcy proceedings have already been requested at the moment of filing of the application for recognition of the bankruptcy proceedings:

- 1) Any relief granted under Articles 190 or 192 of this Law must be consistent with the rules and requirements of preliminary bankruptcy proceedings or bankruptcy proceedings;
- 2) Article 191 of this Law is not to be applied if the foreign procedure has been recognised as the main proceedings.

When the motion for bankruptcy proceedings is filed after recognition or after the filing of an application for recognition of the foreign proceedings:

- 1) The court is required *ex officio* review any relief in effect under Article 190 or Article 192 of this Law and will modify or terminate such measures if inconsistent with the rules or requirements of preliminary bankruptcy proceedings or bankruptcy proceedings;
- 2) In case of foreign main proceedings, the stay or suspension referred to in Article 191, Para 1, of this Law will be modified or terminated pursuant to Article 191, Para 2, of this Law if inconsistent with rules or requirements of preliminary bankruptcy proceedings or bankruptcy proceedings.

In granting or modifying relief granted to a representative of foreign non-main proceedings, the court is required to establish that the relief relates to assets that, under this Law, should be administered in the foreign non-main proceedings or concerns information required in such proceedings.

Coordination of More than One Foreign Proceedings

In cases referred to in Article 174 of this Law, when more than one foreign proceedings are conducted regarding the same debtor, the court will seek cooperation and coordination under Articles 196, 197, and 198 of this Article, where:

- 1) Any relief granted under Articles 190 or 192 to a representative of foreign non-main proceedings after recognition of foreign main proceedings must be consistent with the rules and requirements of the foreign main proceedings;
- 2) If foreign main proceedings are recognised after recognition, or after the filing of an application for recognition, of foreign non-main proceedings, the court will *ex officio* review any relief in effect under Articles 190 or 192 and modify or terminate such relief if inconsistent with the rules and requirements of the foreign main proceedings. ;
- 3) If after recognition of foreign non-main proceeding another foreign non-main proceedings are recognised, the court will *ex officio* or at the request of a foreign representative, grant, modify or terminate relief for the purpose of facilitating coordination of the proceedings.

Presumption of Grounds for Bankruptcy Based on recognition of Foreign Main Proceedings

In the absence of evidence to the contrary, the existence of grounds for bankruptcy is presumed if a final decision exists on the recognition of foreign main proceedings against the bankruptcy debtor. The court will not open bankruptcy proceedings if the

debtor is able to prove that no grounds for bankruptcy referred to in Article 11 of this Law exist.

Settlement of Creditors in Concurrent Proceedings

Except in cases where excluding rights or security interests exist, a creditor who has received part payment in respect of his claim in the proceedings conducted under the law regulating insolvency in a foreign country may not receive payment for the same claim if in bankruptcy proceedings regarding the same debtor, as long as the payment to the other creditors of the same rank or the same class in reorganisation is proportionally less than the payment the creditor has already received.

Statistics:

In accordance with Article 25 of the Law on the Organisation of Courts, commercial courts are responsible for recognising and enforcing foreign and arbitration decisions made in disputes between Serbian and foreign companies.

The motion for recognition of a foreign judgment is decided upon in an extra-judicial procedure given that Articles 86 to 101 of the Law on Resolving Conflict of Laws with Regulations of Other Countries (*Official Journal of the SFRY*, No 43/82 and 72/82 - *corrigendum*, *Official Journal of the SRY*, No 46/96 and *Official Gazette of the RS*, No 46/2006 – additional law), does not evaluate the validity of the foreign judgment whose recognition is sought in the matter of the dispute, but whether the recognition requirements specified in the above listed provisions of the Law have been met.

Article 25 of the Law on Enforcement Procedure (*Official Gazette of the RS*, No 125/2004) regulates the execution of a foreign enforceable document and provides that it must be sent in the original or certified copy together with the evidence showing that it is final and binding, or enforceable, according to the law of the country where the enforceable document was issued. If the foreign enforceable document has previously been recognised before a domestic court under the conditions stipulated in the Law on the Prevention of the Conflict of Laws with the Regulations of Other Countries, it is enforced in the same manner and in the same proceedings as the domestic enforceable documents.

In case that enforcement proceedings are instituted before the competent court in Serbia based on a foreign enforceable documents that had previously not been recognised before a domestic court, the executive court decides upon recognising such document as a preliminary question.

According to the available information held by the Commercial Appellate Court, there is only one case, amongst the pending cases at this court, which a bankruptcy administrator acts upon according to the above listed articles, including by taking actions in a foreign country, while in one other case a foreign country requested recognition of bankruptcy proceedings opened by a decision of Serbian court.

In the ACM (automated case management) system in place at commercial courts, there are no particularly separate international bankruptcies, and thus no possibility to provide credible data based on such records.

As there have been no international bankruptcy cases before the Commercial Appellate Court, no legal jurisprudence or relevant practice in the above area has been adopted. Therefore, we can not make any observations or remarks concerning the application of the mentioned areas.

80. Is it possible for parties involved in civil litigation in your country but not present in it, to ask for legal aid in the country of their habitual residency? If so, how are these requests received and dealt with by your country? Is the same possibility available to parties present in your country who are involved in litigation abroad? If so, how are these requests presented and then transmitted abroad? Please provide statistics on the number of cases and the results achieved.

The Republic of Serbia is a party to The Hague Convention on International Access to Justice of 25 October 1980 (*Off. Herald of SFRY - IT*, No. 4/88), entered into force on 1 October 1988, and to the European Agreement on the Transmission of Applications for Legal Aid of 27 January 1977 (*Off. Journal of FRY - IT*, No. 9/01).

Starting from Article 2 of the Law on Ratification of The Hague Convention on International Access to Justice, the function of central authority for receiving of applications for legal aid, or central authority in terms of Articles 3 and 4 of The Hague Convention on International Access to Justice, as well as central receiving and dispatching authority in terms of Article 16 of this Convention is performed by the Ministry of Justice of the Republic of Serbia.

In terms of Article 3 of the Law on Ratification of the Agreement on the Transmission of Applications for Legal Aid, the duties of dispatching authority (Article 2(1) of the Agreement) and central receiving authority (Article 2(2) of the Agreement) are performed by the Ministry of Justice of the Republic of Serbia.

There were no such applications in practice.

81. How does your legislation solve conflicts of law for contractual and non-contractual obligations?

The collision norms with respect to contractual and non-contractual obligations are contained in the Law on Resolving Conflict of Laws with Regulations of Other Countries (*Official Journal of SFRY* No. 43/82, 72/82, *Off. Journal of FRY* No. 46/96 and *Off. Gazette of RS*, No. 46/06).

Contractual obligations

Pursuant to Article 19 of this Law, the law chosen by contractual parties is applicable to the contract, unless prescribed otherwise by this law or by an international agreement.

Pursuant to Article 20 of this Law, unless the applicable law has been chosen and special circumstances of the case do not pertain to other law, the following is applied as applicable law:

- 1) A contract for the sale of movables shall be governed by the law of the place where the seller has his/her permanent residence or registered office respectively at the time of the receipt of the offer;
- 2) A contract for the provision of services and construction contract shall be governed by the law of the place where the service provider (contractor) had his/her permanent residence or registered office respectively at the time of the receipt of the offer;
- 3) A contract for power of attorney shall be governed by the law of the place where the attorney had the permanent residence or registered office respectively at the time of the receipt of the offer;
- 4) A contract for brokerage services shall be governed by the law of the place where the broker had the permanent residence or registered office respectively at the time of the receipt of the offer;
- 5) A commission contract shall be governed by the law of the place where the commission agent had the permanent residence or registered office respectively at the time of the receipt of the offer;
- 6) A shipping (forwarding) contract shall be governed by the law of the place where the shipping (forwarding) agent had the permanent residence or registered office respectively at the time of the receipt of the offer;
- 7) A lease contract on movables shall be governed by the law of the place where the lessor had the permanent residence or registered office respectively at the time of the receipt of the offer;
- 8) A loan contract shall be governed by the law of the place where the lender had the permanent residence or registered office respectively at the time of the receipt of the offer;
- 9) A loan for use (Commodatum) shall be governed by the law of the place where the lender had the permanent residence or registered office respectively at the time of the receipt of the offer.
- 10) A depositum contract shall be governed by the law of the place where the depository had the permanent residence or registered office respectively at the time of the receipt of the offer;
- 11) A storage contract shall be governed by the law of the place where the storage provider had the permanent residence or registered office respectively at the time of the receipt of the offer;
- 12) A contract of carriage shall be governed by the law of the place where the carrier had the permanent residence or registered office respectively at the time of the receipt of the offer;

13) An insurance contract shall be governed by the law of the place where the insurer had the permanent residence or registered office respectively at the time of the receipt of the offer;

14) A copyright contract shall be governed by the law of the place where the author had the permanent residence or registered office respectively at the time of the receipt of the offer;

15) A donation contract shall be governed by the law of the place where the donor has the permanent residence or registered office respectively at the time of the receipt of the offer;

16) Stock business shall be governed by the law of the place in which the stock exchange is located;

17) A contract for autonomous bank guarantees shall be governed by the law of the place where the guarantee issuer had its registered office at the time of the receipt of the offer;

18) A contract for technology transfer (relating to licenses etc.) shall be governed by the law of the place where the receiving party had its registered office at the time of signing the contract;

19) Property claims arising from employment contracts shall be governed by the law of the country in which the work has/had been carried out;

20) Other contracts shall be governed by the law of the place where the offeror had a permanent residence or registered office respectively at the time the offer was received.

The law of the country at whose territory the real estate is located is applicable to the contracts pertaining to real estates – Article 21 of this law.

Pursuant to the provisions of Articles 22-25 of the mentioned law, in the relations between the contractual parties, unless determined otherwise by the contractual parties, the law from Article 20 of this law is also applicable to:

1) determination of the moment as of which the acquirer, or the taker of the movable property is entitled to the products and produces of the movable property;

2) determination of the moment as of which the acquirer, or the taker assumes the risk related to movables;

The law of the place where the movable property is to be handed over is applicable, unless agreed otherwise by the contractual parties, for the manner of handover of movables and the measures to be taken if the takeover of movables is refused.

The law applicable to claim, or debt, will apply for force of assignment of claims or assumption of debt towards the debtor or creditor which did not participate in the assignment or assumption.

The law applicable to the principal legal transaction will apply to the accessory legal transaction, unless determined otherwise.

Pursuant to the provisions of Articles 7 and 8 of the mentioned law, unless provided for otherwise by this or another law, legal transaction and legal action are deemed effective with respect to form whether by the law of the place of conclusion of the legal transaction, or taking of legal action, whether by the law applicable to the content of legal transaction, or legal action.

The law applicable to the content of legal transaction, or legal action, is applicable to limitation.

Non-contractual obligations

The law of the country of the debtor's domicile, or the registered seat, is applicable to unilateral legal transaction - Article 26 of this Law.

The law applicable to generated, expected, or assumed legal relation, on which occasion the acquisition took place, is applicable to such acquisition without grounds.

The law of the place where the conduct of business action is performed is applicable to conduct of business without order.

The law of the place where the facts causing the obligation occurred is applicable to the obligations arisen from the use of the movables without conduct of business and for other non-contractual obligations arising out of the liability for damage - Article 27 of this Law.

In accordance with Article 28 of this Law, the law of the place where the action was performed, or the law of the place where the consequence occurred, depending on which of the two laws are more favourable to the affected party, is applicable to non-contractual liability for damage, unless determined otherwise for individual cases.

The Law from paragraph 1 of this Article is also applicable to non-contractual liability for damage occurred in relation to the legal relations from Article 27 of this Law.

The law of the place where the action was taken or where the consequence occurred is applicable to wrongfulness of action, and if the action was taken or the consequence occurred in several places – it is enough that the action is wrongful by the law of any of these places.

If the event out of which the obligation of indemnification for damage occurred at the ship in the open sea or in the aircraft, the law of the country to which the ship belongs, or the law of the country of registration of the aircraft, is deemed law of the place where the facts causing the obligation of indemnification for damage occurred - Article 29 of this Law.

82. How are foreign judicial and extrajudicial documents received and served? How are your country's judicial and extra-judicial documents transmitted when they have to be served abroad? Please provide statistics.

Pursuant to Article 130 of the Civil Procedure Law (*Off. Gazette of RS*, No. 125/04 and 111/09) when documents are to be delivered to the persons or the institutions abroad or the foreigners enjoying immunity, the delivery is to be executed through

diplomatic offices, unless provided for otherwise in an international treaty or in the Law (Article 141).

If delivery of mailings is to be executed to the nationals of the Republic of Serbia abroad, the delivery may be executed via competent consular agent or diplomatic representative of the Republic of Serbia performing consular affairs in foreign country, or via legal entity internationally registered for delivery of documents. Delivery is valid only if the person to whom the mailing is delivered agrees to receive it.

Delivery to legal entities with the registered seat in foreign country, and the representative office in the Republic of Serbia, may be performed to their representative office.

Unless determined otherwise by an international treaty, the letters rogatory for legal assistance of domestic courts are delivered to the foreign courts through diplomatic offices. The applications and enclosures should be composed in the language of the addressed country, or they should have enclosed their verified translation to such language – Article 175 of the mentioned Law.

Unless determined otherwise by an international agreement, the courts will take into process the applications for legal assistance of foreign courts only if they are delivered through diplomatic offices and if the application and enclosures are composed in Serbian language, or their verified translation to this language is enclosed – Article 174 of the mentioned Law.

The Republic of Serbia is a member of numerous bilateral and multilateral international treaties which regulate the area of rendering international legal assistance in civil matters stated in detail in the answer to the question No. 74, including the delivery itself.

When it comes to serving judicial and extra-judicial documents, the Ministry of Justice directly communicates with the ministries of justice of other countries pursuant to the following provisions:

- Article 3(1) of the Agreement on Mutual Legal Assistance in Civil and Criminal Matters between SFRY and the Democratic People's Republic of Algeria of 31 March 1982 (*Official Journal of SFRY-IT*, No 2/83, *corrigendum* published in *Official Journal of SFRY-IT*, No 10/84), entered into force on 20 December 1984.

Agreement on Mutual Legal Communication between the FPRY and the Republic of Austria of 16 December 1954 (*Official Journal of FPRY – addendum*, No 8/55), entered into effect on 13 December 1955;

- Article 3(1) of the Agreement on Mutual Legal Assistance in Civil and Commercial Matters between the SFRY and the Kingdom of Belgium of 24 September 1971 (*Official Journal of SFRY-addendum*, No 7/74), entered into force on 1 June 1972;

- Article 4(1) of the Agreement on Mutual Legal Assistance in Civil and Criminal Matters between SCG and Bosnia and Herzegovina of 24 February 2005 (*Official Journal of SCG-IT*, No 6/05), entered into force on 9 February 2006;

- Article 7 of the Agreement on Mutual Legal Assistance between FPRY and the People's Republic of Bulgaria of 23 March 1956 (*Official Journal of FPRY-addendum*, No 1/57), entered into force on 17 January 1957;

- Article 4 of the Agreement between SFRY and the Czechoslovak Socialist Republic on Regulation of Legal Relations in Civil, Family, and Criminal Matters of 20 January 1964 (*Official Journal of SFRY - addendum*, No 13/64), entered into force on 2 August 1964 (applied with respect to the Czech Republic and the Slovak Republic as successors of CSSR;

- Article 4(1) of the Agreement between the Republic Serbia and Montenegro on Mutual Legal Assistance in Civil and Criminal Matters of 29 May 2009, which, pursuant to Article 49(4), applies temporarily as of the mentioned date as the day of signing.
 - Article 2(1) and Article 4(2) of the Agreement on Facilitating the Application of the Hague Convention on Civil Procedure of 1 March 1954 between SFRY and the Republic of France of 29 October 1969 (*Official Journal of the SFRY – Addendum*, No 21/71), entered into force on 1 January 1971;
 - Article 7 of the Convention on Mutual Legal Relations between FPRY and the Kingdom of Greece of 18 June 1959 (*Official Journal of FPRY – Addendum*, No 7/60), entered into force on 31 March 1960;
 - Article 4(1) of the Agreement on Mutual Legal Assistance in Civil and Commercial Matters between FRY and the Republic of Croatia of 15 September 1997 (*Official Journal of FRY-IT*, No 1/98), entered into force on 28 May 1998;
 - Article 4(1) and Article 10(2) of the Convention on Mutual Legal Assistance in Civil and Administrative Matters between FPRY and the Italian Republic of 3 December 1960 (*Official Journal of FPRY - addendum*, No 5/63), entered into force on 20 January 1967;
 - Article 2 of the Agreement on Mutual Legal Assistance in Civil and Criminal Matters between SFRY and the Republic of Cyprus of 19 September 1984 (*Official Journal of the SFRY – IT*, No 2/86), entered into force on 15 February 1987;
 - Article 2(1) of the Agreement on Mutual Legal Communication between SFRY and the People's Republic of Hungary of 7 March 1968 (*Official Journal of SFRY - addendum*, No 3/68), entered into force on 18 January 1969, updated on 25 April 1986, amendments and modifications published in *Official Journal of SFRY – IT*, No 1/87), entered into force on 5 December 1987;
 - Article 3(1) of the Agreement on Mutual Legal Assistance in Civil and Commercial Matters between SCG and the Republic of Macedonia of 6 July 2004 (*Official Journal of SCG-IT*, No 22/04), entered into force on 9 March 2005;
 - Article 4 of the Agreement on Mutual Legal Assistance in Civil, Family and Criminal Matters between SFRY and the Mongolian People's Republic of 8 June 1981 (*Official Journal of SFRY – IT*, No 7/82), entered into force on 27 March 1983;
 - Article 2 of the Agreement on Mutual Legal Assistance in Civil and Criminal Matters between FPRY and the People's Republic of Poland of 6 February 1960 (*Official Journal of FPRY – addendum*, No 5/63), entered into force on 5 June 1963;
 - Article 4 of the Agreement on Legal Assistance between FPRY and the Romanian People's Republic of 18 October 1960 (*Official Journal of FPRY - addendum*, No 8/61), entered into force on 1 October 1961 with the Additional Protocol of 21 January 1972 (*Official Journal of SFRY – addendum*, No 4/73), entered into force on 8 November 1972;
 - Article 3 of the Agreement on Legal Assistance in Civil, Family and Criminal Matters between FPRY and the USSR of 24 February 1962 (*Official Journal of the FPRY – addendum*, No 5/63), entered into force on 26 May 1963.
- Some bilateral international treaties envisage diplomatic ways of communication as mandatory ways of communication:
- Article 8 of the Agreement on Legal and Judiciary Cooperation between SFRY and the Republic of Iraq of 23 May 1986 (*Official Journal of SFRY - IT*, No 1/87), entered into force on 11 August 1987;

- Article 9(1) and Article 12(2) of the Convention between the Kingdom of Yugoslavia and the Republic of Turkey on Mutual Relations in Judicial, Civil and Commercial Matters of 3 July 1934 (*Official Journal*, No 26/1936), entered into force on 27 July 1937;

- Articles of the Convention between the Kingdom of Yugoslavia and Great Britain on Mutual Assistance in Civil and Commercial Matters that are Pending or may be Pending between the Respective Judicial Authorities of 27 February 1936 (*Official Journal*, No 116/1937), entered into force on 18 August 1937. It should be mentioned that the legal force of the Convention between the Kingdom of Yugoslavia and Great Britain on Mutual Assistance in Civil and Commercial Matters that are Pending or may be Pending between the Respective Judicial Authorities was expanded to Australia, the Islands of the Bahamas, Barbados, Basutoland, Bermuda, British Guiana, British Honduras, Borneo (North), Ceylon, Fiji, Falkland Islands, Gambia, Gibraltar, Grenada, Jamaica, Canada, Kenya, Malta, Mauritius, Nigeria, Norfolk Islands, New Guinea, New Zealand, Nyasaland (today Malawi), Papuan Islands, Rhodesia (North and South, today Zimbabwe), Saint Vincent, Seychelles' Islands, Sierra Leone, Somalia, Swaziland, Saint Helene, Tanganyika and Zanzibar (today Tanzania), Togo, Tonga, Transjordan, Trinidad and Tobago, Uganda, and some other smaller islands and territories under the sovereignty of Great Britain at the time. Some of the mentioned countries later explicitly ratified the said Convention: Australia in 1974, Swaziland in 1971, Lesotho in 1974, Community of Bahamas in 1977, Papua New Guinea in 1979, Dominican Republic in 1987.

Also, Article 4(2) of the Agreement on Mutual Legal Assistance in Civil and Criminal Matters between SCG and Bosnia and Herzegovina;

- Article 4(3) of the Agreement on Mutual Legal Assistance in Civil and Criminal Matters between SCG and Montenegro;

- Article 4(2) of the Agreement on Mutual Legal Assistance in Civil and Criminal Matters between FRY and the Republic of Croatia;

- Article 3(2) of the Agreement on Mutual Legal Assistance in Civil and Criminal Matters between SCG and the Republic of Macedonia does not exclude the possibility for communicating through diplomatic, or consular ways, when there are justified reasons. for it

The mentioned bilateral international agreements also envisage the possibility for serving via diplomatic-consular offices when it regards domestic nationals (Article 3(2) of the Agreement on Mutual Legal Assistance in Civil and Criminal Matters between SFRY and the Democratic People's Republic of Algeria; Article 16. of the Agreement on Mutual Legal Communication between FPRY and the Republic of Austria; Article 4(b) and Article 8 of the Agreement on Mutual Legal Assistance in Civil and Commercial Matters between SFRY and the Kingdom of Belgium; Article 17 of the Agreement on Mutual Legal Assistance between FPRY and the People's Republic of Bulgaria; Article 10 of the Agreement between SFRY and the Czechoslovak Socialist Republic on Regulation of Legal Relations in Civil, Family, and Criminal Matters; Article 17 of the Convention on Mutual Legal Relations between FPRY and the Kingdom of Greece; Article 14 of the Agreement on Legal and Judicial Cooperation between SFRY and the Republic of Iraq; Article 5 and Article 10(4) of the Convention on Mutual Legal Assistance in Civil and Administrative Matters between FPRY and the Italian Republic; Article 8(1) of the Agreement on Legal Assistance in Civil and Criminal Matters between SFRY and the Republic of Cyprus; Article 19(1) of the Agreement on Mutual Legal Communication

between SFRY and the People's Republic of Hungary; Article 10 of the Agreement on Legal Assistance in Civil, Family, and Criminal Matters between SFRY and the Mongolian People's Republic; Article 14 of the Agreement on Legal Assistance between FPRY and the Romanian People's Republic; Article 11 of the Agreement on Legal Assistance in Legal, Family, and Criminal Matters between FPRY and the SSSR and Article 16 of the Convention between the Kingdom of Yugoslavia and the Republic of Turkey on Mutual Relations in Judicial, Civil, and Commercial Matters). The Hague Convention on Civil Procedure of 1 March 1954 (*Official Journal of FPRY - addendum*, No 6/62), entered into force on 11 May 1962, envisages consular ways of communication.

In all these cases, the communication in the process of rendering international legal assistance goes via the Ministry of Justice.

In exceptional cases, Article 4(2) of the Agreement between the Republic of Serbia and Montenegro on Mutual Legal Assistance in Civil and Criminal Matters prescribes that, in general forms of rendering legal assistance related to serving and submitting certain documents and notifications, as well as taking certain process actions (hearing of parties, witnesses, taking successors' statements and other), the courts and other competent authorities of the contracting countries communicate directly.

Overview of received and solved cases of international legal assistance in civil matters from 2007 to 1 December 2010

Year	Received	Solved	Unsolved	Unsolved in %
2007	19113	17927	1186	6,4%
2008	11980	11545	433	5,5%
2009	26707	25625	1082	5,7%
2010	12105	6863	5242	43%

83. How does your legislation solve jurisdiction, conflicts of law and recognition and enforcement issues for international succession situations?

Collision norms and rules on the conflict of jurisdiction in the matter of inheritance are a part of the Law on Resolving Conflict of Laws with Regulations of Other Countries (*Official Journal of SFRY* No. 43/82, 72/82, *Official Journal of FRY*, No 46/96 and *Official Gazette of RS* No 46/06).

Pursuant to Article 30 of the mentioned law in matter of inheritance, the competent law is the law of the state, where the owner had citizenship at the time of death.

Competent legislation for assessing the ability to make a will is the legislation of a state whose citizenship the testator had, at the moment of making the will.

The provisions of Article 31 (1) establish that the will is valid regarding the form, if it is valid in one of the following legislations:

- 1) pursuant to the legislation of the place where it has been made;

- 2) pursuant to the legislation of the state, where the owner had citizenship either at the time of making the will or at the time of death;
- 3) pursuant to the legislation of testator's residence, either at the time of making the will or at the time of death;
- 4) pursuant to the legislation of testator's residence, either at the time of administering the will or at the time of death;
- 5) pursuant to the legislation of the Republic of Serbia;
- 6) for immovable property- pursuant to the legislation of the place where the immovable property is.

Revocation of will is valid regarding the form, if that form is valid under any law pursuant to which, according to the provisions of paragraph 1 of this Article, the will could have been validly made.

Pursuant to Article 71 of the same Law, in matter of inheritance of immovable property of the citizen of the Republic of Serbia, there is in exclusive jurisdiction of the court of the Republic of Serbia if that property is on the territory of the Republic of Serbia. If immovable property of the deceased, who is the citizen of the Republic of Serbia, is abroad, the jurisdiction of the court in Republic of Serbia exists only in cases when authority of the state in whose territory the inheritance is, is not competent pursuant to its law. The jurisdiction of the court of the Republic of Serbia in matters of inheritance of moveable property of the citizen of the Republic of Serbia exists only if the moveable property is on the territory of the Republic of Serbia and if pursuant to the law of the state, where moveable property is, no foreign authority is competent, that is if that authority refuses to discuss the matter of inheritance. The mentioned provisions are valid in the matters of jurisdiction in disputes arising from inheritance relation issues and in disputes when claiming the inheritance by claimants.

Pursuant to Article 72 in order to discuss the matter of inheritance of immovable property of the foreign citizen, there is an exclusive jurisdiction of the court in the Republic of Serbia if the property is on the territory of the Republic of Serbia. For discussing the matter of foreign citizens' moveable property, which is in the territory of Serbia, there is jurisdiction of Republic of Serbia, except if the court in the state of the deceased is not competent for matters of movable property of the citizens of the Republic of Serbia. The mentioned provisions are valid in the matters of jurisdiction in disputes arising from inheritance relation issues and in disputes when claiming the inheritance by claimants. When there is no competence of the court in the Republic of Serbia for discussing inheritance of the foreign citizen, the court may decide on the measures for the protection of inheritance and for the protection of right to inheritance, which is in the territory of the Republic of Serbia.

Pursuant to Article 73 of the same Law, in the matter of inheritance of immovable property of a stateless person, a person whose citizenship cannot be established or a person with the refugee status, the exclusive jurisdiction of the Court of the Republic of Serbia exists if immovable property is on the territory of the Republic of Serbia. In case of discussing the matter of inheritance of movable property of citizenship stateless person, person whose citizenship cannot be established or person with the refugee status, the exclusive jurisdiction of the Court of the Republic of Serbia exists

if movable property is in the territory of the Republic of Serbia or if the owner had residence in the Republic of Serbia at the time of death. The mentioned provisions also apply to the matters of jurisdiction in disputes arising from inheritance relation issues and in disputes when claiming the inheritance by claimants. If the deceased did not have residence in the Republic of Serbia, the provisions for inheritance of foreign citizen apply, implying that foreign state is the state in which the deceased had residence at the time of death.

In the part of the question regarding the recognition and enforcement issues in matters of international inheritance please see question 75.

84. How does your legislation solve conflicts of law for divorce and legal separation?

The Law on Resolving Conflict of Laws with Regulations of Other Countries (*Official Journal of SFRY*, No 43/82, 72/82, *Official Journal of SRY*, No 46/96 and *Official Gazette of RS*, No 46/06) contains rules on determination of applicable law for family relations or containing international element.

Pursuant to Article 35 of the Law on Resolving Conflict of Laws with Regulations of Other Countries, the law of the country of nationality of both spouses (*lex nationalis*) at the moment of filing the divorce claim is applicable to **divorce**. If the spouses are nationals of different countries, then the laws of both countries of nationality are cumulatively applicable to divorce. If the marriage cannot be divorced by applying *lex nationalis*, and one of the spouses was domiciled in the Republic of Serbia at the moment of filing the claim, the law of the Republic of Serbia is applicable to divorce (*lex domitili*). Also, if the marriage cannot be divorced by applying *lex nationalis*, and one of the spouses is a national of the Republic of Serbia but is not domiciled in the Republic of Serbia, the law of the Republic of Serbia is applicable. Therefore, the law of the country where the marriage is divorced (*lex fori*) does not apply independently, but it requires cumulative presence of at least another fact, domicile of one of the spouses in the Republic of Serbia, or nationality of one of the spouses.

Pursuant to Article 34 of the Law on Resolving Conflict of Laws with Regulations of Other Countries, any law by which the marriage was created in terms of Article 32 of this Law is applicable to **nullity of marriage**. Pursuant to Article 32 of the mentioned Law in terms of conditions for creating a marriage, the law of the country of nationality of a person at the moment of entering into marriage is applicable for each person (*lex nationalis*). Even when there are conditions for creating a marriage by the law of the country of nationality of the person wishing to enter into marriage before the competent authority of the Republic of Serbia, the creation of marriage shall not be allowed if, by the law of the Republic of Serbia (*lex fori*), there are impediments pertaining to existence of previous marriage which is still valid, close blood relationship, and incapability of judgment with respect to such person.

Pursuant to Article 38(1) of the Law on Resolution of Conflict of Laws with the Regulations of Foreign Countries, if the **marriage is null or ceased to exist**, the law determined in Article 36 of this Law, containing the rules on legal force of marriage with international element, is applicable to personal and legal property relations. Pursuant to Article 36 of this Law, the law of the country of nationality of the spouses is applicable to personal and legal property relations (*lex nationalis*). There have been derogations from the principle of cumulative application of personal laws of the

spouses in subsidiary resolutions, as it could have solutions inapplicable in practice as a consequence, so the legislator opted for determination of one applicable law. In terms thereof, if the spouses are nationals of different countries, then the law of the country in which they are domiciled is applicable thereto (*lex domicilii*). If the spouses do not have joint nationality nor are domiciled in the same country, the law of the country of the last joint domicile is applicable thereto. If the applicable law for personal and property relations of the spouses in case the marriage is null or ceased to exist cannot be determined in any of the mentioned manners, the law of the Republic of Serbia is applicable thereto (*lex fori*).

Pursuant to Article 38(2) of the Law on Resolving Conflict of Laws with Regulations of Other Countries, if the ***marriage is null or ceased to exist***, in the cases mentioned in Article 36 of this Law, the law determined in Article 37 of this Law is applicable to *contractual property relations of the spouses*. Therefore, with this provision the Law addresses the right which is, by its collision norms, applicable to contractual relations (*lex causae*). Pursuant to Article 37 of this Law, the law applicable to personal and legal property relations at the moment of concluding the contract is applicable for contractual property relations of the spouses. If the law determined in this manner envisages that the spouses may choose the law applicable to marital-property agreement, the law chosen by them is applicable thereto.

The Law on Resolving Conflict of Laws with Regulations of Other Countries contains a special collision norm pertaining to extra-marital union, relying upon the solutions provided for in the collision norms related to marriage and marital relations and limiting only to property relations of extra-marital partners. Pursuant to Article 39 of the Law on Resolution of Conflict of Laws with the Regulations of Foreign Countries, the law of the country of nationality of the persons living in extra-marital union is applicable to their property relations. If the extra-marital partners do not have the same nationality, the law of the country in which they are jointly domiciled is applicable thereto. The law applicable to the property relations of the persons living in extra-marital union at the moment of concluding the contract is applicable to the contractual property relations between them. Therefore, at determination of the applicable law, the last joint domicile as deciding fact has been omitted, considering the nature of extra-marital union, which implies life together, or joint domicile of extra-marital partners. The provisions of this Law apply to legal, or contractual property relations of extra-marital partners which are solved ***upon cessation of existence of the extra-marital union***, applying to these relations in case that the marriage ceased to exist or is null (Article 38(2)).

85. In the light of the above mentioned questions, please describe how the judicial cooperation in civil matter is dealt with in relation to EULEX.

According to the Resolution by the Government of the Republic of Serbia adopted on 27 November 2008, the Resolution on the Deployment of European Union Rule of Law Mission (EULEX) on the entire territory of the Autonomous Province Kosovo and Metohija, the confirmation of the six-point plan prepared by UN Secretary General and the protection of interests of the Republic of Serbia, the Ministry of Interior has established relations with EULEX Mission.

Since the founding of the legal component of EULEX Mission in Kosovo and Metohija, the Ministry of Justice has worked towards achieving legal cooperation in civil and criminal matters with EULEX Mission. In addition to this, in cooperation with legal component of EULEX Mission, the Ministry of Justice is trying to find the possible solution in order to establish the functional legal system on the North of Kosovo and Metohija, opening of court in Kosovska Mitrovica, participation of judicial office holders of Serbian nationality as the part of EULEX legislative system, participation of court staff of Serbian nationality in EULEX judiciary, enforcement of rights and rules in judiciary on the North of Kosovo and Metohija, as well as intensifying the processing of cases of war crimes in Kosovo and Metohija, taking into account Resolution 1244 of United Nations Security Council.

In addition to actual establishing of framework for cooperation, which includes representatives of judiciary and the Ministry of Justice on one side and representatives of EULEX on the other; where in addition to above mentioned, subjects should discuss on ways for overcoming problems in concrete cases as well, and who have established direct communication and cooperation between Republic Public Prosecutor's Office i.e. Prosecution for Organised Crime and Prosecution of EULEX Mission in Kosovo and Metohija.

Judicial cooperation in criminal matters

86. Is it possible for parties involved in criminal litigation in your country but not present in it, to ask for legal aid in the country of their habitual residency? If so, how are these requests received and dealt with by your country? Is the same possibility available to parties present in your country who are involved in litigation abroad? If so, how are these requests presented and then transmitted abroad? Please provide statistics on the number of cases and the results achieved.

Pursuant to the international conventions, or treaties, the nationals of one contracting country have equal legal protection of their rights in procedures before the courts and other authorities of other contracting country as its own nationals. The nationals of one contracting country have free access to the courts and other authorities at the territory of other contracting country, before which they may represent their interests, submit requests, and take actions under the same conditions as its own nationals. Pursuant to international conventions, the international legal assistance in criminal matters is rendered in the broadest possible terms, with the condition that, when it comes to criminal proceedings, one must bear in mind that they are conducted *ex officio*. In relation to the answer to this question one should bare in mind certain international conventions pertaining to human rights as well, such as the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 6) as well as the International Covenant on Civil and Political Rights (Article 14).

There are no obstacles for the litigants in criminal litigation in our country who are not present to seek for legal assistance in the country of their habitual domicile. The same possibility is available to parties present in our country who are involved in litigation abroad. These applications are served, received, and solved in the manner

envisaged by domestic legislation or based on the international agreement on legal assistance if existing.

There are no separate statistical data on these cases.

87. Please provide information on legislation or other rules governing this area and their adherence to relevant international conventions.

(1) In the Republic of Serbia, a judicial cooperation with other countries in criminal matters takes place based on domestic legislation, as well as international treaties and conventions concluded, or signed by the Republic of Serbia.

When it comes to domestic legislation, it is necessary to indicate that the separate Law on Mutual Assistance in Criminal Matters was passed in the Republic of Serbia on 18 March 2009 (Official Gazette of RS, No. 20/2009), applied in the cases when certain issue is not regulated by international conventions. With passing of the mentioned Law, the provisions of the Code of Criminal Procedure pertaining to the procedure of rendering international legal assistance and enforcement of international treaties in criminal matters and the procedure of extradition of defendants and sentenced persons ceased to exist.

The mentioned Law has been fully harmonized with the international conventions to which the Republic of Serbia became a party, and regulates international legal assistance in criminal matters in far more complete and various manners than in case of the Code on Criminal Procedure.

Certain provisions of importance for rendering international legal assistance, and above all the ones pertaining to the procedure of rendering certain forms of legal assistance (e.g. serving documents, execution of procedural actions, confiscation of proceeds from crime), are contained in the Criminal Procedure Code (*Official Journal of FRY*, no. 70/2001 and 68/2002 and *Official Gazette of RS*, No. 58/2004, 85/2005, 115/2005, 85/2005 – other law, 49/2007, 20/2009 - other law, and 72/2009. This code also contains special provisions on procedure for offences of organised crime, corruption, and other extremely serious offences and in terms thereof envisages the measures for discovering and proving the mentioned offences (e.g. controlled deliveries, undercover investigator, monitoring and recording telephone and other conversations or communication, automatic computer search of personal and other related data).

Certain matters of importance for rendering of international legal assistance are also contained in the provisions of the Criminal Code of the Republic of Serbia (types of criminal sanctions, confiscation of proceeds from crime, deduction of time spent in detention from the sentence pronounced, etc) - *Official Gazette of RS*” No. 85/2005, 88/2005 – *corrigendum*, 107/2009 – *corrigendum* and 111/2009). Also, certain forms of international legal cooperation envisage two separate laws passed in the Republic of Serbia, namely: The Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime, Corruption, and Other Severe Criminal Offences (*Official Gazette of RS*, No 42/2002, 27/2003, 39/2003, 67/2003,

29/2004, 58/2004 – other law, 45/2005, 61/2005 and 72/2009) and the Law on Organisation and Competences of Government Authorities in War Crime Proceedings (*Official Gazette of RS*, No. 67/2003, 135/2004, 61/2005, 101/2007, and 104/2009). These two laws envisage hearing of witnesses and the aggrieved party via international criminal assistance, and, if it is not possible to provide the attendance of witnesses, experts, or aggrieved party at the trial, that their interrogation might be performed via video-conference link.

Beside the mentioned laws, the existence of the Law on Seizure and Confiscation of the Proceeds from Crime passed in 2008 (*Official Gazette of RS*, No. 97/2008) which especially regulates the question of international cooperation with a view to confiscation of the proceeds from crime should be also pointed out.

The Law on Organisation of Courts (*Official Gazette of RS*, No. 116/2008 , 104/2009 and 101/10) which determines the courts for rendering international legal assistance, as well as the Court Rules of Procedure (*Official Gazette of RS*, No. 110/09) are also important for rendering international legal assistance.

2) The Law on Mutual Assistance in Criminal Matters passed in March 2009, as a fundamental law for rendering international legal assistance in criminal matters, envisages that it will apply only in cases when there is no ratified international treaty and when certain matters are not regulated by it. The law regulates four basic forms of international legal assistance in criminal matters, i.e. extradition, transfer and takeover of prosecution, recognition and enforcement of court decisions in criminal matters and other (general) forms of international legal assistance.

The law also envisages rendering international legal assistance in the proceeding launched before the administrative authorities for the offence punishable according to the legislation of the requesting country, in case when the decision of the administrative authority may represent a basis for launching a criminal proceeding. The law also envisages rendering international legal assistance by the letters rogatory of the International Court of Justice, International Criminal Court, European Court for Human Rights, and other international institutions founded by international treaty ratified by the Republic of Serbia (Article 3).

As authorities competent for rendering international assistance, the law also envisages courts and public prosecution services, but some actions in the procedure of rendering international legal assistance are also performed by the ministry in charge of judiciary, the ministry in charge of external affairs, and the ministry in charge of internal affairs (Article 4).

In case the letter rogatory for international legal assistance is submitted to a non-competent authority, the law envisages the obligation of such authority to forward the request to a competent authority without delay (Article 4).

The law specified in detail the content of letter rogatory for international legal assistance in criminal matters (name of authority composing the letter rogatory, name of authority to which the letter rogatory is directed, legal ground for rendering legal assistance, description of factual situation, description of action of legal assistance, etc). It is also envisaged that letters rogatory and mailings are served along with translation to the language of the requested country or the translation to English language (Article 5).

As a fundamental authority through which legal assistance is conducted, the law envisages the ministry competent for all judicial affairs, but, under the conditions of mutuality, the law also envisages the possibility for direct serving of letters rogatory between judicial authorities, and in cases of emergency also serving via the International Organisation of Criminal Police (INTERPOL), (Article 6).

As general assumptions for rendering all forms of legal assistance, the law (Article 7) envisages: that the criminal offence for which rendering of legal assistance is requested represents criminal offence by the Law of the Republic of Serbia as well; that the criminal proceedings for the same criminal offence has not been validly completed before the domestic court, or that the criminal sanction has not been fully enforced, that the criminal prosecution, or execution of criminal sanction, has not been excluded due to obsolescence, amnesty, or pardon; that the request for rendering legal assistance does not regard political criminal offence, as well as the criminal offence consisting solely of violation of military duties; that the rendering of legal assistance would not violate sovereignty, security, public order or other interests of vital importance for the Republic of Serbia. The law envisages that international legal assistance may be also rendered when the letter rogatory regards political criminal offence, or criminal offence consisting solely of violation of military duties, if it is the criminal offence against the international humanitarian law for which there is no limitation. With respect to some forms of international legal assistance, the Law also envisages special assumptions for their conduct:

The Law especially envisages that domestic judicial authorities render international legal assistance under the condition of mutuality. If there are no data on mutuality, it is assumed that it exists (Article 8).

The law also regulates issues of data confidentiality, or obligation of state authorities to keep confidentiality of the data obtained in the procedure of rendering international legal assistance, and that the personal data may be used solely in criminal or administrative procedure in relation to which the letter rogatory was submitted (Article 9).

Pursuant to the Law, the procedure of rendering mutual assistance is conducted in Serbian language, but in the areas where the languages of national minorities are officially used, the procedure is also conducted in their language, in accordance with the Constitution of the Republic of Serbia and the law (Article 10).

The law envisages that, unless determined otherwise by it, the provisions of the Code of Criminal Procedure and the corresponding laws regulating organisation and competence of the courts and public prosecution services apply in the procedure of rendering international legal assistance.

3) When it comes to international treaties as legal ground for cooperation in criminal matters, it should be pointed out that the Republic of Serbia has 45 concluded agreements on legal assistance in criminal matters with 29 countries. Some of these agreements regulate all forms of international legal assistance in criminal matters, while some regulate only some of these forms, e.g. extradition and enforcement of foreign criminal judgments.

The Republic of Serbia also ratified 23 conventions, or protocols of the Council of Europe, containing provisions on international legal assistance in criminal matters.

Beside the mentioned conventions, the Republic of Serbia also became a party to a large number of conventions of the United Nations and its organizations, which, above all, regard legal cooperation in criminal matters among the countries with respect to specific criminal matters, or specific forms of international criminal assistance.

List of bilateral international agreements, conventions of the Council of Europe and conventions of the United Nations and its organisations concluded, or signed by the Republic of Serbia:

BILATERAL AGREEMENTS

Albania

Convention on Extradition between the Kingdom of Serbs, Croats and Slovenes and the Albanian Republic of 22 June 1926, entered into force in 1929 (*Official Journal*, No 117/1929).

Algeria

Agreement on Mutual Legal Assistance in Civil and Criminal Matters between the Socialist Federal Republic of Yugoslavia and the People's Republic of Algeria of 31 March 1982, entered into force in 1984 (*Official Journal of SFRY –International Treaties* , No 2/1983).

Austria

1. Agreement on Mutual Legal Assistance in Civil and Criminal Matters between the Socialist Federal Republic of Yugoslavia and the Republic of Austria of 1 February 1982, entered into force in 1984 (*Official Journal of SFRY –International Treaties* , No 2/1983).
2. Agreement on Extradition between the Socialist Federal Republic of Yugoslavia and the Republic of Austria of 1 February 1982, entered into force in 1984 (*Official Journal of SFRY –International Treaties*, No 2/1983).
3. Agreement on Mutual Enforcement of Court Decisions in Criminal Matters between the Socialist Federal Republic of Yugoslavia and the Republic of Austria of 1 February 1982, entered into force in 1984 (*Official Journal of SFRY –International Treaties* , No 6/1983).

Belgium

Convention on Extradition and Legal Assistance in Criminal Matters between the Socialist Federal Republic of Yugoslavia and the Kingdom of Belgium of 4 June 1971, entered into force in 1972 (*Official Journal of SFRY –Addendum* No 9/1973).

Bosnia and Herzegovina

1. Agreement between Serbia and Montenegro and Bosnia and Herzegovina on Mutual Legal Assistance in Civil and Criminal Matters of 24 February 2005 (*Official Journal of SCG-International Treaties*, No 6/05). The Agreement entered into force on 9 February 2006.
2. Agreement between Serbia and Montenegro and Bosnia and Herzegovina on Mutual Execution of Judicial Decisions in Criminal Matters of 24 February 2005 (*Official Journal of SCG-International Treaties*, No 6/05). The Agreement entered into force on 13 February 2006.
3. Agreement between the Republic of Serbia and Bosnia and Herzegovina on amendments and supplements to the Agreement between Serbia and Montenegro and Bosnia and Herzegovina on legal assistance in civil and criminal matters signed in Belgrade on 26 February 2010, applying as of the date of signature.
4. Agreement between the Republic of Serbia and Bosnia and Herzegovina on amendments and supplements to the Agreement between Serbia and Montenegro and Bosnia and Herzegovina on mutual execution of judicial decisions in criminal matters signed in Belgrade on 26 February 2010, applying as of the date of signature.

Montenegro

1. Agreement between the Republic of Serbia and Montenegro on Legal Assistance in Civil and Criminal Matters of 29 May 2009 (*Official Gazette of RS – International Treaties*, No 1/10).
2. Agreement between the Republic of Serbia and Montenegro on Mutual Execution of Judicial Decisions in Criminal Matters of 29 May 2009 (*Official Gazette of RS – International Treaties*, No 1/10).
3. Agreement between the Republic of Serbia and Montenegro on Extradition of 29 May 2009 (*Official Gazette of the RS – International Treaties*, No 1/10).
4. Agreement between the Republic of Serbia and Bosnia and Herzegovina on amendments and supplements of the Agreement between Serbia and Montenegro and Bosnia and Herzegovina on Extradition, signed in Belgrade on 29 October 2010, applying as of the date of signature.

Bulgaria

Agreement between the Federal People's Republic of Yugoslavia and the People's Republic of Bulgaria on Mutual Legal Assistance of 23 March 1956, entered into force in 1957 (*Official Journal of FPRY – Addendum* No 1/1957).

Czech Republic

1. Agreement between the Socialist Federal Republic of Yugoslavia and the Czechoslovak Socialist Republic on Regulation of Legal Relations in Civil, Family, and Criminal Matters of 20 January 1964, entered into force in 1964 (*Official Journal of SFRY – Addendum* No 13/1964).

2. Agreement between the Socialist Federal Republic of Yugoslavia and the Czechoslovak Socialist Republic on Mutual Extradition of Convicted Persons for Serving Prison Sentence of 23 May 1989, entered into force in 1990 (*Official Journal of SFRY – International Treaties* No. 6/1990).

Denmark

Agreement between the Socialist Federal Republic of Yugoslavia and the Kingdom of Denmark on Mutual Extradition of Convicted Persons for Serving Prison Sentence of 28 October 1988, entered into force in 1989 (*Official Journal of SFRY – International Treaties* No. 5/1989).

France

1. Convention between the Socialist Federal Republic of Yugoslavia and the French Republic on Mutual Legal Assistance in Criminal Matters of 29 October 1969, entered into force in 1970 (*Official Journal of SFRY – Addendum* No 16/1971).
2. Convention on Extradition between the Government of the Socialist Federal Republic of Yugoslavia and the Government of the French Republic of 23 September 1970, entered into force in 1971 (*Official Journal of SFRY – Addendum* No 43/1971).

Greece

Convention between the Federal People's Republic of Yugoslavia and the Kingdom of Greece on Mutual Legal Relations of 18 June 1959, entered into force in 1960 (*Official Journal of FPRY – Addendum* No 7/1960).

The Netherlands

Convention on Extradition between Serbia and The Netherlands of 28 February (11 March) 1896, entered into force in 1896 (*Serbian Journal*, No 275/1896).

Croatia

1. Agreement between the Federal Republic of Yugoslavia and the Republic of Croatia on Legal Assistance in Civil and Criminal Matters of 15 September 1997, entered into force in 1998 (*Official Journal of FRY – International Treaties* , No 1/1998).
2. Agreement between the Republic of Serbia and the Republic of Croatia on Extradition (signed on 29 June 2010, temporarily applying ever since).

Iraq

Agreement between the Socialist Federal Republic of Yugoslavia and the Republic of Iraq on Legal and Judicial Cooperation of 23 May 1986, entered into force in 1987 (*Official Journal of SFRY – International Treaties*, No 1/1987).

Italy

1. Convention between the Kingdom of Serbs, Croats and Slovenes and Italy on Extradition of 6 April 1922, entered into force in 1931 (*Official Journal*, No 42/1931).
2. Convention between the Kingdom of Serbs, Croats and Slovenes and Italy on Legal and Judicial Protection of Respective Nationals of 6 April 1922, (*Official Journal*, No 42/1931). Only Art. 13-16 remained effective, pursuant to Article 26 of the Convention between FPRY and Italy on Mutual Legal Assistance in Criminal and Administrative Matters of 31 December 1960.

3. *Convention between FPRY and Italy on Mutual Legal Assistance in Criminal and Administrative Matters of 31 December 1960* (*Official Journal of FPRY – Addendum No 5/1963*).

Cyprus

Agreement between the Socialist Federal Republic of Yugoslavia and the Republic of Cyprus on Mutual Legal Assistance in Civil and Criminal Matters of 19 September 1984, entered into force in 1987 (*Official Journal of SFRY – International Treaties*, No 2/1986).

Hungary

1. Agreement between the Socialist Federal Republic of Yugoslavia and the People's Republic of Hungary on Mutual Legal Communication of 7 March 1968, entered into force in 1969 (*Official Journal of SFRY – Addendum No 3/1968*).
2. Agreement on Amendments and Modifications of the Amendment between the Socialist Federal Republic of Yugoslavia and the People's Republic of Hungary on Mutual Legal Communication of 7 March 1986, entered into force in 1987 (*Official Journal of SFRY – International Treaties No 1/1987*).

Macedonia

Agreement between Serbia and Montenegro and the Republic of Macedonia on Mutual Legal Assistance in Civil and Criminal Matters, entered into force on 9 March 2005 (*Official Journal of SCG – International Treaties*, No 22/2004).

Mongolia

Agreement between the Socialist Federal Republic of Yugoslavia and the Mongolian People's Republic on Mutual Legal Assistance in Civil, Criminal, and Family Matters of 8 June 1981, entered into force in 1983 (*Official Journal of SFRY –International Treaties*, No 7/1982).

FR of Germany

1. Agreement on Extradition between the Socialist Federal Republic of Yugoslavia and Federal Republic of Germany of 26 November 1970, entered into force in 1975 (*Official Journal of SFRY – Addendum* No 17/1976).
2. Agreement on Mutual Legal Assistance in Criminal Matters between the Socialist Federal Republic of Yugoslavia and the Federal Republic of Germany of 1 October 1971, entered into force in 1975 (*Official Journal of SFRY*, No 33/1972).

Poland

Agreement between the Federal People's Republic of Yugoslavia and the People's Republic of Poland on Legal Communication in Civil and Criminal Matters of 6 February 1960, entered into force in 1963 (*Official Journal of FPRY – Addendum* No 5/1963).

Romania

Agreement between the Federal People's Republic of Yugoslavia and the Romanian People's Republic on Mutual Legal Assistance of 18 October 1960, entered into force in 1961 (*Official Journal of FPRY – Addendum* No 8/1961).

Russian Federation

Agreement between the Federal People's Republic of Yugoslavia and the Union of Soviet Socialist Republics on Mutual Legal Assistance in Civil, Family, and Criminal Matters of 24 February 1962, entered into force in 1963 (*Official Journal of FPRY – Addendum* No 5/1963).

United States of America

Convention on Extradition signed between the Kingdom of Serbs, Croats and Slovenes and the United States of America of 12/25 October 1901 , entered into force in 1902 (*Serbian Journal*, No 33/1902).

Slovakia

1. Agreement between the Socialist Federal Republic of Yugoslavia and the Czechoslovak Socialist Republic on Regulation of Legal Relations in Civil, Family, and Criminal Matters of 20 January 1964, entered into force in 1964 (*Official Journal of SFRY – Addendum* No 13/1964).
2. Agreement between the Socialist Federal Republic of Yugoslavia and the Czechoslovak Socialist Republic on Mutual Extradition of Convicted Persons for Serving Prison Sentence of 23 May 1989, entered into force in 1990 (*Official Journal of SFRY – International Treaties*, No 6/1990).

Spain

Agreement between the Socialist Federal Republic of Yugoslavia and Spain on Mutual Legal Assistance in Criminal Matters and Extradition of 8 July 1980, entered into force in 1982 (*Official Journal of SFRY – International Treaties*, No 3/1981).

Switzerland

Convention on Extradition between Serbia and Switzerland of 16/28 November 1887, entered into force in 1888 (*Official Journal*, No 83/1888).

Turkey

1. Convention on Mutual Judicial Legal Assistance in Criminal Matters between the Socialist Federal Republic of Yugoslavia and the Republic of Turkey of 8 October 1973, entered into force in 1975 (*Official Journal of SFRY – Addendum* No 1/1976).
2. Agreement on Extradition between the Socialist Federal Republic of Yugoslavia and Republic of Turkey of 17 November 1973, entered into force in 1975 (*Official Journal of SFRY – Addendum* No 47/1975).

Great Britain

Agreement on Mutual Extradition of Guilty Persons between Serbia and Great Britain of 6 December 1900, entered into force in 1901 (*Serbian Journal*, No 35/1901).

MULTILATERAL AGREEMENTS

a) Conventions of the United Nations or its organisations

1. The United Nations Convention against Transnational Organized Crime of 15 November 2000, with the Protocol for Prevention, Suppression and Punishment of Trafficking in Persons, especially Women and Children of 15 November 2000, Protocol against Smuggling of Migrants by Land, Sea and Air from 15 November

- 2000 (*Official Journal of FRY – International Treaties*, No. 6/2001) and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition of 31 May 2001 (*Official Journal of SCG – International Treaties*, No. 11 /2005).
2. Convention on Slavery of 25 September 1926 (*Official Journal*, No. 234/1929) with the Protocol on Amendments and Modifications of 7 December 1953 (*Official Journal of FPRY – Addendum*, No. 5/1955).
 3. Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 7 September 1956 (*Official Journal of FPRY – Addendum* No 7/1958).
 4. International Agreement for Effective Protection against the Criminal Traffic Known as "White Slave Traffic" of 18 May 1904 (*Official Journal of KY*, No. 117/1929), updated with the Protocol of 4 May 1949 (*Official Gazette of the Presidium of NA of FPRY*, No. 2/1951).
 5. International Convention on the Suppression of the White Slave Traffic of 4 May 1910 (*Official Journal of KY*, No. 117/1929), updated with the Protocol of 4 May 1949 (*Official Gazette of the Presidium of NA of FPRY*, No. 2/1951).
 6. International Convention on the Suppression of the Traffic in Women and Children of 30 September 1921 (*Official Journal*, No. 117/1929), updated with the Protocol of 12 November 1947.
 7. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (*Official Journal of the Presidium of NA of FPRY*, No. 2/1951).
 8. United Nations Convention on the Rights of Child of 20 November 1989 (*Official Journal of SFRY – International Treaties*, No. 15/90) - Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography of 25 May 2000 (*Official Journal of FRY – International Treaties*, No 7/2002).
 9. Convention on Offences and Certain Other Acts Committed On Board Aircraft of 14 September 1963 (*Official Journal of SFRY*, No. 47/1970).
 10. Convention for the Suppression of Unlawful Seizure of Aircraft of 14 December 1970 (*Official Journal of SFRY*, No 33/1972).
 11. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation of 23 September 1971 (*Official Journal of SFRY*, No. 33/1972) with the Supplementary Protocol of 24 February 1988 (*Official Journal of SFRY, – International Treaties*, No. 14/1989).
 12. United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 19 December 1988 (*Official Journal of SFRY – International Treaties*, No 14/1990).
 13. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents of 14 December 1973 (*Official Journal of SFRY – International Treaties*, No. 54/1976).
 14. International Convention against the Taking of Hostages of 17 December 1979 (*Official Journal of SFRY – International Treaties*, No 9/1984).
 15. Rome Statute of the International Criminal Court of 17 July 1998 (*Official Journal of RS – International Treaties*, No 5/2001).

16. Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity of 26 November 1968 (*Official Journal of SFRY - International Treaties*, No 5/1970).
17. Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948 (*Official Gazette of the Presidium of the National Assembly of FPRY*, No 2/1950).
18. Convention on the Suppression and Punishment of the Crime of Apartheid of 30 November 1973 (*Official Journal of SFRY*, No 14/1975).
19. Geneva Convention for the Amelioration of the Condition of Wounded and Sick in Armed Forces in the Field of 12 August 1949 (*Official Journal of FPRY*, No. 24/1950).
20. Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of 12 August 1949 (*Official Journal of FPRY*, No. 24/1950).
21. Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949 (*Official Journal of FPRY*, No. 24/1950).
22. Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (*Official Journal of FPRY*, No. 24/1950).
- Protocol Additional (I) to the Geneva Conventions of 12 August 1949 Relating to the Protection of Victims of International Armed Conflicts of 10 June 1977 (*Official Journal of SFRY – International Treaties*, No 16/1978).
24. Protocol Additional (II) to the Geneva Conventions of 12 August 1949 Relating to the Protection of Victims of Non-International Armed Conflicts of 10 June 1977 (*Official Journal of SFRY – International Treaties*, No 16/1978).
25. Convention on the Physical Protection of Nuclear Material of 26 October 1979 (*Official Journal of SFRY - International Treaties*, No 10/1985).
26. International Convention for the Suppression of Terrorist Bombings of 12 January 1998 (*Official Journal of FRY - International Treaties*, No 12/2002).
27. International Convention for the Suppression of the Financing of Terrorism of 9 December 1999 (*Official Journal of FRY - International Treaties*, No 7/2002).
28. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation of 10 March 1988 (*Official Journal of SFRY - International Treaties*, No 2/04).
29. *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf* of 10 March 1988 (*Official Journal of SCG – International Treaties*, No. 6/04).
30. United Nations Convention against Corruption (*Official Journal of SCG – International Treaties*, No 12/05).

b) Council of Europe Conventions

1. European Convention on Mutual Assistance in Criminal Matters of 1959 (*Official Journal of FRY—International Treaties*, No 10/2001).
2. Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters of 1978 (*Official Journal of FRY—International Treaties*, No 10/2001).

3. Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters of 8 November 2001 (*Official Journal of SCG—International Treaties*, No 2/2006).
4. European Convention on Extradition of 1957 (*Official Journal of FRY—International Treaties*, No 10/2001).
5. Additional Protocol to the European Convention on Extradition of 1975 (*Official Journal of FRY—International Treaties*, No 10/2001).
6. Second Additional Protocol to the European Convention on Extradition of 1978 (*Official Journal of FRY—International Treaties*, No 10/2001).
7. Third Additional Protocol to the European Convention on Extradition. The Republic of Serbia signed it on 10 November 2010.
8. European Convention on Transfer of Convicted Persons of 1983 (*Official Journal of the FRY—International Treaties*, No 4/2001).
9. Additional Protocol to the European Convention on the Transfer of Sentenced Persons of 1997 (*Official Journal of the FRY—International Treaties*, No 4/2001).
10. European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders of 1964 (*Official Journal of the FRY—International Treaties*, No 4/1991).
11. European Convention on the International Validity of Criminal Sentences of 1970 (*Official Journal of the FRY—International Treaties*, No 13/2002).
12. European Convention on the Transfer of Proceeding in Criminal Matters of 1972 (*Official Journal of the FRY—International Treaties*, No 10/2001).
13. Additional Protocol to the European Convention on Information on Foreign Law of 1978 (*Official Journal of SFRY—International Treaties*, No 7/91).
14. Criminal Convention on Corruption of 1999 (*Official Journal of the FRY—International Treaties*, No 2/2002).
15. Additional Protocol to the Criminal Convention on Corruption (*Official Gazette of the Republic of Serbia—International Treaties*, No 102/2007).
16. Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (*Official Journal of FRY – International Treaties*, No. 7/2002).
17. European Convention on the Suppression of Terrorism of 1977 (*Official Journal of the FRY—International Treaties*, No 10/2001).
18. Protocol Amending the European Convention on the Suppression of Terrorism of 2003 (*Official Gazette of the Republic of Serbia—International Treaties*, No 19/2009).
19. Council of Europe Convention on the Suppression of Terrorism of 2005 (*Official Gazette of the Republic of Serbia—International Treaties*, No 19/2009).
20. European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches (*Official Journal of SFRY-International Treaties*, No 9/90).
21. Convention on Cybercrime of 2001 (*Official Gazette of the Republic of Serbia—International Treaties*, No 19/2009).
22. Additional Protocol to the Convention on Cybercrime Concerning the Criminalisation of Acts of a Racist and Xenophobic Nature of 2003 (*Official Gazette of the Republic of Serbia—International Treaties*, No 19/2009).

23. Council of Europe Convention on Action against Trafficking in Human Beings of 2005 (*Official Gazette of the Republic of Serbia—International Treaties*, No 19/2009).

24. Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime and on the Financing of Terrorism of 2005 (*Official Gazette of the Republic of Serbia—International Treaties*, No 19/2009).

When it comes to the relation between domestic legislation and international treaties, the Law on Mutual Assistance in Criminal Matters explicitly gives precedence to international treaties. Namely, according to the Law, international legal assistance in criminal matters is conducted based on international treaties, the provisions of domestic legislation apply only if there is no international treaty and certain matters are not regulated by it. The mentioned solution arises out of the provisions of the Constitution of the Republic of Serbia, stipulating that the generally recognised rules of international law and the ratified international treaties form an integral part of the legal order of the Republic of Serbia. Therefore, the ratified international treaties, or convention, formally have legal force in Serbia, and they even supersede the laws in the hierarchy of legal acts. This solves the problem of implementation of international treaties in domestic legislation.

88. What kind of foreign judicial decisions in criminal matters are recognised and enforced and what is the procedure for recognising and enforcing them?

The Law on Mutual Assistance in Criminal Matters (*Official Gazette of RS*, No. 20/2009) especially regulates the situations of enforcement of foreign criminal judgments in relation to criminal sanctions in the Republic of Serbia and enforcement of domestic judgments abroad, without the transfer of sentenced persons, or with the transfer of sentenced persons.

1) Criminal sanction (without transfer), pronounced by the sentence of the competent court of the requesting country may be enforced in the Republic of Serbia, if the assumptions from the mentioned Article 7 of the law and one of the following assumptions are envisaged: that the sentenced person is a national of the Republic of Serbia, that the sentenced person has a domicile or residence in the Republic of Serbia, that the sentenced person serves a criminal sanction consisting of deprivation of freedom by the previously pronounced sentence in the Republic of Serbia. (Article 58). Enforcement of the action by the letter rogatory falls under the territorial jurisdiction of the court according to the last domicile or residence of the sentenced person at the territory of the Republic of Serbia or according to the place of enforcement of criminal sanction (Article 59).

In cases of emergency, and prior to submitting the letter rogatory for enforcement, a detention of the person may be requested (Article 60).

The decision on the letter rogatory is passed by the extra-procedural council of the competent court, of whose session the public prosecutor and the court-appointed defence layer are informed. Prior to passing the decision, the court shall hear the sentenced person on fulfilment of the assumptions for enforcement. In case of adopting the letter rogatory, the court pronounces a criminal sanction by the sentence on recognising foreign criminal sentence according to the criminal legislation of the Republic of Serbia, which may not be stricter than the sanction pronounced by foreign

criminal sentence. Against this sentence, the appeal may be lodged by public prosecutor, sentenced person and defence attorney.

The letter rogatory is rejected: if the assumptions for enforcement of foreign criminal sentence are not fulfilled, if it can be justifiably concluded that the person was sentenced for belonging to racial, religious, or national group or political belief, if the judgment was passed in absence of the sentenced person, if the assumptions of fair trial were not fulfilled.

The law also regulates the matter of lodging legal remedies against the mentioned judgments. Thus, the court of the requesting country which passed the criminal sentence being enforced in the Republic of Serbia deliberates on the extraordinary legal remedies declared against such judgment. The competent authorities of the requesting country and the competent authorities of the Republic of Serbia may pass the decision on extraordinary mitigation of sentence, amnesty, and pardon of the sentenced person (Articles 61-64).

When it comes to enforcement of foreign criminal judgment in the Republic of Serbia with transfer, the laws envisages that the national of the Republic of Serbia which serves a criminal sanction consisting of deprivation of freedom in foreign country may be transferred to the Republic of Serbia with a view to serving of criminal sanction. The consent thereto is given by the minister in charge of judiciary. The consent may be withheld if the sentenced person at the moment of submitting the letter rogatory has to serve less than 6 months of the pronounced criminal sanction (Article 65).

Beside the assumptions from the mentioned Article 7 of the law, for the transfer of the sentenced person to the Republic of Serbia for enforcement of foreign criminal judgment, the fulfilment of one of the following assumptions is also required: that the enforcement of criminal sanction in the Republic of Serbia will improve chances for social rehabilitation of the sentenced person, that the sentenced person agrees with the transfer (Article 68). In this case applies the principle of specialty, unless the sentenced person explicitly waived it, or, although he/she had an opportunity, did not leave the territory of the Republic of Serbia within 45 days as of the day of conditional release or served sentence, or if he/she returned to the territory of the Republic of Serbia (Article 66).

2) When it comes to the enforcement (without transfer) of the criminal sanction (pronounced by court in the Republic of Serbia, a fulfilment of one of the following assumptions is required: that the sentenced person is a foreign national, that the sentenced person has a domicile or residence in the foreign country, that the sentenced person serves a prison sentence or other criminal sanction consisting of deprivation of freedom by the previously pronounced judgment. The decision on launching the procedure for enforcement of domestic criminal judgment in foreign country is passed by the extra-procedural council of the court which passed the sentence in the first instance, upon the obtained opinion of the public prosecutor. The possibility for submission of the request for detention prior to the submission of the letter rogatory to the foreign country is envisaged in this case as well. The enforcement of criminal sanction in the Republic of Serbia is suspended if the country to which the letter rogatory was directed assumes the enforcement of domestic judgment. If the country to which the letter rogatory was directed does not assume the enforcement of the domestic criminal judgment or if the sentenced person escapes the enforcement of the

criminal sanction in the requested country, the court in the Republic of Serbia shall continue with the procedure of enforcement of the judgment (Art. 72-76).

The sentenced person which serves a criminal sanction consisting of deprivation of freedom in the Republic of Serbia may also be transferred to the country of his/her nationality, or domicile or residence, for serving of criminal sanction. The law envisages the obligation of the court having pronounced the first-instance judgment or of the institution in which the sentenced person serves a criminal sanction to inform the sentenced person of the possibility of enforcement of domestic criminal sentence with transfer (Art. 77 and 78).

The application for transfer, beside by the sentenced person, may also be submitted by the country of his/her nationality, domicile, or residence, if the sentenced person agrees with that (Article 79).

The decision on application for transfer is passed by the extra-procedural council of the court which passed the first-instance judgment, upon the obtained opinion of the public prosecutor. It is envisaged that the court shall reject the application for transfer if the sentenced person, at the moment of submitting the application, has to serve less than 6 months of the pronounced criminal sanction (Article 80). Based on the valid decision of the foreign authority, by which the transfer of the sentenced person is accepted, the ministry in charge of judiciary issues the order to the institution in which the sentenced person serves prison sentence, to give the mentioned to the police which will escort him/her to foreign country (Article 82).

The matter of enforcement of foreign criminal judgments, or transfers of the sentenced persons, is regulated on bilateral basis with the following countries: Austria, Bosnia and Herzegovina, Montenegro, Czech Republic, Denmark, Macedonia, and Slovakia.

The Republic of Serbia became a party to the European Convention on the Transfer of Sentenced Persons of 1983, as well as its additional protocol of 1997 (when it comes to enforcement – transfer, the Republic of Serbia applies Article 9(16) in relation to Article 11 of the Convention).

Also, the Republic of Serbia became a party to the European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders, and this type of legal assistance is regulated on bilateral basis by bilateral agreements with Austria, Montenegro, and Bosnia and Herzegovina. In addition, when it comes to enforcement of foreign criminal judgments, the Republic of Serbia became a party to the European Convention on the International Validity of Criminal Sentences.

The matter of enforcement of foreign criminal judgments between the Republic of Serbia and other countries is also regulated by other multilateral international conventions of the Council of Europe and the United Nations and its organizations, signed by the Republic of Serbia, which contain the provisions regarding this type of the international criminal assistance.

The bilateral agreements with some countries (Algeria, Bosnia and Herzegovina, Bulgaria, Czech Republic, Slovakia, France, Greece, Iraq, Hungary, Macedonia, Mongolia, Poland, Romania, Russia, Montenegro) also regulate the matter of

recognition and enforcement of court decisions in criminal matters in the part in which it is decided on property claim and the envisaged conditions (validity and enforceability of decisions, that passing the decision in legal matter in which the recognition or enforcement is requested is not under exclusive competence of domestic court, that recognition and enforcement would not oppose to public order, etc) the procedure is conducted before the competent court.

89. How are foreign judicial documents received and served? How are your country's judicial documents transmitted when they have to be served abroad? Please provide statistics.

The letters rogatory for serving judicial documents are received and served in accordance with domestic legislation and concluded international agreements. The Law on Mutual Assistance in Criminal Matters (*Official Gazette of RS*, No. 20/2009) (Article 6), the letters rogatory and other mailings of domestic judiciary authority are delivered to the foreign authority through the ministry in charge of judiciary. At the request of the country to which they are directed, the letters rogatory and other mailings are submitted through diplomatic offices.

Letters rogatory and mailings, under the condition of mutuality, may be submitted directly to foreign judiciary authority, and in the cases of emergency via the international organization of criminal police (INTERPOL).

The letters rogatory and other mailings of foreign authorities are served to domestic judiciary authority in accordance with the above mentioned.

Domestic legislation applies to the very procedure of delivery and serving, but one may act on the letter rogatory for serving in accordance with special request of the requesting party, unless it contradicts domestic legislation. The Ministry of Justice of the Republic of Serbia forwards the letter rogatory for serving to the court at whose territory it is necessary to perform this action of legal assistance. The court may perform the serving via mail or via an authorized officer of court, internal affairs authority, or may invite the person who should be served a certain document. The law separately regulates the situations when it is necessary to perform delivery in person and the situations when delivery may be performed via other persons. Delivery is proven by the confirmation containing the data on date of receiving, place of receiving, signature of receiver, signature of deliverer, as well as the data on possible special manner of serving.

The agreements on mutual legal assistance with some countries, e.g. Montenegro, envisage the possibility for direct submission of documents between judiciary authorities.

Delivery of mailings to domestic nationals abroad is also performed in accordance with the mentioned rules, and it may be performed via diplomatic or consular office of the Republic of Serbia under the condition that the foreign country does not oppose to such manner of serving and that the person voluntarily consents to receive the mailing. In case of delivery via diplomatic or consular office, an authorized employee of diplomatic or consular office signs the delivery note as a deliverer – if the mailing

is served in the very office, and if the mailing is delivered by mail, delivery is confirmed on the delivery note.

Pursuant to the Law on Mutual Assistance in Criminal Matters, the persons enjoying diplomatic immunity are delivered mailings through diplomatic offices.

In the period 2008-2010 the Ministry of Justice of the Republic of Serbia received a total of 31.000 requests for international legal assistance in criminal matters, whether by the foreign authorities for domestic judiciary authorities, whether by domestic judiciary authorities for foreign authorities. Out of the mentioned number, 25.000 requests were solved. No special records are kept on requests relating only to receiving and serving judiciary documents, but, anyway, there were many such requests in the mentioned period.

90. How are the records of criminal convictions legally and technically organised? Is the data electronically available? If so, is it stored nationally/centrally or regionally/locally? What is the legislative framework in place for data retention, including adequate safeguards for protection of personal data?

Criminal Code of the Republic of Serbia (*Official Gazette of RS* No. 85/05, 88/05, 107/05, 72/09, 111/09) and the Criminal Procedure Code (*Official Gazette of RS* No.72/09) regulate the contents and method of keeping criminal records, as well as the conditions and method of providing data from these records. Secondary legislation, i.e. the Rulebook on Criminal Records (OJ of SFRY No. 5/79) sets out the competence of the Ministry of Interior to keep criminal records and provide data from the said records. Criminal records are kept by analytic units in police directorates and the Analysis Administration in the Ministry headquarters supervises the maintenance of these records, provides information thereof and gives technical assistance to regional directorates with regards to performing these tasks.

Criminal records contain data on final court decisions and convicts. It is kept for all persons (nationals and foreigners) convicted of crimes committed in the territory of the Republic of Serbia, as well as for persons convicted of crimes by foreign courts when the foreign court judgments are delivered to the state authorities of the Republic of Serbia.

Criminal records are kept as card files, by place of birth - at local level, for the convicted nationals, foreign nationals and stateless persons who were born in Serbia, while for the nationals and foreigners born abroad the records are kept by the location of headquarters of the national court that rendered a verdict.

Along with the card files (local level), the centralized, automated database - Criminal records (national level) - is kept within the unique information system of the Ministry of Interior of the Republic of Serbia.

Criminal records contain: personal data on the offender, data on the offense he/she was convicted of, data on penalty, data on suspended sentence, data on judicial admonition, data on remittance from punishment and pardon, as well as data on legal consequences of conviction and the subsequent changes of data therein, and cancellation of records in respect of wrong conviction (Article 102. of the Criminal Code of the Republic of Serbia).

Analytic units in police directorates provide data from the criminal records for citizens, at their request, as well as for other authorities in cases determined by law (Article 2(2) of the Criminal Code of the Republic of Serbia).

Entry of data in the criminal records is based on data obtained from the final judicial decisions, reports or other documents submitted to the authority in charge of keeping criminal records.

Upon meeting the legal requirements for rehabilitation, conviction shall be deleted, all the legal consequences thereof shall cease and the convicted person shall be deemed with no criminal record. Rehabilitation occurs either by virtue of law itself (legal rehabilitation) or by petition of the convicted person pursuant to decision of the court (judicial rehabilitation), upon meeting the requirements prescribed by the law (Article 97 - 101 of the Criminal Code of the Republic of Serbia).

Implementation of legal rehabilitation lies within the competence of the authority responsible for keeping criminal records and, to this end, the competent authority shall keep a diary in which data shall be entered with regards to due date for initiation of rehabilitation, according to the type of conviction.

Protection of data entered in the centralized automated records is conducted in accordance with the procedures for the protection of unified information system of the MoI of the Republic of Serbia. The records kept in the form of card files are protected in an adequate manner against unauthorized access and possible damages.

According to the Law on Personal Data Protection (OG of RS No. 97/08), the supervision over a single information system and the protection of personal data is conducted by the Commissioner for Information of Public Interest and the Protection of Personal Data as a competent authority.

91. How and on which legal basis do you deal with requests from other countries to take evidence? How and on which legal basis are your country's requests for taking evidence abroad transmitted?

Acting on letters rogatory for taking evidence is regulated by domestic legislation and ratified international treaties.

The letters rogatory of domestic judiciary authorities are submitted to foreign authority through the ministry in charge of judiciary. At the request of the country to which it is directed, the letter rogatory is submitted through diplomatic offices.

Under the condition of mutuality, letters rogatory may be submitted directly to foreign judiciary authority, and in the cases of emergency via the international organization of criminal police (INTERPOL).

The letters rogatory of foreign authorities for taking evidence are submitted to domestic judiciary authority in the same manner.

Domestic legislation applies to the procedure of taking evidence, but foreign legislation may also apply, unless it contradicts the fundamental principles of domestic legal order.

If they request so, the competent foreign judiciary authorities may be present at taking of evidence in the Republic of Serbia.

The letter rogatory of the foreign authority for taking evidence is submitted to the competent court at whose territory it is necessary to take the evidence.

The representatives of the competent authorities of the requesting country may be present at taking of evidence at their request. The letters rogatory of domestic judiciary authorities for taking evidence abroad are also submitted in accordance with domestic legislation or concluded international treaties. When it comes to domestic legislation, the court submits the letter rogatory to the Ministry of Justice of the Republic of Serbia which submits it to the ministry of justice of the foreign country where it is necessary to take evidence.

The bilateral agreements with some countries envisage that the letters rogatory for taking evidence and certain other procedural actions may be submitted directly between the judiciary authorities (e.g. Agreement with Montenegro).

92. Is State compensation to victims of crime available? If so, how is it organised?

It is a general principle that the claim for compensation may be directed to the defendant in the criminal procedure, or that the liability for compensation is borne by the defendant. The Law on Contracts and Torts (*Off. Journal of SFRY*, No. 29/78, 39/85, 45/89 – decision of CCY and 57/89, *Off. Journal of FRY*, No. 31/93) envisages the liability due to acts of terrorism, public demonstrations or manifestations – Article 180. For the damage occurred by death, physical injury, or damaging, or destruction of the property of natural person due to acts of violence or terror, as well as at public demonstrations and manifestations, the liability is taken by the country, whose authorities were obligated to prevent the damage according to the applicable regulations

The organizers, participants, agitators, and helpers in the acts of violence or terror, public demonstrations and manifestations directed to undermining the constitutional organisation, are not entitled to the compensation on these grounds. The state has both right and obligation to demand compensation of the paid amount from the person having caused the damage, This right is limited within the terms prescribed for limitation to claims for compensation.

In October 2010, the Minister of Justice signed the Council of Europe Convention on Compensating Victims of Violent Crimes. With a view to harmonization of domestic legislation with the Convention, the Ministry of Justice formed a task force, with the task of performing a financial analysis of application of the Convention, to determine clear and precise criteria, or to determine the procedure of compensating the victims of violent crimes in accordance with the Convention.

93. How does your legislation solve conflicts of jurisdiction in criminal matters?

The provisions of the Criminal Code of the Republic of Serbia (*Off. Gazette of RS*, No. 85/2005, 88/2005 – corr, 107/2005 – corr, 72/2009 and 111/2009) relating to the applicability of the criminal legislation of the Republic of Serbia are important for solving conflicts of jurisdiction in criminal matters. Therefore, pursuant to Article 6 of the mentioned Code, the criminal legislation of the Republic of Serbia is applicable to each offender at its territory. This legislation is applicable to each offender onboard the domestic ship, regardless of where the ship is at the moment of committing a

crime. The criminal legislation of the Republic of Serbia is also applicable to each offender onboard the domestic civil aircraft, while flying, or onboard the domestic military aircraft, regardless of where the aircraft was at the moment of committing criminal act.

Beside the mentioned-fundamental principle, the Code envisages the exception according to which, in the abovementioned cases, under the condition of mutuality, criminal prosecution of foreigner may be transferred to foreign country.

Pursuant to Article 7 of the mentioned Code, the criminal legislation of the Republic of Serbia is also applicable to each perpetrator of criminal act from the group of crimes against constitutional order and safety of the Republic of Serbia or criminal act of counterfeiting of money, if the counterfeiting is related to domestic currency, in the foreign country.

Pursuant to Article 8 of the Code, the criminal legislation of the Republic of Serbia is also applicable to the nationals of the Republic of Serbia who commit some other crime except the ones from the group of crimes against constitutional order and safety of the Republic of Serbia and of counterfeiting money, if they are at the territory of the Republic of Serbia or are extradited to it. Under the mentioned conditions, the criminal legislation of the Republic of Serbia is also applicable to the offender who became a national of the Republic of Serbia upon committing a crime.

Pursuant to Article 9 of the Code, the criminal legislation of the Republic of Serbia is also applicable to the foreigner who, outside the territory of the Republic of Serbia commits a crime towards it or its national, even when it is not a crime from the group of crimes against constitutional order and safety of the Republic of Serbia and of counterfeiting money, if he/she is at the territory of the Republic of Serbia or is extradited to it.

Pursuant to the same Article, the criminal legislation of the Republic of Serbia is also applicable to the foreigner who commits abroad a crime towards a foreign country or a foreigner, for which a five-year-prison sentence or more severe sentence may be pronounced by the law of the country in which it was committed, if he/she is at the territory of the Republic of Serbia or is extradited to it. Unless determined otherwise by the Criminal Code of the Republic of Serbia, the court in such case may not pronounce more severe sentence than the one prescribed by the law of the country in which the crime was committed.

Pursuant to the Criminal Procedure Code (*Off. Journal of FRY*, No. 70/2001 and 68/2002 and *Off. Journal of RS*, No. 58/2004, 85/2005, 115/2005, 85/2005 – other law, 49/2007, 20/2009 - other law, 72/2009, and 76/2010), the court is obligated to mind its *in rem* and territorial jurisdiction, and to declare itself as incompetent and send the case to the competent court by the validity of decision as soon as it notices that it is not competent therein. If the court to which the case was transferred as to a competent one opines that the court having transferred it, or some other court, is competent for it, it will launch the procedure for solving conflict of jurisdiction. The conflict of jurisdiction among the courts is solved by the court immediately superior to all of them. Prior to submitting the decision on conflict of jurisdiction, the court shall request the opinion of the public prosecutor which is competent to act before that court, when the criminal proceeding is conducted at its request. Until the conflict of

jurisdiction among the courts is solved, each of them is obligated to take adequate measures in the proceeding for which there is a danger in delay.

94. Which procedures are available in the field of mediation in criminal matters?

Pursuant to the Criminal Procedure Code (*Off Journal of FRY*, No. 70/2001 and 68/2002 and *Off. Gazette of RS*, No. 58/2004, 85/2005, 115/2005, 85/2005 – other law, 49/2007, 20/2009 - other law, 72/2009, and 76/2010), (Article 447), prior to scheduling trial for crimes prosecuted by private claim, the judge may invite only the private claimant and the suspect to come to the court on determined day for prior clarification of matters, if he/she considers it useful for faster ending of the proceeding. The suspect is served the copy of the private claim along with the summon (attempt of reconciliation at the initiative of the court).

If the reconciliation of the parties and withdrawal of the private claim do not take place, the judge will take the statements from the parties and invite them to submit their suggestions with a view to taking evidence.

95. How does your legislation regulate extradition? Is extradition of Serbian nationals permitted? To which relevant international conventions (U.N. Council of Europe, others) is your country a party? Are bilateral agreements in place on the issue, and with which countries? What is their exact content concerning extradition of own nationals? Do you have bilateral agreements on transfer of proceedings and, if so, what are the scope and limitations of these agreements? Please provide statistics on the number of cases and the results achieved.

The matter of extradition of defendants and sentenced persons in the Republic of Serbia is regulated by the Law on Mutual Assistance in Criminal Matters (*Official Gazette of RS*, No. 20/2009), as well as by international treaties, with the condition that international treaties have precedence in relation to the mentioned law.

The Law on Mutual Assistance in Criminal Matters especially regulates extradition of defendant or sentenced person to foreign country, and especially extradition of defendant or sentenced person to the Republic of Serbia.

1) When it comes to extradition of defendant or sentenced person to foreign country, the Law envisages that it is possible for conducting criminal proceeding for the crime for which, according to the Law of the Republic of Serbia and the requesting country, a one-year prison sentence or more severe sentence is envisaged, and for enforcement of criminal sanction pronounced by the court of the requesting country for the mentioned crime in duration of minimum 4 months.

If the letter rogatory regards more crimes, out of which some do not fulfil the mentioned conditions, the extradition may be allowed for these crimes as well (Article 13).

When it comes to the assumptions for extradition to foreign country, the law, beside already mentioned general assumptions (Article 7), also envisages the following assumptions: that the person whose extradition is requested is not a national of the Republic of Serbia; that the crime was not committed at the territory of the Republic

of Serbia, against it or its national; that there is no criminal proceeding conducted in the Republic of Serbia against the same person for the crime on the occasion of which the extradition is requested; that, by domestic law, there are conditions for repeated criminal proceeding for the crime on the occasion of which the extradition of the person against whom the proceeding was validly completed before the domestic court is requested; that the identicalness of the person has been determined; that there are sufficient evidence for reasonable doubt, or that there is a valid court decision; that the requesting country guarantees that, in case of sentencing in absence, the proceeding will be repeated in presence of the extradited person; that the requesting country guarantees that the death penalty prescribed for such crime on the occasion of which the extradition is requested, will not be pronounced, or executed (Article 16).

It is obvious from the abovementioned that, pursuant to the Law on Mutual Assistance in Criminal Matters, the possibility for extradition of own nationals is not envisaged. However, pursuant to the mentioned law, the international legal assistance, including extraditions, is rendered in accordance with this law only if there is no ratified international treaty, or if certain matters are not regulated by it. Starting from this provision, the Republic of Serbia concluded the agreements on extradition with the Republic of Croatia and Montenegro, which envisage the possibility for extradition of own nationals.

The agreement with the Republic of Croatia envisages the possibility for extradition of own nationals for organized crimes and corruption in accordance with their internationally accepted definitions, where it should be particularly taken into consideration: the United Nations Convention against the Transnational Organized Crime of 15 November 2000, with protocols; the United Nations Convention against Corruption of 31 October 2003; Criminal Convention on Corruption of 27 January 1999, with protocol.

The agreement with Montenegro envisages extradition of own nationals, with a view to criminal prosecution, only for organized crime, crimes against humanity and other goods protected by international law, corruption and money laundering, for which, pursuant to the law of both contracting countries, a prison sentence in duration of four years or more severe sentence, or measure implying deprivation of freedom, is prescribed, as well as for other serious crimes or severe forms of criminal offences, for which a prison sentence in duration of five years or more severe sentence or measure implying deprivation of freedom, is prescribed.

When it comes to extradition for enforcement of prison sentence or measure implying deprivation of freedom, the extradition will be allowed for the mentioned criminal offences if the pronounced prison sentence or the measure implying deprivation of freedom, or the time remained to be served, amounts to minimum two years.

When it comes to extradition of own nationals, the Republic of Serbia drew a reservation on Article 6(1)(a) and Article 21(2) of the European Convention on Extradition, which envisages refusal of extradition and transit of own nationals.

The law, starting from international documents to which the Republic of Serbia is a party, above all from the European Convention on Extradition, also regulates the principle of specialty, as well as the conditions when it will not apply (if the extradited person explicitly waived the guarantees, if the extradited person, although he/she had an opportunity, did not leave the territory of the country to which he/she

was extradited within 4 days as of the day of conditional release or enforced criminal sanction, or if he/she returned to the territory of such country) (Article 14).

When it comes to documents submitted along with the letter rogatory for extradition, the law envisages submission of means for determination of identicalness, data on nationality, decision on launching criminal proceedings, indictment, decision on detention or judgment, stating of evidence of existence of reasonable doubt (Article 15).

In case of acquisition of letters rogatory for extradition, it is envisaged that, at passing the decision on extradition, the circumstances of the specific case are taken into consideration, and especially the territory at which the crime was committed, seriousness of crime, order of submission of requests, nationality of the person whose extradition is requested, and possibility for extradition to the third country. Such decision should be explained (Article 17).

When it comes to extradition procedure, the law envisages a procedure before the investigative judge, a procedure before the extra-procedural council, as well as a procedure before the minister in charge of judiciary.

Within the procedure before the investigative judge, the law, among other things, regulates the matter of search of persons and rooms and confiscation of objects and proceeds from crime (Article 19). It is the obligation of the investigative judge that the person whose extradition is requested is heard regarding all the circumstances important for determination of existence of assumptions for extradition, which hearing is attended by the public prosecutor and the defence attorney, which may ask question to the person whose extradition is requested.

Also, it is the obligation of the investigative judge to inform the person whose extradition is requested of the reasons of his/her bringing, evidence for reasonable doubt, and especially to instruct him/her on the rights to: not declare anything, hire a defence attorney, have a defence attorney attending his/her hearing, giving the consent to his/her extradition by a simplified procedure (Article 20 and 21).

When it comes to determination of detention to the person whose extradition is requested, the law envisages that the investigative judge may designate the detention.

a) if there are circumstances indicating that the person whose extradition is requested will hide or escape with a view to hinder the procedure of deciding on the letter rogatory or the enforcement of extradition;

b) if there are circumstances indicating that the person whose extradition is requested will hinder taking of evidence in the extradition procedure or in the criminal proceedings before the court of the requesting country;

The detention might last until the enforcement of the decision on extradition at the longest, but not longer than one year as of the day of detaining, with the condition that, upon expiry of every two months as of entering into force of the decision on designation of detention, it must be determined whether there are reasons for prolongation or cancellation of detention (Article 22).

The law also envisages the possibility for submission of request for detention prior to submission of the letter rogatory for extradition, in cases of emergency. Pursuant to the l, under the condition of mutuality, an issued international warrant for arrest is deemed request for detention (Article 24).

The law envisages that the investigative judge will cancel the detention if the competent authority of the requesting country fails to submit the letter rogatory within 18 days as of the day of detaining, with the condition that such detention may be prolonged up to 40 days as of the day of detaining at the most. Also, the law envisages cancellation of detention when the reasons for which it was designated cease to exist (Article 26).

The police is obligated to immediately escort the person deprived of freedom for extradition to the investigative judge (Article 25).

The existence of assumptions for extradition is determined by the extra-procedural council of the court. If this committee determines that the assumptions have not been fulfilled, it passes the general – specific decision by which it rejects the request for extradition and submits it to directly superior court. If the directly superior court confirms the decision, it enters into effect and is submitted to the ministry in charge of judiciary for informing of the foreign country.

If the extra-procedural council determines that the assumptions for extradition have been fulfilled, it passes the decision against which the appeal to directly superior court is allowed within three days (Article 29).

The law especially regulates the matter of simplified extradition, which requires a consent of the person whose extradition is requested, with the condition that the investigative judge is obligated to familiarize him/her with the consequences of such statement and to ask him/her whether it was given voluntarily, of which the minutes are kept. There is no appeal allowed against the decision of the court on extradition, passed in the simplified procedure (Article 30).

Upon completion of the procedure before the court, the valid decision on fulfilment of assumptions, along with the documents, is submitted to the minister of justice who passes the decision which allows or does not allow extradition (Article 31).

In the decision allowing the extradition, the minister may set certain conditions, in relation to application of the principle of specialty, unless the extradited person explicitly waived the envisaged guarantees, as well as other conditions for extradition (Article 32). The decision not allowing extradition is passed by the minister of justice in case of political crime and crime consisting solely in violation of military duties, then, if rendering legal assistance would violate sovereignty, public order, and other essential interests for the Republic of Serbia, as well as if in the procedure of judging the person whose extradition is requested in his/her absence the guarantees of fair trial were not realized (Article 33).

The law also regulates the matter of delay of extradition, matter of temporary extradition of the person whose extradition is requested, deduction of the time spent in detention from the sentence (time spent in extradition detention is obligatorily deducted from the pronounced sentence, as well as certain technical matters in relation with the extradition of defendant or sentenced person (time, place, term, etc), (Art. 34 to 37).

2) When it comes to extradition of defendant or sentenced person to the Republic of Serbia, the Law envisages the possibility for the ministry in charge of judiciary to request from the foreign country the extradition of the person against whom criminal proceedings are conducted before the domestic court, or who was pronounced a criminal sanction by the domestic court by effective court decision (Article 38).

Within this part, the Law envisages the obligation of adhering to the principle of specialty, or the conditions under which the person was extradited, as well as that the time spent by the extradited person in foreign detention is deducted from the pronounced sentence (Article 38 and 39).

Furthermore, in this part the Law regulates the matter of transit extradition over the territory of the Republic of Serbia, and envisages that the same assumptions should be fulfilled for transit extradition as for extradition (i.e. the assumptions from Art. 7 and 16 of the Law). (Article 40).

The Republic of Serbia has concluded bilateral agreements which regulate the matter of extradition of defendants and sentenced persons with the following countries: Algeria, Austria, Belgium, Bulgaria, Montenegro, Czech Republic, France, Greece, the Netherlands, Croatia, Iraq, Italy, Macedonia, Mongolia, Hungary, FR Germany, Poland, Romania, Russia, USA, Slovakia, Switzerland, Turkey, and Great Britain.

The Republic of Serbia became a party to the European Convention on Extradition of 1957, as well as to its additional protocols of 1975, 1978, and 2010.

The matter of extraditions between the Republic of Serbia and other countries is regulated by multilateral international conventions of the Council of Europe and the United Nations and its organizations, to which the Republic of Serbia became a party, and which contain the provisions regarding this type of the international criminal assistance, the list of which is presented in the question No. 87.

The law regulates in details the conditions and procedure in relation to takeover and transfer of criminal prosecution, especially regulating the matter of takeover of criminal prosecution by foreign country, and especially transfer of prosecution to foreign country.

1) When it comes to takeover of criminal prosecution by foreign country, the law envisages that the decision of takeover of criminal prosecution of a suspect or a defendant is passed by the public prosecutor at whose territory the person for which the takeover of criminal prosecution is requested has a domicile or residence, serves a prison sentence or another criminal sanction consisting of deprivation of freedom or the public prosecutor participating in the criminal proceedings conducted against the person for the same or another criminal offence (Article 44).

The criminal prosecution may be taken over if, beside the assumptions mentioned in Article 7 of the Law, one of the following assumptions has also been fulfilled: that the person has a domicile or residence in the Republic of Serbia; that the person serves a prison sentence or another criminal sanction consisting of deprivation of freedom in the Republic of Serbia (Article 43).

The proceedings taken over are conducted pursuant to the regulations of the Republic of Serbia. As an exception from the abovementioned, no provisions regarding the judging in absence shall apply in the procedure taken over. The procedural action taken pursuant to the regulations of the requesting country is equalled with the procedural action taken pursuant to the regulations of the Republic of Serbia, unless it contradicts the fundamental principles of domestic legal order and international standards of protection of human rights and fundamental freedoms. The criminal sanction pronounced in the criminal proceedings taken over may not be stricter than

the criminal sanction which may be pronounced pursuant to the law of the requesting country.

The possibility for submission of the request for detention prior to submission of the letter rogatory is also envisaged at takeover of criminal prosecution, as well as that the issued international warrant for arrest, under the condition of mutuality, is deemed request for detention (Article 48).

2) When it comes to the transfer of criminal prosecution to foreign country, the law envisages such possibility under the condition that it does not regard political crime or crime consisting solely in violation of military duties and that rendering legal assistance would not violate sovereignty, public order, or other interests of essential importance for the Republic of Serbia, as well as one of the following assumptions: that the person has a domicile or residence in the country to which the letter rogatory was directed, that the person serves a prison sentence or another criminal sanction consisting of deprivation of freedom in such country. At passing the decision on transfer, the Law especially envisages that the possibility for securing property claim and other interests of the affected party will be appreciated, if the Republic of Serbia, its national or legal entity with the registered seat at its territory is an affected party (Article 51).

The decision on launching the procedure for transfer of prosecution may be passed by the public prosecutor, prior to launching criminal proceedings; the investigative judge, at the proposal of the public prosecutor, until entering of the indictment into effect; extra-procedural council, upon obtaining the opinion of the public prosecutor, until the beginning of the trial; committee, upon obtaining the opinion of the public prosecutor, until the completion of the trial.

The suspect, or defendant, and the public prosecutor (depending on the stage of proceedings, or on the competence for passing the decision) are entitled to declare the objection to immediately superior prosecutor, or appeal to immediately superior court, against the decision on launching the procedure for transfer of criminal prosecution, within three days (Article 52).

If the requested country fails to submit the notification of its decision within 6 months as of submission of request, a domestic judiciary authority shall proceed with criminal prosecution (Article 53).

Upon passing the decision on launching the procedure for transfer of prosecution, a domestic judiciary authority may take only the procedural actions which do not permit delay. It has been envisaged that a domestic judiciary authority proceeds with the criminal prosecution, or the criminal proceedings: if the requested country decides not to take over the prosecution; if the requested country gives up the decision on takeover of prosecution; if a domestic judiciary authority gives up the transfer of prosecution before the country to which the letter rogatory was directed submits the decision on the letter rogatory (Article 54).

In case of transfer of criminal prosecution, it has been envisaged that a domestic judiciary authority may submit the request for detention to the requested country prior to submission of the letter rogatory (Article 55).

The Republic of Serbia has concluded bilateral agreements which contain the provisions on takeover of criminal prosecution with the following countries: Austria,

Bosnia and Herzegovina, Montenegro, Czech Republic, Iraq, Croatia, Hungary, Macedonia, Mongolia, FR Germany, Slovakia, Romania, and Russia.

The mentioned agreements envisage certain limitations with respect to transfer, or takeover of criminal prosecution with respect to nationality of the person, mutual punishability of criminal offences, possibility for rehabilitation of the persons, place where the main evidence material is located, consent (statement) of the affected person, possibility for securing property claim, etc.

The Republic of Serbia also became a party to the Council of Europe Convention on Transfer of Proceeding in Criminal Matters of 1972.

The matter of transfer, or takeover of criminal prosecution between the Republic of Serbia and other countries is regulated by other multilateral international conventions of the Council of Europe and the United Nations and its organizations, to which the Republic of Serbia became a party, and which contain the provisions regarding this type of the international criminal assistance, the list of which is presented in the question No. 87.

In the period 2009-2010, the Republic of Serbia submitted a total of 240 letters rogatory for extradition of defendants and sentenced persons to foreign countries. 98 persons have been extradited to the date. In the mentioned period of time, foreign countries submitted a total of 176 letters rogatory for extradition of defendants and sentenced persons to the Republic of Serbia. Out of the mentioned number, extradition of 116 persons was approved.

When it comes to transfer and takeover of criminal prosecution, in the period 2008-2010, the Ministry of Justice recorded a total of 1.500 letters rogatory for transfer, or takeover of criminal prosecution. There are no records of the results achieved.

96. How does your legislation regulate mutual assistance in criminal matters? Are direct contacts between prosecutorial/judicial authorities experienced? Is there a legislative framework on video-conferencing? To which relevant international conventions (UN Council of Europe, others) is your country a party? Are bilateral agreements in place on the issue, and with which countries?

The matter of mutual assistance in criminal matters between the Republic of Serbia and other states is regulated by the Law on Mutual Assistance in Criminal Matters (*Official Gazette of RS*, No 102/2009) as well as by international treaties.

The Law on International Legal Aid establishes that, in relation to the Criminal Procedure Code (*OJ of SRY* No 70/2001. and 68/2002 and *OG of RS* No 58/2004, 85/2005, 115/2005, 85/2005 – other law, 49/2007, 20/2009 – other law, 72/2009 and 76/2010), which had previously regulated mutual legal assistance, significant novelties, when mutual legal assistance is in question in criminal matters (other forms of international legal assistance).

In addition to standard forms of mutual legal assistance in relation to submitting of certain acts, notifications and execution of procedures- hearings, investigation, search of premises, temporary taking away of objects etc, the law also envisages implementation of measures, such as surveillance and recording of telephone and

other conversations and communications and recording of optical photos of faces, controlled delivery, providing simulated business services, making simulated legal businesses, engagement of temporary investigator, electronic search and data processing. The law also envisages the exchange and submitting of information without special demand, forming of joint investigation teams, as well as temporary submitting of person deprived of liberty for questioning before competent authority of the state, which asks for special demand (Article 83).

The law envisages the using of audio and video conference connection. The matter of video conference connection is regulated by agreements on legal assistance with Montenegro and Bosnia and Herzegovina, as well as the Second Additional protocol to the European Convention on Mutual Legal Assistance in Criminal Matters.

In relation to conditions for the mentioned forms of international legal assistance, the law envisages that if the stated assumptions from Article 7 of the law are fulfilled, and if the conditions established by Criminal Procedure Code are fulfilled, there is no criminal procedure for criminal offence before a domestic court against the same person for whom the international legal assistance is requested (Article 84).

With the mentioned forms of international assistance the law stipulates the application of principle of speciality, under which the person residing abroad cannot be deprived of liberty, imprisoned or criminally charged for previously perpetrated criminal offence, while on the territory of the state of demand, in order to give statement as the defendant, witness or witness expert, in the proceedings for criminal offences for which he/ she was given legal assistance. It is also envisaged that the witness or witness expert, who does not answer to summons of the competent authority of the state of demand, should not be submitted to any sanction or measure of force, even if the summons had such demand (Article 85 and 86).

It is decided on request that is acted under one, by the court on whose territory the action should be taken, according to provisions of Article 7 and 84 of the law (Article 89).

Taking other forms of international legal assistance can be performed in a way in accordance with the legislation of the state of request, if it is not contrary to the general principles of legal order of the Republic of Serbia. The representatives of the competent authority of the state of request may be present during the action of requesting, upon their own request, if the court decides that it would contribute to better explanation of the matter (Article 90 and 91).

When other forms of mutual legal assistance are in question, the law stipulates the possibility that a person, who is in custody or taking prison sanction in the Republic of Serbia, may be temporarily submitted for questioning as the witness or witness expert, if certain conditions are fulfilled (for example person's consent) (Article 93).

The person, whose temporal submitting is requested, may lodge an appeal within three days (Article 95).

When other forms of mutual legal assistance are in question, the law stipulates the possibility, if justified by the circumstances of the case, of the agreement between the Minister competent for judiciary and competent authority of the foreign state, who may agree to establish the joint investigation teams (Article 96).

The law stipulates the possibility for delay of international legal assistance, if it is necessary for uninterrupted criminal procedure in progress before domestic judiciary authority (Article 97).

In addition to this, the law stipulates the possibility that domestic legal authorities, according to reciprocity may submit data on criminal offences and perpetrators, without the special request from international legal authorities, if that would be of use for the progress of criminal procedure abroad. Submitting of these data is performed only in cases it does not obstruct the progress of criminal procedure in the Republic of Serbia (Article 98).

In the matter of costs made due to other forms of legal assistance (general rule is that the state, from which the assistance was requested should bear the costs) it is envisaged that the state of request may be demanded to bear the costs made during expert witnessing and temporary submitting of person (Article 99).

In the matter of mentioned form of mutual legal assistance, there is possibility of direct contacts between prosecutorial/judicial authorities, especially according to bilateral agreements (for example Agreement on Legal Assistance with Montenegro) or multilateral conventions (for example Second Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters) and Memorandum on cooperation between these authorities. This possibility is allowed by, under the principle of reciprocity, the Law on International Legal Assistance in Criminal Matters.

The matter of mutual legal assistance in criminal matters is regulated by bilateral agreements with the following states: Algiers, Austria, Bosnia and Herzegovina, Montenegro, Bulgaria, Czech, France, Greece, Croatia, Iraq, Italy, Cyprus, Hungary, Macedonia, Mongolia, FR Germany, Poland, Romania, Slovakia, Spain, and Turkey.

The Republic of Serbia has adopted the European Convention on Mutual Assistance in Criminal Matters from 1959, as well as its Additional Protocol from 1978.

It is also emphasized that the Republic of Serbia has joined the Second Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters from 2001.

In addition to this, Serbia ratified Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, as well as United Nations Convention against Transnational Organised Crime and Additional protocols and United Nations Convention against Corruption.

The matter of mutual assistance in criminal matters between the Republic of Serbia and other states is regulated by other multilateral international conventions, which Serbia joined, conventions of Council of Europe and United Nations and its organisations, which have provisions for international prosecutorial/judicial assistance. List of these documents is provided in the answer to question 87.

Direct cooperation of prosecution offices is regulated by memorandums signed with other prosecution offices from the region and Europe.

Prosecution office for organised crime (until 1 January 2010 Special Prosecution Office for Organised Crime) has signed memorandums on cooperation with

competent authorities in combat against organised crime of the countries in the region and Europe (Italy, Slovakia, Spain, Bulgaria, Ukraine, Hungary, Macedonia, Bosnia and Herzegovina, Croatia, and Montenegro). Memorandum on Agreement of Public Prosecutors of the Republic of Macedonia, Prosecutor General of the Republic of Albania, Office of State Prosecutor of Bosnia and Herzegovina, Office of State Prosecutor of the Republic of Croatia, Office of Public Prosecutor of the Republic of Serbia and the General Office of State Prosecutor of the Republic of Montenegro for regional development against organised crime, made in Skopje, 30 March 2005.

Pursuant to the Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organized Crime, Corruption and Other Severe Criminal Offences (*Official Gazette of RS*, No. 42/2002, 27/2003, 39/2003, 67/2003, 29/2004, 58/2004-other law, 45/2005, 61/2005 and 72/2009) it is stipulated that if it was not possible to provide the presence of witnesses, witness experts or defendant in the main proceeding, their questioning may be performed through video conference connection. Questioning of witnesses, witness expert or defendant through video conference connection may be performed through international prosecutorial/ judicial assistance, in accordance with the provisions of the Second Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters (Article 9 and 10).

97. How does your legislation regulate the transfer of sentenced persons? To which relevant international conventions (U.N. Council of Europe, others) is your country a party? Are bilateral agreements in place on the issue, and with which countries?

The answer to the mentioned question is contained in the answer to the question No. 88.

98. Is time spent in foreign pre-trial detention deducted from the final sentence or otherwise taken into account?

According to the Law on Mutual Assistance in Criminal Matters (*Official Gazette of RS*, No. 20/2009), the time spent by the person in foreign pre-trial detention is deducted from the criminal sanction. Pursuant to the Criminal Code of the Republic of Serbia, the detention, any other deprivation of freedom in relation to criminal offence, deprivation of freedom during the extradition procedure, as well as the sentence served by the offender by the judgment of foreign or international criminal court, will be deducted from the sentence pronounced by the domestic court for the same criminal offence, and if the sentences are not of the same type, the deduction will be made by the estimate of the court (Article 11).

99. Under what conditions can a person be judged in his/her absence?

Pursuant to the Criminal Procedure Code (*Off. Gazette of FRY*, No. 70/2001 and 68/2002 and *Off. Journal of RS*, No. 58/2004, 85/2005, 115/2005, 85/2005 – other

law, 49/2007, 20/2009 - other law, 72/2009, and 76/2010), the defendant may be judged in absence only if he/she is a fugitive or is otherwise unavailable to state authorities, and there are particularly important to be judged even in absence. The decision on trial in absence of the defendant is passed by the Committee, at the proposal of the prosecutor. The appeal does not delay the enforcement of the decision (Article 304).

Pursuant to the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles (*Off. Gazette of RS*, No. 85/2005), a juvenile person may not be judged in absence (Article 48).

100. How does your legislation regulate cooperation for purposes of confiscation? To which relevant international conventions (UN Council of Europe, others) is your country a party? Are bilateral agreements in place on the issue, and with which countries? Please provide statistics on the number of cases and the results achieved.

Cooperation for purpose of confiscation is regulated by domestic legislation and in accordance with the signed international agreements. According to the Criminal Code of the Republic of Serbia (*OG of RS* No. 85/2005, 88/2005 – corrigendum, 107/2005 – corrigendum, 72/2009 and 111/2009) no one can keep material profit gained through criminal offence. This profit shall be confiscated pursuant to the conditions of the Law and Judicial Decision, which established that criminal offence was committed.

Money, items of value and all other material profits obtained by a criminal offence shall be seized from the offender, and if such seizure should not be possible, the offender shall be obligated to provide the replacement of other material profit equal with the value of the profit gained from crime or pay pecuniary amount equal to material profit, which was gained. Material profit gained in criminal offence shall be seized from the person, to whom it was illegally transferred without compensation or with compensation that obviously does not correspond to the real value. If the material profits gained by criminal offences were obtained for another individual, the profit shall be seized. The law stipulates the protection of the damaged party, when the matter of confiscation of material profit in question.

The Criminal Procedure Code (*OJ of SRY*, No. 70/2001. and 68/2002 and *OG of RS* No 58/2004, 85/2005, 115/2005, 85/2005 – other law, 49/2007, 20/2009 – other law, 72/2009 and 76/2010) regulated the procedure of confiscation of material profit, which is established in the criminal procedure ex- officio. Court and other authorities, where the proceeding takes place are responsible for gathering evidence and establishing relevant circumstances in order to prove the gain in material profits during the proceedings. The amount of material profit is established according to free estimate, if its establishing should cause major difficulties and significantly influence the prolonging of the procedure. Confiscation of material profits may be decided by court in the decision, which announces that the defendant is guilty, in the decision on punishment without the holding of main hearing, in decision on judicial warning, as well as in decision asking for security measures of psychiatric treatment. In the provision of the judgement or decision, the court is obliged to state which asset, that is financial amount should be confiscated.

In October 2008 a special Law on Seizure and Confiscation of the Proceeds from Crime (*Official Gazette of RS*, No 97/2008) was adopted. This law establishes the conditions, procedure and authorities competent for disclosing, seizure and managing of proceeds from criminal offences.

The law contains a special chapter, which regulates the international cooperation when confiscated proceeds from crime offences are in question. The law stipulates that this cooperation is established on the basis of international agreements, and the law is applied only in cases when the agreement does not exist or certain matters are not regulated by it. This cooperation establishes providing help in finding the proceeds, prohibition of using and seizure or confiscation of proceeds.

The assumptions for providing legal assistance are:

- asked measure is not in opposition to the main principles of domestic legal order;
- answering the request by foreign authority should not damage sovereignty, public order and other interest of the Republic of Serbia;
- in the foreign proceedings for reaching decision on permanent confiscation of proceeds, all standards of fair trial fulfilled.

The request by foreign authority for cooperation in this kind of legal assistance is submitted to the domestic public prosecutor that is office, through the Ministry of Justice.

When corresponding international conventions of significance for seizure and confiscation of property are in question, it should be emphasized that the Republic of Serbia is the party to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, United Nations Convention against Transnational Organised Crime , United Nations Convention against Corruption and a significant other multilateral international conventions with the provisions on this kind of international prosecutorial/ legal assistance, the list of which is provided in question 87.

Almost all signed bilateral agreements on mutual legal assistance in criminal matters anticipate the possibility for seizure that is confiscation of items (agreements with Austria, Bosnia and Herzegovina, Bulgaria, France, Greece, Croatia, Iraq, Cyprus, Hungary, Macedonia, Mongolia, Poland, Montenegro, FR Germany, Russia, Spain, Turkey).

There are no special records on the requests for legal assistance in relation to seizure, though there have been more of these requests in the period 2008- 2010. Due to the above mentioned there are no statistical data on the results achieved in relation to the requests in question.

Prosecution Office for Organised Crime has sent requests for legal assistance from the countries in the region (Montenegro, Croatia) and other European countries (Spain, Cyprus France, Switzerland), at first in order to find, and than confiscate the proceeds of persons against there is criminal proceeding in Serbia according to the Convention of Council of Europe on Laundering, Search, Seizure and Confiscation of Proceeds from Crime and Financing Terrorism.

101. In light of the above mentioned questions, please describe how the judicial cooperation in criminal matters is dealt with in relation to EULEX.

Please see answer to Question 85.

Police cooperation and fight against organised crime

102. Please provide information on legislation or other rules governing the police and police cooperation, and their adhesion to relevant international conventions.

Pursuant to Article 5 of the Law on Ministries, the Ministry of Interior shall carry out the activities related, inter alia, to international assistance and other forms of international cooperation in the field of internal affairs, also including readmission, illegal migration, and asylum.

Pursuant to Article 19 of the Law on Police, the Ministry Interior shall establish international cooperation at the level of ministers, representatives of certain ministries and shall organize international cooperation for the police needs. Organizing international cooperation for the police needs goes beyond the scope of operational cooperation, and includes a part of the tasks that precede the realization of direct operational contacts. In order to enable full implementation of this provision of the Law on Police, Article 21 of the same Law explicitly stipulates that one of the responsibilities of the Police Directorate is to ensure implementation of international agreements on police cooperation and other international acts within its competence. Given the scope of work of this ministry, those are frequently highly specific topics, with respect to which only representatives of relevant line of work of the ministry can make a satisfactory contribution.

Pursuant to Article 28 of the Law on Ministries, which reads: "The Ministries shall perform the following public administration tasks, within their competences, concerning conclusion and application of international agreements: shall propose the initiation of the procedures for conducting negotiations and signing of international treaties with other countries and international organizations; shall suggest topics and a platform for negotiations and propose composition of the delegation in the negotiations; shall prepare drafts of international agreements and perform the tasks for the delegations negotiating the conclusion thereof; shall submit a report on progress of negotiations to the Government; shall prepare draft laws on ratification of international agreements; shall conclude administrative agreements for the implementation of international treaties under the authorities contained therein; shall apply the ratified international treaties and concluded agreements". Accordingly, the Ministry is working intensively on signing of bilateral agreements on police cooperation in various lines of work, but most of all, with emphasis on organized crime in all its aspect and cross-border cooperation. Listed below is a review of bilateral agreements with regards to arrangements in the field of police cooperation and cooperation in the fight against organized crime, while a list of agreements relating to cooperation of border services is provided under number 69.

I) Concluded agreements, memorandums and protocols on cooperation:

1. Agreement between the Ministry of Interior of the Republic of Serbia and the Federal Ministry of Interior of the Republic of Austria on Cooperation in the Fight against International Organized Crime, International Drug Trafficking and International Terrorism, signed in 2004;
2. Protocol on Cooperation between the Ministry of Interior of the Republic of Serbia, the Border Police Directorate and the Ministry of Administration and Interior of the Republic of Romania, the General Inspectorate of Border Police, on cooperation of the Border Police Directorates by the experimental establishment of the Contact Bureau, signed in February 2006.

3. Agreement between the Government of Romania and the Republic of the Republic of Serbia on Cooperation in the Fight against Organized Crime, International Drug Trafficking and International Terrorism, signed in 2007;
4. Agreement between the Government of the Slovak Republic and the Government of the Republic of Serbia on Cooperation in Combating Crime, signed in 2007;
5. Agreement between the Government of the Republic of Bulgaria and the Government of the Republic of Serbia on Cooperation of Border Authorities, signed in 2007;
6. Memorandum of Intent between the Government of the Republic of Serbia and the Russian Federation for Cooperation in the Field of Prevention of Natural Disasters, Technogenic Accidents and Elimination of the Consequences thereof, for Civil Defence, Emergency Response and Elimination of the Consequences of Natural Disasters, signed in 2007;
7. Memorandum of Understanding and Cooperation between the Witness Protection Unit within the Ministry of Interior of the Republic of Serbia, the State Investigation and Protection Agency of Bosnia and Herzegovina (SIPA) and the Police Directorate of the Republic of Montenegro in the field of Protection and Support to Witnesses and other Participants in Criminal Proceedings, signed in 2006;
8. Agreement between the Governments of the Participating States of BSEC (Organization of the Black Sea Economic Cooperation) on cooperation in the fight against crime, especially its organized forms, "Additional Protocol to the Agreement between the Governments of the Participating States of BSEC on cooperation in the fight against crime, especially its organized forms" and "Additional Protocol on Combating Terrorism, pursuant to the Agreement between the Governments of the Participating States of the Black Sea Economic Cooperation on cooperation in the fight against crime, especially its organized forms", signed in 2008;
9. Protocols for the implementation of the Convention on Police Cooperation in Southeast Europe;;
 - Protocol between the Ministry of Interior of the Republic of Serbia and the Ministry of Interior and Public Administration of Montenegro in Organizing and Holding Regular Meetings between the Representatives of Border Police Directorates at Central, Regional and Local Level;
 - Protocol between the Ministry of Interior of the Republic of Serbia and the Ministry of Interior of the Republic of Macedonia on Organizing and Holding Regular Meetings between the Representatives of Border Police Administrations at Central, Regional and Local Level, signed in 2008;
 - Protocol between the Ministry of Interior of the Republic of Serbia and the Ministry of Security of Bosnia and Herzegovina on the Implementation of Joint Patrols along the Common State Border;
 - Protocol between the Ministry of Interior of the Republic of Serbia and the Ministry of Interior of the State Administration of Montenegro on the Implementation of Joint Patrols along the Common State Border, signed in 2009;

10. Agreement between the Government of the Hellenic Republic and the Government of the Republic of Serbia on Cooperation in the Fight Against Crime, Especially its Organized Forms, signed in 2008;

11. Agreement between the Republic of Serbia and the European Police Office (EUROPOL) on Strategic Cooperation, signed in 2008; the Law on Ratification of the Agreement was adopted on 13 May 2009 (*Official Gazette of RS* No.38/09 - International Treaties, of 25 May 2009). The Agreement entered into force on 16 June 2009.

12. Protocol between the Government of Romania, the Government of the Republic of Bulgaria and the Government of the Republic of Serbia on Enhanced Trilateral Cooperation in the Fight against Crime and in Particular Cross-Border Crime, signed in 2008;

13. Agreement between the Government the Republic of Italy and the Government of the Republic of Serbia on Cooperation in the Fight against Organized Crime, Drug Trafficking and International Terrorism, signed in 2008;

14. Memorandum of Understanding between the Ministry of Interior of the Republic of Serbia and the Ministry of Interior of the Republic of Croatia, signed in 2008;

15. Memorandum between the Government of the Republic of Cyprus and the Government of the Republic of Serbia on Cooperation in Combating Terrorism, Organized Crime, Illegal Trafficking of Narcotics, Psychotropic Substances, Illegal Migration and Other Criminal Activities, signed in 2009;

16. Working Arrangement between the MoI of the Republic of Serbia and the European Union Agency for External Border Security (FRONTEX) on the Establishment of Operational Cooperation, signed in 2009;

17. Joint Statement of Intent on Cooperation between the Ministry of Interior of the Republic of Serbia and the Federal Ministry of Interior of the Federal Republic of Germany, signed in 2009;

18. Agreement between the Republic of Serbia and the Republic of Hungary on cooperation of the authorities competent for combating crime in the prevention of cross-border crime and in the fight against organized crime, signed in 2009;

19. Agreement on Long-Term Cooperation with the Geneva Centre for the Democratic Control of Armed Forces (DCAF), signed in 2009;

21. The European and Mediterranean Major Hazards Agreement (EUR-OPA) of the European Council.

22. Agreement between the Government of the Republic of Croatia and the Government of the Republic of Serbia on Police Cooperation, signed in 2009;

23. Agreement between the Government of the Republic of Croatia and the Government of the Republic of Serbia on the Readmission of Persons Entering or Residing without Authorisation, accompanied by the Protocol between the Ministry of Interior of the

Republic of Croatia and the Ministry of Interior of the Republic of Serbia on Implementation of this Agreement, signed in 2009;

24. Protocol between the Government of the Republic of Serbia and the Government of the Republic of Slovenia on the Implementation of Readmission Agreement signed in 2009;

25. Memorandum of Understanding between the Government of the Kingdom of Belgium and the Government of the Republic of Serbia, signed in 2009;

26. Agreement between the Republic of Serbia and the Swiss Confederation on Police Cooperation in the Fight against Crime, signed in 2009;

27. Memorandum of Understanding between the Government of the Republic of Serbia and the Swiss Federal Council on the Migration Partnership between the Republic of Serbia and the Swiss Confederation, signed in 2009;

28. Agreement between the Republic of Serbia and the Swiss Confederation on Readmission of Persons Residing without Permission, accompanied by the Protocol, signed in 2009;

29. Agreement between the Republic of Serbia and the Swiss Confederation on the Facilitation of Visa Issuance, signed in 2009;

30. Memorandum of Understanding on the Institutional Framework for the Disaster Preparedness and Prevention Initiative for South Eastern Europe (DPPI), signed in 2009;

31. Memorandum of Understanding regarding the project ILECU, signed in 2009;

32. Agreement on Cooperation between the Ministry of Interior of the Russian Federation and the Ministry of Interior of the Republic of Serbia, signed in 2009;

33. Agreement between the Government of Russian Federation and the Government of the Republic of Serbia on cooperation for the Prevention and Elimination of Consequences of Emergency Response, signed in 2009;

34. Memorandum between the Government of the Republic of Cyprus and the Government of the Republic of Serbia on Cooperation in Combating Illegal Trafficking and Usage of Narcotics and Psychotropic Substances, Terrorism and Other Serious Criminal Activities, signed in 2009;

35. Memorandum of Understanding between the Federal Ministry of Interior of the Republic of Austria and the Ministry of Interior of the Republic of Serbia on Strengthening of Cooperation in the Field of Internal Security, signed in 2009;

36. Protocol between the Government of the Republic of Serbia and the Government of the Republic of Italy on the implementation of the Agreement between RS and EC on Readmission of Persons Residing without Authorization, signed in 2009;

37. Agreement between the Republic of Serbia and the Republic of France on Cooperation in the Fight against Crime, signed in 2009;

38. Protocol between the Government of the Republic of Serbia and the Government of the Republic of France on the implementation of the Agreement between RS and EC on Readmission of Persons Residing without Authorization signed in 2009;
39. Protocol between the Ministry of Interior of the Republic of Serbia and the Geneva Centre for the Democratic Control of Armed Forces (DCAF) on assigning liaison officers to the DCAF headquarters in Ljubljana to work at the Secretariat of the Convention on Police Cooperation in the SEE, signed in 2009;
40. Agreement on Cooperation between the Ministry of Interior of the Republic of Serbia and the Ministry of Public Security of PR China, signed in 2009;
41. Protocol between the Government of the Republic of Serbia and the Government of the Republic of Hungary on the implementation of the Agreement between RS and EC on Readmission of Persons Illegally Residing signed in 2009;
42. Agreement on Cooperation between the Government of the Republic of Serbia and the Council of Ministers of the Republic of Albania in the Fight against Organized Crime, International Drug Trafficking and International Terrorism, signed in 2010;
43. Memorandum of Understanding between the Ministry of Interior of the Republic of Serbia and the Serious Organised Crime Agency of the United Kingdom of Great Britain and Northern Ireland on the Fight Against Illegal Drug Trafficking, Illegal Migration, Money Laundering, Illegal Trafficking in Firearms, Cyber crime and Fraud, signed in 2010;
44. Protocol between the Government of the Republic of Serbia and the United Kingdom of Great Britain and Northern Ireland on the implementation of the Agreement between RS and EC on Readmission of Persons Residing without Authorisation signed in 2010;
45. Agreement between the Government of the Republic of Serbia and the Government of the Republic of Bulgaria on the Establishment and Operation of the Joint Contact Centre for Police and Customs Cooperation, signed in 2010;
46. Agreement between the Government of the Republic of Serbia and the Government of the Republic of Azerbaijan on Cooperation in the Fight against Organized Crime, signed in 2010;
47. Agreement between the Republic of Serbia and the Republic of Bulgaria on Police Cooperation, signed in 2010;
48. Memorandum of Understanding on the establishment of a secure communication line between the Republic of Serbia and Europol and the Bilateral Agreement between the Republic of Serbia and Europol on the establishment of reciprocal links between computer networks, signed in 2010;
49. Protocol between the Government of the Republic of Serbia and the Federal Government of the Republic of Austria on the implementation of the Agreement between RS and EC on Readmission of Persons Residing without Authorisation, signed in 2010;

50. The Agreement between the Council of Ministers of Bosnia and Herzegovina and the Government of the Republic of Serbia on Police Cooperation, signed in 2010;

51. Protocol between the Government of the Republic of Serbia and the Government of the Republic of Malta on the implementation of the Agreement between RS and EC on Readmission of Persons Residing without Authorisation signed in 2010;

52. Memorandum of Understanding between the Ministry of Interior of the Republic of Serbia and Ministry of Justice, Security and Human Rights of Argentina, signed in 2010;

53. Memorandum of Understanding between the Ministry of Interior of the Republic of Serbia and the Ministry of Justice of FR Brazil to Strengthen Police Cooperation in Combating Transnational Organized Crime, signed in 2010;

54. Memorandum of Understanding between the Ministry of Interior of Serbia the Republic of Serbia and the Ministry of Interior of the Eastern Republic of Uruguay on the Development of Police Cooperation, signed in 2010;

55. Memorandum on Police Cooperation between the Minister of Interior of the Republic of Serbia and President of the National Public Safety Commission of Japan, signed in 2010;

56. Agreement between the Government of the Republic of Serbia and the Government of the Czech Republic on Police Cooperation in the Fight against Crime, signed in 2010.

II) In performing the tasks within its competence, the Ministry also applies the Conventions listed below:

1. Convention on the Civil Aspects of International Child Abduction (*Official Journal of SFRY - International Treaties* No. 7/91) 7/91)
2. Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (*Official Journal of FRY - International Treaties* No. 7/2002) 7/2002)
3. Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementing the Convention on the Suppression of Unlawful Acts against the Safety of Civil Aviation, drawn up in Montreal on 23 November 1972 (*Official Journal of FRY - International Treaties* No. 7/2002) 7/2002)
4. Convention for the Suppression of Unlawful Seizure of Aircraft (*Official Journal of SFRY* No. 33/72) 33/72)
5. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (*Official Journal of SFRY* No. 33/72) 33/72)
6. The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (*Official Journal of SFRY- International Treaties* No. 14/90)
7. Single Convention on Narcotic Drugs, 1961 (*Official Journal of SFRY* No. 2/64) 2/64)
8. Protocol Amending the Single Convention on Narcotic Drugs, 1961 (*Official Journal of SFRY - International Treaty* No. 3/78)

9. Convention on Limitation of Production and Regulation of Drug Distribution (and the Protocol on placing under international control drugs not covered by the Convention of 13 July 1931. on Limitation of Production and Regulation of Drug Distribution, amended by the Protocol signed in Lake Sussex on 11 December 1946, adopted in Paris on 19 November 1948) (*Official Journal of FPRY* No. 41/49);
10. Protocol relating to a Certain Case of Statelessness (*Official Journal of FPRY-International Treaties* No.7/60)
11. Optional Protocol to the Signing Relating to the Acquisition of Nationality (*Official Journal of FPRY-supplement* No.2/64)
12. Convention on the Status of Stateless Persons, with the Final Act of the United Nations Convention (*Official Journal of FPRY-International* No.9/59)
13. The European Convention on the International Validity of Criminal Judgments, with Annexes (*Official Journal of FRY - International Treaties* No. 13/2002; *Official Journal of Serbia and Montenegro - International Treaties* No.18/2005, 2/2006); 18/2005, 2/2006)
14. European Convention on Extradition, accompanied by additional protocols (*Official Journal of FRY - International Treaties* No.10/2001); 10/2001)
15. The United Nations Convention against Transnational Organized Crime and the additional protocols (*Official Journal of FRY - International Treaties* No. 6/2001). 6/2001)
16. Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (*Official Journal of FRY - International Treaties* No. 7/2002); 7/2002)
17. Protocol Amending the Single Convention on Narcotic Drugs, 1961. (*Official Journal of SFRY - International Treaties* No. 3/78); 3/78)
18. International Convention for the Suppression of the Financing of Terrorism (*Official Journal of FRY - International Treaties* No.7/2002); 7/2002)
19. Criminal Law Convention on Corruption (*Official Journal of FRY - International Treaties* No. 2/2002, *Official Journal of Serbia and Montenegro - International Treaties* No. 18/2005); 18/2005)
20. Convention on the Prevention and Punishment of the Crime of Genocide (*Official Journal of the Presidium of the National Assembly of FPRY* No.2/50); 2/50)
21. Convention on Psychotropic Substances (*Official Journal of SFRY* no. 40/73) 40/73)
22. The European Convention on Human Rights and Fundamental Freedoms, as amended in accordance with Protocol No. 11, Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, which provides certain rights and freedoms that are not included in the Convention and the First Protocol thereto, Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty, Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms and Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty in all circumstances (*Official Journal of Serbia and Montenegro -International Treaties* No. 9/2003 and 5/ 2005) ;
23. Charter on Human and Minority Rights and Civil Liberties (*Official Journal of Serbia and Montenegro* No. 6/2003);. 6/2003)

24. Convention on the Prevention and Elimination of Human Trafficking and Exploitation of Others (*Official Journal of FPRY* No. 2/51); 2/51)
25. Protocol amending the Convention on the Suppression of Trafficking in Women and Children and the Convention on the Suppression of Trafficking in Adult Women (*Official Journal of FPRY* No. 41/50); 41/50)
26. Convention on the Law Applicable to Traffic Accidents (*Official Journal of SFRY – annex - International Treaties* No. 26/76);
27. The Refugee Convention with the Final Act (*Official Journal of FPRY-International Treaties* No.7/60); 7/60)
28. Protocol on Refugees (*Official Journal of SFRY – annex* No. 15/67); 15/67)
29. European Agreement on Travel Documents (*Official Journal of FPRY-International Treaties* No. 8/59);. 8/59)
30. Convention on the Legal Status of Stateless Persons - with annexes, and the Final Act of the United Nations Conference on the Legal Status of Stateless Persons (*Official Journal of FPRY-International Treaties* No.9/59) 9/59)
31. Optional Protocol to the Signing Relating to the Acquisition of Nationality (*Official Journal of SFRY-supplement* No:2/64) 2/64)
32. Convention on the issuance of certificates from civil registers in several languages (*Official Journal of FPRY-International Treaties* No.8/91); 8/91)
33. European Convention on Spectator Violence and Misbehaviour at Sports Events, and in Particular Football Matches (*Official Journal of FPRY-International Treaties* No.9/90); 9/90)
34. The United Nations Convention against Corruption (*Official Journal of Serbia and Montenegro - International Treaties* No.12/2005); 12/2005)
35. Criminal Law Convention on Corruption (*Official Journal of FRY - International Treaties* No. 2/2002, *Official Journal of Serbia and Montenegro* No.18/2005) 18/2005)
36. Additional Protocol to the Criminal Law Convention on Corruption (*Official Gazette of RS* No. 102/07)
37. Civil Law Convention on Corruption (*Official Gazette of RS* No. 102/07);
38. Convention on Offences and Certain Other Acts Committed on Board Aircraft (*Official Journal of SFRY* No. 47/70); 47/70)
39. European Convention on Mutual Assistance in Criminal Matters, with Additional Protocol (*Official Journal of FRY - International Treaties* No.10/2001); 10/2001)
40. European Convention for the Suppression of Terrorism (*Official Journal of FRY - International Treaties* No. 10/2001); 10/2001)
41. International Convention for the Suppression of Acts of Nuclear Terrorism (*Official Journal of Serbia and Montenegro - International Treaties* No. 2/2006); 2/2006)
42. Protocol amending the European Convention for the Suppression of Terrorism (*Official Gazette of RS- International Treaties* No.19/2009); 19/2009)
43. International Conventions for the Suppression of the Financing of Terrorism (*Official Journal of FRY - International Treaties* No.7/2002); 7/2002)
44. The Council of Europe Conventions on the Prevention of Terrorism (*Official Gazette of RS- International Treaties* No.19/2009); 19/2009)
45. The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (*Official Gazette of RS- International Treaties* No.20/2009); 20/2009)
46. European Convention for the Suppression of Terrorism (*Official Journal of FRY - International Treaties* No.10/2001); 10/2001)

47. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*Official Journal of SFRY - International Treaties* No.9/91) 9/91)
48. The Council of Europe Convention on Action against Trafficking in Human Beings (*Official Gazette of RS- International Treaties* No.19/2009); 19/2009)
49. The United Nations Convention against Corruption (*Official Journal of Serbia and Montenegro- International Treaties* No.12/2005); 12/2005)
50. Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (*Official Journal of Serbia and Montenegro - International Treaties* No. 11/2005); 11/2005)
51. The United Nations Convention on the Rights of the Child (*Official Journal of SFRY - International Treaties* No. 15/90, *Official Journal of FRY - International Treaties* No. 4/96, 2/97); 4/96, 2/97)
52. European Convention for the Protection of the Architectural Heritage (*Official Journal of SFRY - International Treaties* No. 4/91); 4/91)
53. The European Convention for the Protection of Archaeological Heritage (*Official Journal of SFRY - International Treaties* No.9/90); 9/90)
54. Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data (*Official Journal of FRY - International Treaties* No. 1/92, *Official Journal of Serbia and Montenegro - International Treaties* No. 11/2005, *Official Gazette of RS - International Treaty* No 98/2008); 98/2008)

All bilateral and multilateral agreements shall be ratified and immediately applied in accordance with Article 16(2) of the Constitution of the Republic of Serbia.

In addition to the above mentioned Law on Police, Law on Ministries and international agreements, actions of police and police cooperation with other state authorities and international entities are also determined and regulated by the following laws:

1. The Law on Public Administration (*Official Gazette of RS* No. 79/2005 and 101/2007)
2. The Criminal Code (*Official Gazette of RS*, No. 85/2005, 88/2005, 107/2005, 72/2009, 111/2009) 85/2005, 88/2005, 107/2005, 72/2009, 111/2009)
3. The Criminal Procedure Code (*Official Journal of FRY* No. 70/2001, 68/2002, *Official Gazette of RS* No. 58/2004, 85/2005, 115/2005, 46/2006, 49/2007, 122/2008, 20/2009, 72/2009); 58/2004, 85/2005, 115/2005, 46/2006, 49/2007, 122/2008, 20/2009, 72/2009)
4. The Law on Minor Offences (*Official Gazette of RS* No.101/2005, 116/2008, 111/2009) 101/2005, 116/2008, 111/2009)
5. Law on Road Traffic Safety (*Official Gazette of RS* No.41/2009, 53/2010); 41/2009, 53/2010)
6. The Law on State Border Protection (*Official Gazette of RS* No.97/2008) 97/2008)
7. The Law on Public Assembly (*Official Gazette of RS* No. 51/92, 53/93, 67/93, 17/99, 33/99, 48/94, *Official Journal of FRY* No. 21/2001, *Official Gazette of RS* No..29/2001, 101/2005); 29/2001, 101/2005)
8. The Law on Foreigners (*Official Gazette of RS* No.97/2008); 97/2008)
9. The Law on Asylum (*Official Gazette of RS* No.109/2007); 109/2007)
10. The Law on Identity Card (*Official Gazette of RS* No. 62/2006); 62/2006)

11. The Law on Prevention of Violence and Misbehaviour at Sports Events (*Official Gazette of RS* No.67/2003, 101/2005, 90/2007, 72/2009, 111/2009) 67/2003, 101/2005, 90/2007, 72/2009, 111/2009)
12. The Law on Travel Documents (*Official Gazette of RS* No.90/2007, 116/2008, 104/2009); 90/2007, 116/2008, 104/2009)
13. The Law on Citizenship of the Republic of Serbia (*Official Gazette of RS* No. 135/2004, 90/2007) 135/2004, 90/2007)
14. The Law on Emergency Situations (*Official Gazette of RS* No. 111/2009); 111/2009)
15. The Law on Protection Against Fire (*Official Gazette of RS* No.111/2009); 111/2009)
16. The Law on Explosive Substances, Flammable Liquids and Gases (*Official Gazette of SRS* No. 44/77, 45/85, 18/89, *Official Gazette of RS* No.53/93, 67/93, 48/94, 101/2005) 53/93, 67/93, 48/94, 101/2005)
17. The Law on Placing Explosive Substances on the Market (*Official Journal of SFRY* No. 30/85, 6/89, 53/91, *Official Journal of FRY* No. 24/94, 28/96, 68/2002, *Official Gazette of RS* No.101/2005) ; 101/2005)
18. Law on Weapons and Ammunition (*Official Gazette of RS* No.9/92, 53/93, 67/93, 48/94, 44/98, 39/2003, 85/2005, 101/2005) 9/92, 53/93, 67/93, 48/94, 44/98, 39/2003, 85/2005, 101/2005)
19. The Law on Administrative Procedure(*Official Journal of FRY* No. 33/97, 31/2001,*Official Gazette of RS* No.30/2010); 30/2010)
20. Law on Administrative Disputes (*Official Gazette of RS*, No.111/2009) 111/2009)
21. The Law on Domicile and Residence of Citizens (*Official Gazette of SRS* No. 42/77 (revised text), 25/89, *Official Gazette of RS* No. 53/93, 67/93, 48/94, (17/99, 33/99), 101/2005) 53/93, 67/93, 48/94, (17/99, 33/99), 101/2005)
22. The Customs Law (*Official Gazette of RS* No. 18/2010) 18/2010)
23. The Law on Prevention of Money Laundering and Terrorist Financing (*Official Gazette of RS* No.20/2009, 72/2009) 20/2009, 72/2009)
24. The Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles (*Official Gazette of RS* No.85/2005) 85/2005)
25. The Law on Confiscation of the Proceeds from Crime (*Official Gazette of RS* No..97/2008) 97/2008)
26. The Law on the Liability of Legal Persons for Criminal Acts(*Official Gazette of RS* No. 97/2008) The Law on Organisation and Jurisdiction of Government Authorities in Suppression of High Technology Crime (*Official Gazette of RS* No.61/2005, 104/2009); 61/2005, 104/2009)
27. The Law on Secrecy of Data (*Official Gazette of RS*, no.104/2009) 104/2009)
28. The Law on Protection of Personal Data (*Official Gazette of RS* No.97/2008, 104/2009) 97/2008, 104/2009)
29. The Law on International Legal Aid in Criminal Matters (*Official Gazette of RS* No.20/2009) 20/2009)
30. The Law on the Collection and Delivery of Data on Crimes against Humanity and International Law (*Official Journal of FRY* No.37/93, 29/99, 44/99); 37/93, 29/99, 44/99)

31. The Act on Organization and Competence of State Bodies in the War Crimes Proceedings (*Official Gazette of RS* No.67/2003, 135/2004, 61/2005, 101/2007, 104/2009); 67/2003, 135/2004, 61/2005, 101/2007, 104/2009)
32. The Law on Economic Offences (*Official Journal of SFRY* No. 4/77, 36/77, 14/85, 74/87, 57/89, 3/90, *Official Journal of FRY* No. 27/92, 24/94, 28/96, 64/2001, *Official Gazette of RS* No.101/2005); 101/2005)

The said laws are harmonized with the relevant Conventions of the Council of Europe and the United Nations.

103. How are the law-enforcement agencies organised (ministries responsible, structure, manpower, horizontal co-operation structures, budget)? What are the laws, regulations and administrative rules incumbent on the police and the exercise of police functions?

Ministries, as the competent authorities for the implementation of legislation, are established pursuant to the law. The act sets the scope of action and competences, and inner organisation and classification of jobs are more closely established by by- laws (regulations, guidelines).

Part of the Ministry of Interior is General Police Directorate, whose jurisdiction is direct performing of police duties and exercise of police powers. General Police Directorate consists of organisational units within the Headquarters of MoI, City of Belgrade Police Directorate and Regional Police Directorates (for several municipalities) and Police Stations (for municipalities).

General Police Directorate in the territory of the Republic of Serbia:

- 1) monitors and analyses the state of security, in particular situations suitable for arising and development of criminal activities;
- 2) coordinates, directs and oversees the work of Regional Police Directorates;
- 3) directly performs specific complex tasks, which are within the competence of Regional Police Directorates;
- 4) ensures implementation of international agreements on police cooperation and other relevant international instruments in its competence;
- 5) organises and carries out forensic expertise;
- 6) creates conditions for maintaining and raising police capability and prepares readiness to respond in emergency situations;
- 7) contributes to police-related security, educational and scientific activities.

Duties of a Regional Police Directorate are:

- 1) to directly carry out police and other duties and establish local cooperation on the territory of the municipality where its headquarters is;
- 2) to monitor and analyze security situation within the territory of its jurisdiction, to coordinate and control the work of Police Stations, and to facilitate local cooperation;
- 3) to carry out, as appropriate, the duties which are within the competence of Police Stations;
- 4) undertake security measures regarding particular individuals and facilities;
- 5) perform other duties as provided by special regulations and other official documents.

Duties of Police Station are to directly carry out police and other duties and establish local cooperation on the territory of the municipality for which it has been established.

Horizontal cooperation within the General Police Directorate and the entire Ministry of Interior is established by the Act on Internal Organisation and Systematisation of job positions and guidelines and instructions for performing police duties. Cooperation between this and other ministries is established by the Law on State Administration, in a way that the ministries are obliged to cooperate in all joint matters and to mutually submit data and notifications needed for work and establish joint bodies and project groups for performing duties whose nature requires the participation of several bodies.

The budget for ministries is also set pursuant to the law, for each year separately, in separate parts for each ministry.

For police and performing of police duties the binding is the Law on Police and other law mentioned in the answer to question 102, as well as by-laws, the most significant of which are as follows: Code of Police Ethics, Regulation on Discipline in the Ministry of Interior, Regulation on Armament and Equipment of Police Officers of the Ministry of Interior, Rulebook on Police Authority, Rulebook on methods of performing police duties, Rulebook on technical features and Forms of using means of force, Rulebook on armament of authorised officials and officers on certain duties, Rulebook on forms of providing health care and standards and ways of establishing psychophysical ability needed for performing duties of certain job posts of police staff, Rulebook on procedure in case of appeal, Rulebook of official identification card of authorised officials and badges of uniformed members of police of the Ministry of Interior, Rulebook on uniforms and badges, Rulebook on conditions and selection of police officer sent to work abroad and on his duties, rights and responsibilities during his duty abroad.

Pursuant to the Law on Seizure and Confiscation of Proceeds from Crime (*Official Gazette of RS*, No 97/2008) authorities competent for discovering, seizure and managing proceeds from crime are public prosecutor, court, organisational unit of the Ministry of Interior competent for financial investigation and Directorate for Managing of Seized and Confiscated Assets. Authority of public prosecutor and court is established according to the jurisdiction of the court for criminal offences, which resulted in proceeds.

Legal framework for action of Public Prosecution for Organised Crime in addition to the Law on Seizure and Confiscation of Proceeds from Crime are the following: The Law on organisation and jurisdiction of government authorities in suppression of organised crime, corruption and other severe criminal offences (*Official Gazette of RS*, No. 42/2002, 27/2003, 39/2003, 67/2003, 29/2004, 58/2004 – other law, 45/2005, 61/2005 and 72/2009), the Criminal Procedure Code (*Official Journal of the FRY*), No 70/2001. and 68/2002 and *OG of RS* No 58/2004, 85/2005, 115/2005, 85/2005 – other law, 49/2007, 20/2009 – other law, 72/2009 and 76/2010), the Law on Public Prosecutors Office (*Official Gazette of RS*, No. 116/2004, 101/2008 and 10/104). Public Prosecution for Organised Crime is defined as prosecution with special jurisdiction.

The work of Prosecutor's Office is governed by the Prosecutor for Organised Crime, and prosecutorial office function within Prosecutor's Office is performed by

14 Deputy Prosecutors (job classification in Prosecutor's Office envisages 25 Deputy Prosecutors). Prosecutor for Organised Crime is elected by National Assembly for the period of six years, and Deputies by the State Prosecutorial Council.

It is envisaged that Administration of the Public Prosecution for Organised Crime should have 43 employees (20 Prosecutor's Assistants, Secretary of Prosecutor's Office, 8 employees on administrative posts, 6 employed typists, 1 employee on IT post, 4 employees on technical posts, chief of cabinet, translator and finance expert), and presently there are 17 employees.

Within the Prosecutor's Office, starting from the type, scope and complexity of jobs and the need for lawful, effective and efficient work, there are following organisational units: Public Prosecutor's cabinet, departments and Secretariat. Three departments are envisaged within the Prosecutor's Office: Crime Department, International Cooperation Department and Department for Analytics and Information Technology. Within the Secretariat there are internal organisational units: Registry, Typing Bureau and Accounting.

Budget for operating of Organised Crime Prosecutor's Office are provided from the Budget of the Government of the Republic of Serbia, and for 2010 the planned budget is 223 426 000,00 Serbian dinars. Out of that amount 62% goes for employee's costs and their salaries, and the remaining amount covers ongoing costs, travel costs, work under contract, repairs and maintenance, machines and equipment, taxes and fees, etc.

The Amendments to the Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organized Crime, Corruption and Other severe Criminal Offences from 31 August 2009, entered into force 1 January 2010, envisaged that the Organised Crime Prosecutor's Office should be competent to act in the following criminal offences (Article 2):

- 1) Criminal offences of organised crime
- 2) Criminal offences against the constitutional order of the Republic of Serbia
- 3) Criminal offences against duty ex- officio, when the defendant, that is the person who receives bribe, official or competent person with public function on the basis of election, appointment or nomination by the National Assembly, Government, High Judicial Council or State Prosecutors Council.
- 4) Criminal offence of abuse of official power, when the worth of gained proceeds is higher than 200 000 000 Serbian dinars,
- 5) Criminal offence of international terrorism and criminal offence of financing terrorism.
- 6) Criminal offence of money laundering, if assets subject to money laundering come from criminal offense in points 1), 3), 4) and 5), and
- 7) Criminal offences against state authorities and criminal offences against judiciary, if committed in relation to criminal offences from points 1 to 6).

For the mentioned criminal offences from Article 2 of the Law, the provisions of Chapter XXIXa of the Criminal Procedure Code are applied.

Public Prosecution for Organised Crime is established for entire territory of the Republic of Serbia with the headquarters in Belgrade. Prosecutor's Office may have departments outside its headquarters.

Directorate for Management of Seized and Confiscated Assets is state authority and part of Ministry of Justice. Directorate started work on 1 March 2009. It performs duties in its jurisdiction ex- officio or pursuant to request of Public Prosecutor and court. State and other authorities, organisations and public services are obliged to provide support to Directorate.

Directorate manages seized and confiscated assets from crime, items of criminal offence, proceeds gained through criminal offence and proceeds given as bail in criminal proceeding and performs duties in relation to profit in assets from commercial offence that is infringement; performs professional estimate of the seized proceeds from crime; store, safeguard and sell temporarily seized proceeds from crime and administer funds gained in such a way in accordance to the law, maintain register on assets managed and on court proceedings deciding on such property; participate in providing international judicial assistance; participate in training of civil servants and judicial office holders in relation to seizure of proceeds from crime; perform other tasks in accordance with this law.

Regulations on state administration apply to work, internal organisation and job classification in the Directorate, and provisions on general administrative procedure in cases of administrative procedures. Budget for operating of Directorate are provided from the Budget of the Government of the Republic of Serbia and other sources in accordance with the law. According to The Regulation on the Job Systematisation adopted by the Government's Conclusion 05 No 110-5297/2010 from 22 July 2010, it is envisaged that the Directorate should have 30 employees. Directorate has 20 employees at this moment. Directorate's budget is 60,000,000.00 million dinars.

104. Are all police authorities in the country under the same command? Do the powers of individual police authorities overlap? Please describe the procedures for co-operation and coordination between the different bodies involved.

In addition to the police, which is the organisational unit of the Ministry of Interior, the communal and tax police bear certain attributes thereof, since they exercise some police powers when performing the duties. Their establishment, duties and powers are also defined by law, as well as joint cooperation listed in answer to the question 103, thus there are no overlapping of duties or authorities.

Within the Ministry of Interior and the Police Directorate, cooperation and coordination in carrying out police duties are defined by the Law on Police and the Rulebook on internal organization and job classification. Governance and management of these duties are based on the principle of hierarchy, and responsibility is defined according to the place of the organizational unit in the overall organizational structure of the Ministry.

Organizational units at the headquarters of the Police Directorate are established so as to be connected by the line working principle with the relevant organizational units and tasks of the regional police directorates and stations, or in a way to perform duties within their jurisdiction on the entire area within the competence of the Ministry. The Police Directorate directs and coordinates the work and provides technical assistance to internal and regional organizational units and ensures the uniqueness of interior organizational and work processes,

in particular: planning, guidance, professional and expert coordination, control - check between planned and executed, internal control of legality and responsibility.

In order to discuss certain issues, or carry out tasks from a common scope of internal organizational units, the Minister or the Director of Police can establish permanent or temporary headquarters, committees, working groups and other working bodies consisted of employees of the Ministry or the Police Department. In addition, in order to consider certain organizational, business, operational, technical and other issues, the police director, chief of regional police directorate and chief of the Directorate, can organize professional workshops, conferences and seminars, with the consent of the police director.

Police Directorate is managed by the Director of Police, appointed and dismissed by the Government on the proposal of the Minister, thus he/she shall be accountable to the said persons for his/her work and for the work of the Directorate. Organizational units at headquarters and regional police directorates are managed by heads of directorates, while the police stations are managed by commanders. These managers organize, integrate and govern the work of the organizational unit and of the units thereof, i.e. the executives; they assign tasks and duties to organizational units, i.e. to executives; they provide the necessary expertise and perform most complex activities within the scope of the organizational unit which they manage; they are responsible for timely, lawful and proper performance of tasks within the competence of the organizational unit.

For the work of organizational units which they manage and for their work, they are responsible to: 1) Police Director - heads of directorates at the Police Headquarters, head of the police directorate for the City of Belgrade, and heads of regional police directorates; 2) Head of the police directorate for the City of Belgrade - heads of the departments at the headquarters therein and commanders of police stations in the municipalities.

105. Which administrative and/or judicial control bodies and procedures exist? How is (a) internal and (b) judicial oversight organised and enforced?

I) External control of police work is performed by the National Assembly, pursuant to Article 9 of the Law on Police (*Official Gazette of RS* No 101/2005), other laws and administrative provisions. The Minister submits annual report, and if needed more that once a year, to the National Assembly upon its request, on the work of Ministry and state of security in the Republic of Serbia, and to the working body of the National Assembly competent for security, upon its request, reports on the questions from its scope of work. Data on the number of cases of use of force, according to the types of means of force, as well as data on the number of cases of unjustifiable and illegitimate use of force and measures taken accordingly, are the integral part of this report and have public access.

The outer control of the police is performed by government, competent judicial authorities, state authorities competent for special monitoring duties and competent authorities and bodies authorised according to the law. Competence of these authorities and bodies envisages authority established pursuant to the special law, in relation to the free access to appropriate information, contact with competent police officers, right to

answers on questions and other rights according to the law.

Internal control of police work is performed by the Internal Affairs Sector, whose competence and authority is stipulated by Law on Police (Article 171-179) and the following organisations of the Ministry of Interior:

- Department for control of legality in work of Headquarters of General Police Directorate,
 - Department for security and legality in Gendarmerie Headquarters of General Police Directorate,
 - Department for control of legality in work of City of Belgrade Police Directorate,
- Whose competence and authority are established by internal by- laws of the Ministry of Interior.

Internal monitoring, that is forms and control of work of police officers are regulated by the Law on Police. Internal Affairs Department of the police acts on the basis of direct investigation, gathered information, statements from citizen's requests and orders from judicial and other state authorities.

After performed investigation, in cases when Department establishes that illegal and unprofessional conduct of police officers exist, it submits criminal allegations, requests for launching criminal procedure and proposes taking discipline measures for capital and minor breach of authority. It also provides recommendations for removing of irregularities established in the control procedure.

Other form of control of police work is regulated by Article 180 of the Law on Police and Rulebook on Complaints Procedure. Provisions of this procedure apply only if citizen has submitted complaint within 30 days from the day when the violation of citizen's right occurred.

II) As the part of national strategy for implementation of Action Plan for Implementation of National Strategy for Combating Corruption, the Republic Public Prosecutor's Office (RPP) has established the Department for Combat against Corruption as the authority for internal control of work in cases of criminal offences of corruption, in accordance with the programme and Obligatory Guidelines A. No 6/07, updated A No 194/10.

Lower Public Prosecutions are obliged to inform the mentioned Department of the Republic Public Prosecutor's Office on all ruled decisions in cases with corruption characteristics, which in cases of dismissal of criminal allegations or withdrawal from prosecution, must be ruled in the official composition with the obligatory participation of Public Prosecutor, as well as to submit to RPP the copy of first instance judgement and prosecutor's appeal, if lodged, and than second- instance judgement.

In accordance with this activity, RPP acted in 908 cases during 2009, as well as in cases from previous years, 760 cases in 2008, and 578 cases in 2007. Such action enables the efficient monitoring and control of work of prosecution in every individual case and providing professional support in the form of opinion, suggestion and instructions for clearing the disputed matters in some cases, with special emphasis on constant implementation of legal provisions on obligatory confiscation of proceeds from crime. During the previous year, the cooperation is established in the form of meetings with public prosecutors and their deputies in RPP, when more complex cases demanded such action and tan work with competent persons- representatives from competent authorities and institutions.

Such action also achieved the preventive task of RPP in the respect of additional control of decisions from prosecution in cases of not launching or stopping the procedure for criminal offences with elements of corruption (legality of decisions, its

explanations), which as the consequence had the activating of individual cases after the dismissal of criminal allegation that is more precise and complete explanations of decisions, the essence of which is not in doubt. The aim of this action is better protection of prosecution's professional integrity.

The Law on State Prosecution Council (*Official Gazette of RS*, No. 116/2008 u 101/10) Adopted by the National Assembly of the republic of Serbia 22 December 2008 envisages that this authority as the independent body provides and guarantees autonomy of Public Prosecutors and Deputy Public Prosecutors. Within its jurisdiction State Council maintains cooperation with High Judicial Council, state and other authorities and organisations, Prosecution Councils of other states and international organisations.

State Council has large control authority: - establishes the list of candidates for Republic Public Prosecutor and Public Prosecutors and submits the list to the Government; - proposes to the National Assembly candidates for the first choice for Deputy Public Prosecutor; - elects Deputy Public Prosecutors for permanent function of Deputy Public Prosecutors; - elects Deputy Public Prosecutors with permanent function of Deputy Public Prosecutors within the Higher Prosecution; - decides on the release from duty of Deputy Public Prosecutors, - establishes reasons for release of duty of Public Prosecutor and Deputy Public Prosecutors; - decides on public prosecution in which public prosecutor and Deputy public Prosecutors should continue to perform the function of Deputy Public Prosecutor in case of cancellation of Public Prosecution; - decides on the removal of Republic Public Prosecutor; - decides upon appeal on removal from office of Public Prosecutor and Deputy Public Prosecutor; - suggests the scope and structure of the budget necessary for work of Public Prosecutor's Office for regular costs and maintains monitoring over their spending in accordance to the law; - establishes what other functions, jobs or private interests are contrary to the dignity and independence of public prosecution; - elects the acting Public Prosecutor; - decides upon complaint on the decision of republic Public Prosecutor on the fact that there was no election for public prosecutor or deputy public prosecutor; - provides opinion on amendments of the existing and adoption of new laws, which establish the position and action of public prosecutors, organization of public prosecution, as well as other laws which public prosecutions apply; - adopts the Code of Ethics; - maintains personal records on every public prosecutor, deputy public prosecutor and employee of public prosecution;- appoints and dismisses Discipline Prosecutor and its deputies and members of Disciplinary Committee and its deputies; - adopts decisions on legal remedies in disciplinary proceedings; - adopts the Rulebook on Standards for the work of Public Prosecutor and Deputy Public Prosecutor;- adopts the decision on legal remedy against the decision on standards of work of Public Prosecutor and Deputy Public Prosecutor; - rules on objections in the procedure of electing the members of State Council from the line of public prosecutors and deputy public prosecutors; - manages tasks in relation to implementation of National Strategy for Judicial Reform; - establishes the content of training programmes for Deputy Public Prosecutors elected for the function for the first time and Prosecutor's Assistants in accordance with the law; - proposes training programme for public prosecutors and deputy public prosecutors with permanent function; - performs other tasks stipulated by the law.

In accordance with the Law on Public Prosecution (*Official Gazette of RS* No. 116/2008, 104/2009 and 101/10), Republic Public Prosecution, in addition to general monitoring of work and control of action of public prosecution in combat against crime and in relation to the protection of constitutionality and legality and implementation of ratified international agreements, in order to establish efficient politics of combating crime, provides professional assistance to Appellate, Higher Instance and Basic Public Prosecutor's Offices in combating corruption; commercial crime, as well as other forms of crime.

In addition to this, we wish to emphasize that it does not have monitoring role over organisation and work of police forces, except in concrete judicial proceedings, and pursuant to the provisions of Criminal Procedure Code (*Official Journal of FRY* No. 70/01, 68/02, *Official Gazette of the RS*, No 58/04, 85/05, 115/05, 46/06, 49/07, 122/08, 20/09, 72/09 and 76/10).

Pursuant to the Article 8 of the Law on Seizure and Confiscation of Proceeds from Crime (*Official Gazette of RS*, No 97/2008) Directorate for Managing of Seized and Confiscated Assets is established as the authority within the Ministry of Justice. The Authority shall have legal personality.

Pursuant to Article 11 of the Law, Directorate's Director is responsible for his/ her own work and that of Directorate to the Minister competent for judicial matters.

Directorate acts under court judgement according to the Law. Pursuant to Article 37 of Law on Receiving decisions on seizure, that is confiscation of proceeds, the Directorate immediately acts in accordance to jurisdiction pursuant to Article 9 of the Law. Until making of the decision on confiscation of proceeds void that is until the legal ending of the procedure for confiscation, the Directorate manages seized assets as responsible owner that is reliable expert. The records on seized assets are kept, in which data on the owner, data on assets and the state in which it was taken over, data on the value of assets, comment on whether the seizure of assets temporarily remains with the owner or is entrusted to other natural or legal entity and other data. Minister of Justice established the content and forms of keeping 7 records, their content and forms of keeping registers on tasks of the Directorate.

Pursuant to the Law on State Administration (*Official Gazette of the RS*, No. 79/2005 and 101/2007) Minister guides the work of authorities and adopts provisions from his/ her scope of work. Composition of the authority is presented by the Minister before the Government and National Assembly. Powers towards the state authorities, in relation to the composition of the authority, are exercised by the Government and National Assembly through the Ministry in whose competence the authority functions. Monitoring of the work of authority is performed by the Ministry in whose composition the authority is. Ministry has all the authority in monitoring the work pursuant to the law. Article 147 stipulates that state authority is, in monitoring work, authorised to: asks for reports and data on the performed work; establish the state of performing of tasks, warns about noticed irregularities and establish measures and deadline for their prevention; orders the performance of tasks, which it finds necessary; starts procedure for establishing of responsibility; directly performs some task if it finds it that there is no other way to implement law or other general act and

gives proposals to Government to take measures from its authority. The report on work comprises of the scheme of implemented laws; other general acts and conclusions of the Government, measures taken and their influence and other data.

106. What powers does the police have:

a) in terms of preventing and detecting potential threats?

b) in terms of criminal investigation?

Police powers in terms of preventing potential threats are regulated by the Law on Police which envisages that in performing police duties, authorized officials are allowed to exercise the following powers:

1. Issuing warnings and orders;
2. Conducting checks and establishing identity of persons and conducting identification of objects;
3. Summoning;
4. Brining in;
5. Keeping persons in detention and temporary restricting freedom of movement;
6. Requesting information;
7. Temporarily confiscating objects;;
8. Conducting search of the facilities and documents and anti-terrorism search,
9. Stopping and checking persons;
10. Securing and inspecting the scene;
11. Using another person's means of transport and of communications equipment;
12. Receiving notifications on the committed criminal act;.
13. Publicly announcing rewards,.
14. Conducting camera surveillance in public places;
15. Polygraph testing;
16. Conducting police observation;
17. Searching for persons and objects;
18. Protecting victims of crimes and other persons;
19. Collecting, processing and using personal data;
20. Conducting measures of targeted search;
21. Using coercive measures,

In terms of criminal investigation, police officers exercise powers in accordance with the Criminal Procedure Code and the Law on Organization and Competence of State Authorities in Combating Organized Crime. Pursuant to Article 225 of the Criminal Procedure Code, the police authorities shall be obligated to take necessary measures aimed at identifying the perpetrator of the criminal offence, preventing the perpetrator or accomplice from hiding or fleeing, securing traces of the criminal offence, and shall also have the powers to: seek the needed information from citizens; carry out the necessary inspection of the means of transportation, passengers and luggage; restrict movement in a certain territory for a necessary period of time; undertake measures regarding the establishment of the identities of persons or objects; issue a wanted notice for persons or warrant for objects searched for; carry out in the presence of the authorized person an inspection of objects and premises of state authorities, enterprises, firms and other legal entities; review their documentation and seize it if necessary.

During the investigation of an offence against public traffic safety, if the reasonable suspicions of grave consequences arise, police authorities can temporarily seize driver license of the suspect but no longer than three days. Pursuant to Article 226 of the CPC (Criminal Procedure Code), the police authorities can also summon the citizens to collect information. The coercive measures can be imposed on person who failed to respond to the summons only if he/she was warned thereof. Pursuant to Article 227 of the CPC authorized officials of the police authorities may deprive a person of liberty if any of the grounds for ordering a detention, referred to in Article 142 of the CPC, exist. The police authority may exceptionally, and no longer than for 48 hours from the moment of deprivation of liberty, i.e. answering a summons, temporarily put into detention a person deprived of liberty under Article 227(1) and the suspect referred to in Article 226 (7) and (8), for gathering information or hiring. For the offences punishable by imprisonment of up to 10 years, the police authorities can carry out the investigation by themselves and determine the expertise which suffers no delay. Pursuant to Articles 77, 78 and 79 the police authority may exercise the search of a dwelling or a person with a written explanation in the order of the Court, and in accordance with Article 81 authorized officials can enter a dwelling or other premises and conduct a search without the Court's decision, if certain conditions are met.

In accordance with Article 82 objects and documents may be temporarily seized. Pursuant to Article 504 of the CPC, special provisions are envisaged for the criminal acts procedure of organized crime, corruption and other extremely serious offences in case of which the prosecuting authorities can undertake the following measures to gather evidence: monitoring and recording of telephone and other conversations or communications, providing simulated business services and simulated legal transactions, controlled delivery, auto-search of personal and other data associated with them, and engagement of undercover investigator.

The Law on Organization and Jurisdiction of Public Authorities in Suppression of Organized Crime envisages that all public authorities and organizations shall be obliged, at the request of the Office for Combating Organized Crime or the prosecutor, to enable without delay the use of any technical means at their disposal; to ensure timely response of each of its member and employee, including the heads of the authority or organization, to provide notice and to attend the hearing or inquiry as suspect or witness; to submit without delay any document or other evidence that to the Office at their disposal or to communicate by other means information relevant for solving criminal acts referred to in Article 2 of the said Code.

107. What are the competencies of the different forces (legal and administrative, geographical organisation, cross-regional cooperation, etc.)?

Competences, powers and actions of all state authorities that participate in the fight against organized crime are governed by several laws, the most important being the following: the Criminal Procedure Code (*Official Gazette of FRY, No. 72/09, 76/10*), the Criminal Code (*Official Gazette of the RS, No. 72/09, 111/09*), the Law on Police (*Official Gazette of the RS, No. 101/05*), the Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime, Corruption and Other Particularly Serious Criminal Offences (*Official Gazette of the RS, No. 72/09*), the Law on Seizure and Confiscation of Proceeds from Crime (*Official Gazette of the RS, No. 97/08*), the Law on the Liability of Legal Persons for Criminal Acts (*Official Gazette of the RS, No. 97/08*), the Law on the Prevention of Money Laundering and Financing of Terrorism (*Official Gazette of the RS, No. 72/09, 91/10*), the Law on

Organisation and Competencies of State Authorities in Combating High Technology Crime (*Official Gazette of the RS, No. 104/09*).

The following state authorities of the Republic of Serbia have jurisdiction in suppression of organized crime: National Safety Council of the Republic of Serbia, Ministry of Justice, Organized Crime Prosecutor's Office, Special Department of the High Court, Security Information Agency, Military Security Agency, Military Intelligence Agency, Ministry of Interior, Ministry of Finance, etc.

Within the **Ministry of Interior**, Police General Directorate has jurisdiction in the matter and its composition includes: Criminal Police Directorate, Border Police Directorate, Police Directorate, Traffic Police Directorate, Administrative Affairs Directorate, Special Anti-terrorist Unit, Counter-terrorist Unit and Gendarmerie, Protection Unit, Helicopter Unit and regional police directorates, whose integral parts are criminal police departments that are functionally linked with the Criminal Police Directorate in the MOI headquarters.

Integral parts of the Criminal Police Directorate in the MOI headquarters are: Service for the Fight against Organized Crime, Crime Suppression Service, War Crimes Investigation Service, Special Investigative Techniques Service, Criminal Intelligence Affairs and Undercover Agents Service, Operational Analytics Service, International Police Cooperation Department – NCB – Interpol Belgrade, Department for Monitoring and Investigation of Terrorism Occurrences, Department for Observation and Documentation, National Criminal Technical Centre and a Group for Criminal Psychology Affairs and Polygraph Testing. At the Police Directorate for the City of Belgrade, Criminal Police Directorate has jurisdiction and its composition includes Section for Suppression of Organized Crime and 12 units that have specific jurisdictions and scopes of work.

Scheme of the Criminal Police Directorate is supplied in attachment (Anex 5).

All abovementioned offices and departments apply certain operative measures and actions, which are part of the general scope of work, with the aim of prevention, detection and solving of criminal acts and undertaking other aspects of the fight against crime, as well as finding and capturing perpetrators of criminal acts and other individuals that are sought after, and their apprehension and delivery to competent authorities.

Although Ministry of Interior is primarily a repressive authority of law enforcement, Criminal Police Directorate in its operational proceedings practices proactive acting in organized crime investigations. It is also a bearer of many reform-related and strategic activities of the police, in area of the fight against organized crime (drawing up of the National Strategy for the Fight Against Organized Crime, with accompanying AP and Sector AP, participation in the drawing up of other important strategic documents for the fight against corruption, illegal migration, narcotics, money laundering and financing of terrorism).

The Service for the Fight against Organized Crime is an organizational unit of the police which is, within its purview, specialized for investigation of all forms of organized crime and other serious crimes that include elements of organizing.

As a Service, having jurisdictions which are specifically underlined in the Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime (July 2002), in the performance of its duties it is closely related to operations of the Organized Crime Prosecutor's Office and Special Department of the High Court in Belgrade, as it acts in accordance to its request, instructions and orders.

It is composed of the following specialized units:

- Department for Suppression of Trafficking in Narcotics (all types of narcotics, synthetic drugs and precursors),
- Department for Suppression of Organized General Crime (trafficking in human beings, international trafficking in stolen vehicles, trafficking in arms and dangerous materials, trafficking in cultural goods, serious criminal acts of murder, abduction and extortion with elements of organization),
- Department for Suppression of Organized Financial Crime (money laundering, corruption, counterfeiting of money and other means of payment),
- Department for the fight against Cyber Crime (all types of computer crimes) and
- Financial Investigations Unit (conducting financial investigations primarily related to criminal offences of organized crime, but also related to other types of serious criminal offences).

The Service currently employs 199 staff members. It is financed regularly from the budget (it does not have its separate budgetary resources), and equipment and trainings are provided through donations, projects and international assistance. Majority of the staff is employed at the Service's headquarters in Belgrade, while a small number of staff is working in specialized sections for planning and coordination of financial investigations that are located in Novi Sad, Nis, Kragujevac and Bor, while there are plans for establishment of new sections in Zrenjanin, Kraljevo, Sabac and Uzice.

Regarding international cooperation, Department for International Police Cooperation of CPD, of the MOI of the Republic of Serbia, is exclusively authorized to issue international arrest warrants, upon previous approval of the Ministry of Justice of the Republic of Serbia, and upon a request of competent local judicial authorities and heads of prison facilities. This Department also has jurisdiction in realization of extradition of foreign and domestic nationals, according to foreign and domestic international arrest warrants. As a national contact point, this Department has jurisdiction in data exchange: with competent authorities of the INTERPOL member states, with purpose of performing checks requested by domestic or foreign public authorities; member states of the SECI/SELEC centre; exchange of strategic data with EUROPOL; other international organizations, other ministries of the Republic of Serbia and foreign liaison officers in charge of international police cooperation, who are seconded to embassies of their own countries in Belgrade. This Department, according to provisions of the European Convention on Mutual Assistance in Criminal Matters, through INTERPOL's protected communication system, I-24/7, submits requests for international legal assistance in criminal matters, which are simultaneously dispatched through diplomatic channels as well.

At the **Customs Administration**, there is a Department for Customs Regulations Implementation Control that participates in mutual international actions with neighbouring countries; and through implementation of bilateral agreements, answers received in response to pleas provide base for initiation of trials.

Legal framework for actions of **Organized Crime Prosecutor's Office** as well as its competences, are explained in the answer to question no. 103. Organized Crime Prosecutor's Office covers the entire territory of Serbia and its headquarters in Belgrade. Organized Crime Prosecutor's Office may also have departments located outside its headquarters.

The National Assembly of the Republic of Serbia adopted, on 18 March 2009, the Law on Legal Assistance in Criminal Matters (*Official Gazette of the RS*, No. 20/2009). Along with numerous agreements and international conventions ratified by our country, starting with the European Convention on Legal Assistance in Criminal Matters and its additional protocols, United Nations Convention against Transnational Organized Crime and its additional protocols, and many other conventions, including Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime and on financing of terrorism, represent a legal framework within which cooperation and legal assistance in criminal procedures conducted in Serbia.

Organized Crime Prosecutor's Office (until 1 January 2010 Special Prosecutor's Office for Organized Crime) has signed memorandums on cooperation with authorities competent in the fight against crime, from the countries of the region and Europe (Italy, Slovakia, Spain, Bulgaria, Ukraine, Hungary, FYR Macedonia, Bosnia and Herzegovina, Croatia, Montenegro). Important document on regional cooperation is the Memorandum of Understanding, signed by the Public Prosecutor of the Republic of **Macedonia**, the General Prosecutor's Office of the Republic of **Albania**, the State Prosecutor's Office of **Bosnia and Herzegovina**, the State Prosecutor's Office of the Republic of **Croatia**, the Public Prosecutor's Office of the Republic of **Serbia** and the State Prosecutor's Central Office of the Republic of **Montenegro**, in Skopje on 30 March 2005, on regional cooperation in the fight against organized crime.

As part of the international cooperation activities, the Prosecutor for Organized Crime and Deputy Prosecutors attended numerous meetings, international gatherings, conferences, seminars and participated in study visits in the region and wider.

In accordance with Article 8 of the Law on Seizure and Confiscation of Proceeds from Crime (*Official Gazette of the RS*, No. 97/2008), the Directorate for Seized Property Management was formed as an authority which is part of the Ministry of Justice. The Directorate for Confiscated Property Management has legal personality. Directorate's seat is in Belgrade. Directorate may have separate organizational units outside its seat. For now, Directorate does not have any organizational units outside Belgrade. Detailed competencies of the Directorate are explained in answer to questions no. 103 and 105.

The Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime, Corruption and Other Particularly Serious Criminal Offences (*Official Gazette of the RS*, No. 42/02, 27/03, 39/03, 67/03, 29/04, 58/04, 45/05, 61/05 and 72/09), provides for the jurisdiction of the High Court in Belgrade as first instance court, and of the Appellate Court in Belgrade, as the second instance court, for acting in cases of organized crime, while also, as parts of these Courts, Special Departments were established that are governed by Presidents of Departments. At this moment, at the Special Department (for organized crime) of the High Court in Belgrade, there are 15 judges, of which 12 judges and the acting Court President participate in four judicial councils, while 2 judges act in investigation proceedings.

Pursuant to regulations of the Criminal Procedure Code (*Official Journal of the SRY*, No. 70/2001, 68/2002, *Official Gazette of the RS*, No. 58/2004, 85/2005, 115/2005, 46/2006, 49/2007, 122/2008, 20/2009, 72/2009, 76/2010), in cases of organized crime, trials are held by court councils composed of three professional judges. Beside the assigned judges, within this Department there are 125 employees in total, of which 23 are judicial assistants. Regarding the judicial staff, we would like to emphasize that judges from all types of courts on the territory of Republic of Serbia are transferred to this Department, while particular attention is paid that the judges who have demonstrated outstanding professional and working skills are transferred to this Department. Also, in regard to all other employees in this Department, it is important that they have significant working experience and have previously demonstrated outstanding level of professionalism and expertise in their work. Significant resources are allocated to this Department, and in percentages, salaries of staff in the Special Department make up 47% of total salary sum paid at the High Court in Belgrade, while overhead costs of maintenance of the building where Special Department is located make up 48% of total overhead costs for the High Court in Belgrade, while costs of professional services provided to Special Department make up 42% of total costs of the High Court in Belgrade. Also, this Department is supplied with the most modern computers, it is supplied with equipment for voice modulation required for testimonies of protected witnesses and other persons involved in the proceedings, technical support is provided for realization of video conferences as well as the highest quality equipment for monitoring and recording of trials, with aim of providing uninterrupted course of trials. As there is a great number of cases in this Department, trials are held in two shifts each day, so that acting judges could in the most efficient way conclude proceedings in very demanding cases, since majority of cases dealt by this Department have this feature. As previously mentioned, only the most outstanding judges and staff are selected to work in this Department, and they are constantly provided with appropriate training within the Special Department. Apart from this, judges and other staff that have completed studies at the Faculty of Law, regularly participate in numerous seminars that are held in our country and abroad and are in relation to the relevant matter, regardless of the fact if these seminars are organized by competent state authorities (Ministry of Justice, Ministry of Interior, etc.) or international organizations, such as OSCE, Council of Europe, etc.

International cooperation on seizure and confiscation of proceeds from crime is implemented on the basis of international agreements. If international agreement doesn't exist or some of the issues are not regulated by international agreements, international cooperation is implemented on the basis of provisions of the Law on Seizure and Confiscation of Proceeds from Crime. International cooperation in terms

of the Law includes assisting in finding proceeds from crime, prohibition of disposal and temporary or permanent confiscation of proceeds from crime. Jurisdiction of domestic public prosecutor's office, i.e. court conducting proceedings involving international cooperation, is determined through implementation of appropriate legal provisions related to international legal assistance and implementation of international agreements on criminal matters.

The Republic of Serbia, at the annual meeting of the CARIN network held in Prague, Czech Republic, from 15 to 17 September 2010, received the status of a CARIN network observer. Permanent representatives of the Republic of Serbia at CARIN network are Aleksandar Milojevic, Chief of the Unit for Financial Investigations at the MOI, and Vladimir Djeklic, Chief of the Directorate for Seized Property Management. During accession to CARIN network, Republic of Serbia delivered the answered Questionnaire for members of CARIN network, on seizure and confiscation of property.

108. How are the police staffed and equipped and how are they financed (quantitative overview of staff, buildings, equipment, communication tools, hard- and software, etc.). Is an integrated computer-based investigation system available? Is an integrated crime intelligence system available?

Answer represents an official secret - highly confidential.

109. Please describe the training system for police officers. Which training facilities and training programmes exist (schools, training content, target groups, knowledge networks, special skills, assessment of on-going development training)?

Within the overall reform activities of the Ministry of Interior of the Republic of Serbia, the area of training and education plays a significant role as one of the key factors for ensuring the desired quality and efficiency in carrying out police duties. The reform process was initiated in 2002 and is still underway.

According to the valid act on the organization and job classification in the Ministry of Interior, the organizational unit responsible for activities thereof is the Directorate for professional education, training, development and science, which comprises the Centre for Core Police Training and the Centre for Specialized Training and Development of police. In addition, the Academy of Criminalistic and Police Studies, in charge of police education, does not lie within the competence of the Ministry of Interior in organizational terms, but fosters functional connections with the Ministry since it educates personnel for the Ministry's needs.

The reform process is conducted in accordance with the Strategy on development of training and education for the police needs, passed in December 2005. by the Minister of Interior. Pursuant to the said document, since the period mentioned, the reform activities in this field have been aimed at establishing efficient and sustainable system in which the educational process for the police needs have been carried out outside the competence of the Ministry of Interior (in the educational system of the Republic), while the education and training, i.e. core and specialized training, training for managers, as well as permanent improvement of existing knowledge and skills of police officers have been carried out within the Ministry's competence or in cooperation with domestic and foreign partners. One

of the intentions is the emphasis on practical contents and the acquisition of skills, i.e. focusing on the needs of practice. To this end, special attention is given to training teachers - coaches, instructors of police skills and mentors, for which the significant and indispensable support is provided by the OSCE Mission to Serbia. The latest major reform activity is the adoption of the Rulebook on Professional Education and Training in the Ministry of Interior (OG of RS No. 80/10 of 2 November 2010).

Publishing of internal theoretical and technical journal the "Security" also lies within the competence of the Directorate for professional education, training, development and science.

Center for Core Police Training

Police High School in Sremska Kamenica was as a four-year high school with boarding from 1967. to 2009. During this period 38 generations, or 14,416 cadets were educated in this institution. Formal and legal conditions for establishment of the Basic Police Training Centre were met upon the adoption of the Rulebook on internal organization and job classification in the Ministry of Interior. In the period of transformation, which was initiated for this institution in 2006, the Police High School and Center for Basic Police Training operated simultaneously until 2009. The latest generation of the four-year curriculum students completed their education in 2008/09.

Reform of basic police training required adoption of the new curriculum aimed at training students to competently perform basic police duties as uniformed police officers with general competence, in accordance with the laws and other regulations and acts of the Republic of Serbia, as well as international treaties and conventions adopted by the Republic of Serbia and standards of police actions.

Since 2007, a training of three classes of students was conducted according to a new, subject-based modular curriculum, while the trainings for the fourth and fifth class will be completed in 2011.

The curriculum of basic police training

Subject-based modular structure of the Curriculum enables the students to acquire necessary knowledge and skills through the application of modern educational methods (modified lectures, group discussions, demonstrations, role playing, case studies, simulations and other) by studying the following:

- General subjects on the police work: Police officers - the rights, obligations and duties; Criminal Law and Criminal Procedure Law; Administrative affairs and misdemeanour proceedings; Human rights and the Code of Police Ethics; Security Basics and Aspects of police profession in terms of mental health, and
- Police Skills: Defensive skills; General physical preparation – conditioning; Communication skills; Handling police firing weapons with instructions thereof; First aid; Foreign language in official communication - English / German language; Information system and System of communications.

In the second and third phase of training, knowledge and skills acquired correlate as specific knowledge network and are applied in practical part of training within:

- Professional modules: Work on the security sector; Police work in the local community; Application of police powers and the use of the means of coercion; Fighting against crime; Maintenance of public order and security and Traffic control and regulation.

The basic police training lasts for up to 12 months. It is divided into three phases during which the theoretical and practical training (up to 36 weeks) is conducted at the

Center for Basic Police Training. During the first and second phase, students also have practical training at the regional police directorates (of up to 6 weeks), where their activities are supervised by specially trained police mentors.. Upon completing the training and passing the final exam at the Center, students, now in their capacity as police interns, go for a six-month vocational training to the regional police directorates. After the training, they must pass the professional exam in order to enter into open-ended employment relationship with the MoI.

Owing to funds allocated from the NIP (National Investment Plan), but also from local and foreign donors including the Government of the Kingdom of Norway, the Centre has been substantially developed in recent years, in terms of infrastructure, reconstructions and equipping of facilities. In addition to universal classrooms equipped with modern teaching aids, the Centre currently disposes of specialized classrooms for training, such as simulation shooting room and Language-lab for teaching foreign languages, sports facility, outdoor sports facilities, a facility for special physical training and tactical house.

During the training at the Centre in Sremska Kamenica, students from all over Serbia are accommodated in boarding schools, in double and triple rooms, provided with food and health care, and are given the opportunity to indulge in sports, cultural and artistic activities in their free time.

The process of bringing the existing facilities for training, room and board, as well as logistics facilities into line with optimum conditions by using available sources of income is still underway. The project on reconstruction of the library into a modern media facility is in its development phase.

The new curriculum, modern conditions and facilities for training as well as the application of new methods, require continuing professional development of teachers - coaches. All coaches at the Centre, especially the ranking uniformed police officers, passed the OSCE Training Course for trainers to acquire the necessary methodological and didactic knowledge and skills. Trainers without police education attended a specifically designed course to acquire the knowledge necessary to work in the MoI. In addition, trainers and other employees at the Centre regularly attend all the available forms of professional development.

Training of police mentors and mentor coordinators

If necessary, the courses are also organized for police mentors and mentor coordinators in police stations and offices who are in charge of the practical coaching for students of basic police course - future police officers - as well as for their further advancement to work independently as uniformed police officers of general competence when preparing for a professional examination while in status of police officers. These courses have fully completed one part of the police training system with regards to the needs of police with general competence.

Center for specialized training and education of police

Until the establishment of the Center, specialized training was implemented through the courses organized by line directorates or the Police College (which in 2006 integrated with the Police Academy into the Academy of Criminalistic and Police Studies) while the vocational education, as continuous training of police officers, took place within the Programme for vocational education, adopted on an annual basis by the Minister of Interior (*see question 99*).

Today, except for the Department for specialized training and professional development, located at its headquarters, the Centre also comprises six dislocated training centres: Avala, Jasenov, Kula, Makis, Mitrovo polje and Zvezdara.

Approximately 10.000 police officers are covered by more than 30 different types of trainings per year, while the Programme for specialized training and professional development involves over 23.000 police officers per year.

Given the gap between the actual conditions and capacities of the Centre for implementation of specialist and permanent training on one hand, and the desired, projected state on the other hand (modern facilities and teaching aids, a greater number of competent teachers, modern teaching methods and curricula, regular evaluation of teaching, continuous development and maintenance of teaching standards...), key problems in the field of specialized training, goals, areas, activities and success criteria for further development of specialist training have been identified in cooperation with the OSCE Mission, through a series of activities conducted in 2010. Future priorities regarding specialized training will be the following: drafting a strategic document, developing (drafting) the project of the future center for specialized training in the Belgrade area, conducting analysis of the needs for creation of a unique database in order to achieve efficient management and coordination of specialized training, developing standards for all aspects of training (curricula, training process, evaluation and management) and developing of a training for managers. To achieve the set goals, it is essential to engage necessary and feasible potentials of the MoI, as well as interested partners in the country and abroad.

Police Leadership Training Program

A variety of trainings is implemented in the Ministry for the needs of the managerial staff, and the establishment of training systems for leaders is underway. The said process is in its initial phase and will be partly conducted in cooperation with the OSCE Mission to Serbia. In May 2008, two cycles of training were conducted for trainers to provide training to leaders at operational levels of management, as well as preparation of draft Curriculum and the Programme of the course for operational management staff (all in cooperation with the OSCE and other lines of work of the MoI).

In accordance with standard methodological procedures, in cooperation with the OSCE Mission, the Programme of the Leadership Training and Professional Education Course was designed, adopted by the Minister of Interior in 2010.

Professional education for police trainers

From February 2003, vocational training courses for professional education of trainers have been implemented in cooperation with the OSCE Mission, thus far attended by more than 740 police officers competent to transfer knowledge and skills to their colleagues using modern methods of education for the adults.

Training includes the following courses: for trainers, for development of curricula and for evaluation (all three courses at basic and advanced level), and so far it was carried out at four locations (OSCE Centre in the KPA complex in Zemun, Sremska Kamenica, Bujanovac and Medvedja).

During 2009-2010, in cooperation with the OSCE Mission to Serbia, curriculum and course's programme for trainers have been revised and the Programme of the Leadership Training and Professional Education Course designed.. Given that the MoI envisaged taking

over the courses for trainers from the OSCE Mission, adoption of the above curriculum in June 2010, by the Minister of Interior, facilitated the fulfilment of one of important formal conditions for the implementation of this project in practice.

Other trainings organized by the Directorate for professional training, education, development and science

For the needs of police officers, many specialized technical seminars, forums and conferences are organized, often in cooperation with international organizations and with international participation.

Academy of Criminalistic and Police Studies:

The Academy of Criminalistic and Police studies was established by the Decision of the Government of the Republic of Serbia, of 27 July 2006, as an independent university institution the purpose of which is to deliver academic and professional study programmes at all levels for the police education needs, as well as other forms of vocational studies and specializations with relevance to criminalistic, police and security affairs. Having been established through integration of the Police College and Police Academy, the Academy of Criminalistic and Police Studies has become their successor and bearer of activities.

The curriculum at the Academy of Criminalistic and Police Studies is carried out two levels - academic and vocational. Subjects studied through this curriculum are divided into five fields - social, legal, crime, police, and police and security.

Undergraduate academic studies comprise 41 subjects, while the third-year students opt for one of the three departmental studies - crime, general police and police and security. Those who pass all the exams at this academic level, shall receive higher education diploma and shall acquire the professional title - *academic criminologist of first degree*.

Undergraduate vocational studies comprise 32 subjects, while the second-year students opt for one of the two departmental studies: crime and police and security. A person, those who pass all the exams at this academic level, shall receive higher education diploma and shall acquire the professional title – *vocational criminologist of first degree*.

Curriculum of undergraduate academic studies includes the following special types of lectures: first aid, police shooting practice, information and professional practice, work in expert groups, seminar on Police and human rights, fitness training and sports (swimming, judo, karate, skiing), professional practice and training in driving of police vehicles.

Professional practice is conducted to help students learn the curriculum completely and comprehensively, to get easily involved with police work after graduation, and to be properly trained for the profession of criminologist. The said concepts are realized through practical exercises in the MoI of the Republic of Serbia (in organizational units of the Police Directorate).

Academy of Criminalistic and Police Studies organizes postgraduate, graduate and doctoral studies. Those who complete postgraduate studies acquire the professional title - specialist in crime and security of the second degree. Those who pass all the exams set by the graduate studies curriculum, shall receive higher education diploma and shall acquire academic title – graduate criminologist of the second degree academic studies. Those who complete doctoral academic studies acquire the scientific title - doctor of crime, police and security science.

The scientific-research work, tutorial work with students and extracurricular activities are complementary to the basic activities of the Academy, also supported by activities on students' welfare, information centre, publishing and the work of professional services.

In addition to implementing academic programmes for the needs of police education, the Academy carries out scientific research through basic, applied and developmental research in the field of law enforcement, security and other related fields, as well as through research that supports the development of educational activities to perform police duties. Within its scientific and research activities, the Academy publishes the magazine "Science - Security - Police" which encompasses the published works of both national and international eminent scientists and experts in the field of criminology, security and other areas relevant to police work.

The Academy has runs own publishing activity, the publications of which are used both in the Ministry of Interior and at other higher education institutions as well.

110. Is there training tailored to the fight against specific types of crime?

I) In recent years, for members of the criminal police, numerous courses and seminars were realized that were not mutually related or conditioned. Therefore, measures are taken with the aim to establishing the system of training, and in early 2010 at the level of the Directorate for Education, Training, Development and Science and Criminal Police Directorate of the MOI, a Task Force was established with purpose of analyzing educational needs of the members of criminal police and designing of a Curriculum and Programme (CP) of the training.

In this regard, in November 2010, Programme of Basic Training for Criminal Police Officers Assigned on Duties of Suppression of Crime, was adopted by the Minister, and Program of Basic Training for Criminal Technician Duties is undergoing adoption (in March 2010 previous CP was evaluated).

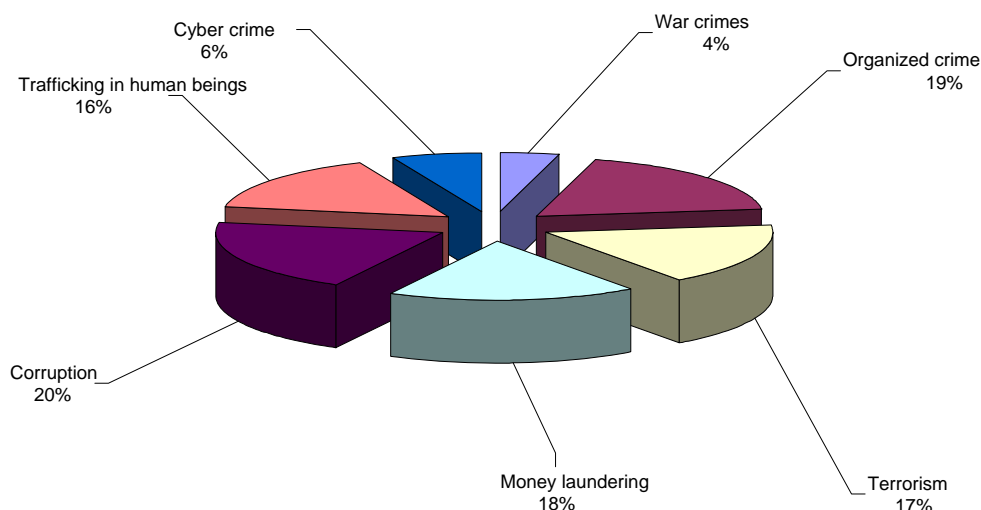
CP for suppression of business criminality is composed and is currently in the phase of adoption, and it includes:

- Suppression of commercial crime duties;
- Suppression of money laundering and financing of terrorism duties;
- Suppression and fighting corruption duties, and
- Financial investigations duties.

Knowledge and skills received will be further enhanced at seminars that should be included in the Programme for Education of Police Officers of the Ministry for 2011 and beyond.

II) Judicial Academy organizes regular training programmes aimed at fighting organized crime, money laundering, cyber crime, trafficking in human beings, war crimes, drugs, seizure and confiscation of proceeds from crime, responsibilities of legal persons, since 2005. Numerous specialist trainings are organized with assistance of international and regional organizations and institutions, international projects and donations and in direct cooperation with specialized departments of courts and public prosecutor's offices.

**Overview of trainings tailored to the fight against specific types of crime
that were held in period from 2006 to 2010**



111. Is there functioning cooperation with liaison officers in third countries within the common framework? If yes, where do such liaison officers exist? .

I) Concrete cooperation with foreign liaison officers is carried out on a daily basis through NCB Interpol (on issues of operational police cooperation and the actual police activities) and through the Bureau of International Cooperation and European Integration (on issues of strategic cooperation with the MoI, negotiations and signing of international bilateral agreements and managing the process of European integration within the competence of the MoI).

Overview of cooperation with liaison officers from other countries is as follows:

- The United Kingdom - cooperation is achieved through liaison officer located at the Embassy of the United Kingdom in Belgrade, or through the head of the Serious Organised Crime Agency of Great Britain (*SOCA*), locate in Belgrade;
- France - cooperation is achieved through liaison officer located at the Embassy of France in Belgrade, who is the head of the Police International Technical Cooperation Service;
- Germany - cooperation is achieved through two liaison officers located at the German Embassy in Belgrade;
- Austria - cooperation is achieved through liaison officer located at the Embassy of Austria in Belgrade;
- Belgium - cooperation is achieved through liaison officer located at the Embassy of Belgium in Vienna;
- Czech Republic - cooperation is achieved through liaison officer located at the Embassy of Czech Republic in Belgrade;
- Slovakia - cooperation is achieved through liaison officer located at the Embassy of Slovakia in Belgrade;

- Slovenia - cooperation is achieved through liaison officer located at the Slovenian Embassy in Belgrade;
- Italy - cooperation is achieved through two liaison officers located at the Embassy of Italy in Belgrade;
- Spain - cooperation is achieved through liaison officer located at the Embassy of Spain in Belgrade;
- Bulgaria - cooperation is achieved through liaison officer located at the Embassy of Bulgaria in Belgrade;
- Romania - cooperation is achieved through liaison officer located at the Embassy of Romania in Belgrade;
- Greece - The cooperation is achieved through liaison officer located at the Embassy of Greece in Belgrade;
- Nordic Liaison Officer - cooperation is achieved through liaison officer in charge of all the Nordic countries: Norway, Sweden, Denmark;
- Norway also has its own liaison officers;
- United States – there is no liaison officer, cooperation is achieved through programmes of the U.S. Embassy, dealing with the subject of law enforcement;
- Canada - cooperation is achieved through liaison officer located at the Embassy of Canada in Vienna;
- Australia - cooperation is achieved through liaison officer located at the Embassy of Australia in Belgrade;
- Japan - cooperation is achieved through liaison officer located at the Embassy of Japan in Vienna.

The MoI also cooperates with other countries through their representatives in the DCMs (Diplomatic and Consular Missions) of the Republic of Serbia.

The first police liaison officer of the Republic of Serbia was sent to the SECI Centre at the beginning of 2003, pursuant to the Agreement on Cooperation to Prevent and Combat Transborder Crime, signed on 26 May 1999 in Bucharest (*Official Journal of Serbia and Montenegro- International Treaties* No. 5 / 2003) and the Decisions of the Joint Cooperation Committee (JSS), of 24 September 2002.

In February 2009, the MoI took the decision to enhance bilateral international cooperation by creating a network of its own liaison officers who would be on secondment to the diplomatic and consular missions of the Republic of Serbia. Besides the liaison officer at the SECI Center, additional three police officers were seconded abroad:

- 1) to Moscow, Russia;
- 2) to Skopje, Macedonia, who is also the Serbian representative in the MARRI - Regional Initiative for Migration, Asylum and Refugees;
- 3) to Ljubljana, Slovenia, who is also the representative in the Centre for implementation of the Convention on Police Cooperation in SEE.

II) Customs Administration, within the Ministry of Finance of the Republic of Serbia, achieves cooperation with the liaison officers, both from the European Union countries and from third countries, ie. countries outside the European Union, through the Intelligence Department. Apart from the neighbouring countries in the region, the Department has contacts with liaison officers from Austria, Norway, Belgium, Germany, Romania, Great Britain and the Netherlands, who are employed at the embassies of their countries in Belgrade.

In addition to the above mentioned, Customs Administration has a liaison officer to the SECI Center, based in Bucharest, and customs attaché in the Mission of the Republic of Serbia to the EU, located in Brussels.

112. Describe the cooperation with neighbouring countries (also as regards border control and border surveillance). Which police cooperation agreements exist or are planned?

Republic of Albania

- The Agreement between the Government of the Republic of Serbia and the Council of Ministers of the Republic of Albania on Cooperation in the Fight against Organized Crime, International Drug Trafficking and International Terrorism, signed in 2010;

Republic of Bulgaria

- The Agreement between the Government of the Republic of Bulgaria and the Government of the Republic of Serbia on Cooperation of Border Authorities, signed on 12 November 2007;

- Protocol between the Government of Romania, the Government of the Republic of Bulgaria and the Government of the Republic of Serbia on Enhanced Trilateral Cooperation in the Fight against Crime and in Particular Cross-Border Crime, signed on 29 September 2008;

- Joint Declaration (signed by the Minister of Interior of the Republic of Serbia, Minister of Interior of the Republic of Bulgaria and Minister of Administration and Interior of Romania) signed on 19 May 2009;

- The Agreement between the Government of the Republic of Serbia and the Government of the Republic of Bulgaria on the Establishment and Operation of the Joint Contact Centre for Police and Customs Cooperation, signed on 26 April 2010;

- The Agreement between the Republic of Serbia and the Republic of Bulgaria on Police Cooperation, signed on 20 May 2010;

Bosnia and Herzegovina

- The Agreement between the Government of the Republic of Serbia and the Council of Ministers of Bosnia and Herzegovina on Police Cooperation, signed on 24 September 2010;

The Ministry of Interior of the Republic of Serbia pays special attention to the implementation of the Convention on Police Cooperation in South-Eastern Europe, which was signed on 5 May 2006 in Vienna. In the process of implementation of the Convention, two protocols on implementation were signed:

- Protocol between the Ministry of Interior of the Republic of Serbia and the Ministry of Security of Bosnia and Herzegovina on the Implementation of Joint Patrols along the Common State Border, signed on 6 March 2009;

- Protocol between the Ministry of Interior of the Republic of Serbia and the Ministry of Security of Bosnia and Herzegovina on Organizing and Holding Regular Meetings at Central, Regional and Local Level Between Representatives of Border Police, signed on 30 March 2009;

- Memorandum of Understanding and Cooperation between the Witness Protection Unit within the Ministry of Interior of the Republic of Serbia, the State Investigation and Protection Agency of Bosnia and Herzegovina (SIPA) and the Police Directorate of the Republic of Montenegro in the field of Protection and Support to Witnesses and other Participants in Criminal Proceedings, signed on 20 July 2006;

Republic of Hungary

- The Agreement between the Republic of Serbia and the Republic of Hungary on Cooperation of the Authorities Competent for Combating Crime in the Prevention of Cross-Border Crime and in the Fight against Organized Crime, signed on 6 March 2009;

- Protocol between the Government of the Republic of Serbia and the Government of the Republic of Hungary on the Implementation of the Agreement between the Republic of Serbia and the European Community on Readmission of Persons Residing without Authorization, signed on 19 December 2009;

- Memorandum of Understanding between the Ministry of Interior of the Republic of Serbia and the Office of Immigration and Citizenship of the Republic of Hungary, signed on 22 September 2010;

Republic of Macedonia

In accordance with the Convention on Police Cooperation in South East Europe the following documents were signed:

- Protocol between the Ministry of Interior of the Republic of Serbia and the Ministry of Interior of the Republic of Macedonia on Organizing and Holding Regular Meetings between the Representatives of Border Police at Central, Regional and Local Level, signed on 22 February 2008;

- The Agreement between the Government of the Republic of Serbia and the Government of the Republic of Macedonia on the Regulation of Border Traffic Regime, signed on 18 September 2010;

- The Agreement between the Ministry of Interior of the Republic of Serbia and the Ministry of Interior of the Republic of Macedonia on the Readmission of Persons Entering or Residing without Authorization, with the Protocol for the Implementation thereof, signed on 4 November 2010;

Romania

- Protocol on Cooperation between the Border Police through the experimental establishment of the Contact Bureau of the Ministry of Interior of the Republic of Serbia, the Border Police Directorate and the Ministry of Administration and Interior of Romania, the General Inspectorate of Border Police, signed in February 2006.

- The Agreement between the Government of the Republic of Serbia and the Government of Romania on Cooperation in the Fight against Organized Crime, International Drug Trafficking and International Terrorism, signed on 5 July 2007.

- Protocol between the Government of Romania, the Government of the Republic of Bulgaria and the Government of the Republic of Serbia on Enhanced Trilateral Cooperation in the Fight against Crime and in Particular Cross-Border Crime, signed on 29 September 2008;

- Joint Declaration (signed by the Minister of Interior of the Republic of Serbia, Minister of Interior of the Republic of Bulgaria and Minister of Administration and Interior of Romania), signed on 19 May 2009;

Republic of Croatia

- Memorandum of Understanding between the Ministry of Interior of the Republic of Serbia and the Ministry of Interior of the Republic of Croatia, signed on 12 December 2008;

- The Agreement between the Government of the Republic of Croatia and the Government of the Republic of Serbia on Police Cooperation, signed on 25 May 2009;

- The Agreement between the Government of the Republic of Croatia and the Government of the Republic of Serbia on the Readmission of Persons Entering or Residing without Authorization, with the Protocol between the Ministry of Interior of the Republic of Croatia and the Ministry of Interior of the Republic of Serbia on Implementation of this Agreement, signed on 25 May 2009;

Montenegro

- Protocol between the Ministry of Interior of the Republic of Serbia and the Ministry of Interior of the Republic of Montenegro on cooperation in combating terrorism, organized crime, illegal trafficking in drugs, psychotropic substances and precursors, human trafficking, illegal migration and other criminal acts, as well as on cooperation in other areas within their competences, signed on 3 December 2003.

In accordance with the Convention on Police Cooperation in South East Europe the following protocols were signed:

- Protocol between the Ministry of Interior of the Republic of Serbia and the Ministry of Interior and Public Administration of Montenegro on Organizing and Holding Regular Meetings between the Representatives of Border Police at Central, Regional and Local Level, signed on 22 February 2008;

- Protocol between the Ministry of Interior of the Republic of Serbia and the Ministry of Interior and Public Administration of Montenegro on the Implementation of Joint Patrols along the Common State Border, signed on 6 March 2009;

- The Agreement between the Government of the Republic of Serbia and the Government of Montenegro on Cooperation on Protection against Natural and Other Disasters, signed on 4 October 2010;

- Memorandum of Understanding and Cooperation between the Witness Protection Unit within the Ministry of Interior of the Republic of Serbia, the State Investigation and Protection Agency of Bosnia and Herzegovina (SIPA) and the Police Directorate of the Republic of Montenegro in the field of Protection and Support to Witnesses and other Participants in Criminal Proceedings, signed on 26 July 2006;

113. Describe the police cooperation with EULEX and the implementation of the EULEX-Serbia Police Protocol.

On the basis of the signed Protocol on Police Cooperation with the Police Component of EULEX Mission (EULEX Police) and exchange of letters between the Chief of Police Component of EULEX Mission and Deputy Director of the Police of the MOI of the Republic of Serbia, as a main point of contact on the side of EULEX Police, Operations Centre (OC) of EULEX Police was appointed, while on the side of MOI of the Republic of Serbia, Coordination Directorate for Kosovo and Metohija and MOI Headquarters for AR of KM were appointed.

Principal opinion of Coordination Directorate for Kosovo and Metohia and MOI Headquarters for AR of KM, who are in charge of the abovementioned cooperation, is that cooperation is not at the satisfactory level, and that volume and quality it is far below previous level of cooperation with representatives of UNMIK Police.

At the meeting held on 2 June 2010 in Kursumlija, a possibility of exchanging information through unique centres on both sides was discussed, with the purpose of increasing the efficiency, which would allow the establishment of a unique record of exchanged information, however, it was agreed that in presented cases, due to the protection of data, current practice of direct contact should be continued, until encryption and other forms of protection are installed.

Regarding everyday cooperation related to actual issues relevant for the security, which is carried through Coordination Directorate for Kosovo and Metohija and MOI Headquarters for AR of KM, several problems and inadequate practices were observed on the side of EULEX Police, and these are found to significantly affect the quality of cooperation:

- In cases when information and request were delivered directly to members of EULEX Police (by email or directly at all levels during meetings of Joint Committee for Implementation of Military Technical Agreement), answers to concrete police questions were never delivered, or they were not delivered in timely fashion, or they were not usable for further police processing. It was observed that on the EULEX side, lack of coordination of activities and exchange of information was evident among organizational units of EULEX Police, and there were cases when representatives of an organizational unit were not acquainted with information and facts delivered by MOI of the Republic of Serbia to another organization unit, which should not have been the case given the nature of delivered information and their line of work (e.g. Border Police and Administration Line EULEX Police). At the meeting held on 2 June 2010 this question was raised and a representative of Operations Centre of EULEX Police pointed out that answers are provided quickly and in full detail only when questions asked are

under EULEX jurisdiction, and also due to limited mandate of EULEX they are forced to forward request to competent institutions, in which case they are not able to influence promptness and quality of answers (which is, for instance, the case when KPF is held competent).

- Practice was observed that answers delivered by the Operations Centre of EULEX Police were not delivered in form of an official memorandum with reference number, but most often in the form of an email message. At the abovementioned meeting, representatives of the MOI of the Republic of Serbia drew attention to this practice and requested from representatives of EULEX to use only official channels for official correspondence.

At the last meeting held with representatives of EULEX, upon presentation of observed defects, it was mutually concluded that cooperation is improving, which is reflected in faster procedures and more detailed information delivered, when requests are submitted by the Coordination Directorate for Kosovo and Metohija and the MOI Headquarters for AP of KM.

114. Please describe the reforms of the police that have been implemented in recent years.

In the implementation of police reform from the very beginning, direct cooperation has been established and concrete measures and activities have been taken with relevant international actors, such as OSCE, Council of Europe, the Danish Institute for Human Rights and other UN organizations. In cooperation with the Danish Institute for Human Rights, the Vision Document of the MoI of the Republic of Serbia was made (April 2003), outlining the vision, values and mission of the Ministry. In addition, with the aim to establish the work of the police and of the Ministry as a whole on the strategic basis, the **Development Strategy of the Ministry of Interior 2011 – 2014** is underway and will be the basis for the development of sectoral strategies and improvement of the vital scope of the Ministry's work.

Reform of the MoI took place through:

LEGISLATIVE REFORM: The reform was initiated by the adoption of the **Law on Police**. The law provides a normative assumption to depoliticize and professionalize organization of the police and its separation from the Ministry's political framework. Under the authorities from the Law on Police, a great number of by-laws was already drafted and adopted, including the Code of Police Ethics, laying down in more detail the police work. All the laws that were the prerequisite for visa liberalization and the inclusion of Serbia in the White Schengen List have been prepared and adopted. The Law on Identity Cards, the Law on Travel Documents (with amendments - at the end of 2008), Asylum Law, the Law on State Border Protection of the Republic of Serbia and the Law on Foreigners.

In the field of protection and rescue in emergency situations, the following laws were adopted: The Law on Crisis Situations and the Law on Protection against Fire.

In accordance with the requirements of visa liberalization, the Regulation was adopted on the Procedure for Determining Fulfilment of the Conditions for Issuance of Passports to Persons from the AP of Kosovo and Metohija and Regulation on Designating the Ministry of Interior for Issuing Qualified Electronic Certificates.

REFORM OF POLICE EDUCATION: Establishment of the Directorate for Professional Training, Education, Development and Science, in September 2004, as a new organizational unit within the Ministry, was of great importance since, for the first time, it brought together all the units - institutions (other than the Police Academy) dealing with education and training for the police purposes. Higher and Secondary School of Interior and the Training Centre (previously established as an organizational unit within the Department of Public Safety, later renamed to the Centre for specialized training and police development). Strategy of the development of training and education system for the police purposes was implemented through four fields: integration of the Police College and Police Academy into the Academy of Criminalistic and Police Studies; transformation of High School of Interior, located in Sremska Kamenica, in the Centre for Basic Police Training; the establishment and development of the Centre for specialist training and police development and establishing of a system of leadership training programmes.

REFORM OF PRACTICE:

Control and border management: In accordance with the Strategy for integrated border management in the Republic of Serbia and the Action Plan for the implementation thereof, the Coordinating Body for the implementation of the Strategy was established in May 2009. In February 2009, the ministers of interior, finance, agriculture and infrastructure, signed the Agreement on Cooperation in the field of integrated state-border management. In October 2009, the Law on the State Border Protection was adopted. The Law on Foreigners was adopted as well.

Significant efforts were focused on providing technical equipment for border crossing points. In 2009, implementation of the Twinning project within integrated border management system was initiated, aiming at the implementation of the Strategy and Action Plan for Implementation of Integrated Border Management System.

Combating illegal immigration:

On 26 March 2009, the Government of the Republic of Serbia adopted the Strategy for Combating illegal Migration in the Republic of Serbia 2009-2014; At the operational level, the Minister of Interior issued a Guideline on the proper treatment of trafficked persons which is of mandatory nature.. In order to implement the Strategy for Combating Illegal Migration, the Government Council to counter illegal migration was established in November 2009 as inter-ministerial body comprising experts of competent public entities responsible for implementation of this Strategy. The Coordinator for combating illegal migration was appointed, and the adoption of the Action Plan to implement this Strategy is expected.

As for the fight against human trafficking, members of the Anti-Trafficking Council, headed by the Minister of Interior, were appointed early November 2008.

Late April 2009, the Government adopted the National Plan of Action to Combat Human Trafficking 2009- 2011.

In June 2010, implementation of UN GIFT Serbia project was initiated. This is a joint project of the United Nations agencies (IOM, UNHCR and UNODC) and the Government of the Republic of Serbia, headed by the Ministry of Interior, and is one of six similar projects in the world developed in the framework of UN GIFT initiative.

❖ **The fight against organized crime, corruption and money laundering**

The reform processes in the fight against organized crime are carried out in two directions, through the creation of the necessary strategic and normative - legal conditions and the implementation of reform projects. The basic prerequisite for efficient fight against organized crime and money laundering and corruption is, above all, **the creation of strategic and regulatory requirements** in accordance with international standards. Within the mentioned, the adoption of the National strategy is of great importance to fight organized crime, defining the term, forms and factors that are favourable thereof, to establish an institutional framework to combat this type of crime and to envisage further actions. Strategy was published on 3 April 2009, and the Action Plan for the implementation thereof on 24 September 2009. The Action Plan is implemented through synchronized activities of state authorities - bearers of the fight against organized crime and, to this end, the Coordinating Body for the implementation of this Strategy was established on 9 October 2009. The Sectoral Action Plan of the MoI of RS to implement this Strategy was adopted in October 2010. Amendments to the Criminal Code, Criminal Procedure Code and to the Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime, Corruption and Other Particularly Serious Criminal Offences are also highly relevant to efficient fight against organized crime. Efficient suppression of corruption, on which the organized crime often relies, is also of great importance for fight against organized crime. The said is followed by the continuation of the process of creating a legal framework by adopting a set of laws against corruption – the Law on the Liability of Legal Persons for Criminal Acts, the Law on the Anti-Corruption Agency regulating the establishment and competences of the autonomous and independent state authority – Anti-Corruption Agency, and particularly significant Law on Confiscation of the Proceeds from Crime. According to this Law, a separate specialized organizational unit was established within the Ministry of Interior and is responsible for investigating financial assets derived from crime. Further, in accordance with the National Strategy for Combating Corruption (adopted in late 2005) and with the Action Plan for Combating Corruption, on 9 October 2009. the Ministry of Interior drawn up a Sectoral Action Plan to combat corruption, which outlines in detail the obligations and responsibilities of the internal organizational units as regards to implementation of the said Strategy. In September 2010, in Vienna, the Republic of Serbia signed the Act on establishing the International Anti-Corruption Academy (IACA). During this year, the activities have been undertaken to implement the National Strategy for Combating Money Laundering and Financing of Terrorism (adopted in late 2008.). A special working group was established within the MoI of RS, charged with implementing the recommendations of the said Strategy through the development of Sectoral Action Plan, which was signed in July the current year.

In order to improve the fight against organized crime, efforts were made to implement the project on the promotion of activities on processing the crime scene (SweSe - in cooperation with the Swedish National Police Board and the OSCE), then the project on capacity building of the National Criminal Technical Centre in Belgrade for the implementation of criminalistic, technical and forensic research and the project on enlargement of the Interpol information system. In 2010, a project was completed on establishing a laboratory for toxicology expertise at the National Crime Technical Centre.

In May 2010, the National Strategy for Control of Small Arms and Light Weapons was adopted, the primary goal thereof being to create the institutional conditions for carrying out integrated and effective control of production, trade and possession of light weapons and small arms in the Republic of Serbia, while respecting international obligations. This Strategy determines the state of affairs in the field of small arms and light weapons and measures for development thereof, further sets the framework for the development of the Action Plan,

defines roles and responsibilities of state authorities, identifies goals and determines the main directions of activities. It covers the period 2010-2015.

In order to intensify regional and international police cooperation, as one of the most important preconditions for the implementation of the reform process and development of the Serbian police, the following laws were adopted: The Law on Ratification of the Convention on Police Cooperation of SEE countries, the Law on Ratification of the Agreement on the Facilitation of Visa Regime between the EU and the Republic of Serbia, laying down procedures and criteria to facilitate acquiring of visas for certain categories of Serbian citizens for the travel to EU countries, Law on Ratification of the Agreement between the EU and the Republic of Serbia on Readmission of Persons Residing Without Authorisation and the Law on Ratification of the Agreement between the Republic of France and the Republic of Serbia for Readmission of Persons who no Longer Meet the Requirements to Stay in the Territory of Another Signatory, with the Protocol representing the implementation of some of the obligations taken under the readmission Agreement with the EU (all in 2007). During 2008 and 2009 the following legal acts were adopted as well: The Agreement on Strategic Cooperation with Europol, the Trilateral Agreement on Enhancing Cooperation in the Fight Against Crime, Especially Cross-Border Crime - signed by the Governments of Romania, Bulgaria and Serbia, the Agreement on Long-Term Strategic Partnership Between Serbia and DCAF, Working arrangement on the Establishment of Operational Cooperation with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU (FRONTEX) etc. Eight bilateral agreements on police cooperation and cooperation in the fight against terrorism, organized and other serious crime, illegal migration, human trafficking, smuggling of narcotics and the like, were signed with neighbouring and other countries (Cyprus, Hungary, France, Croatia, Israel, China, Russian Federation and Switzerland). During 2010, five Agreements on police cooperation were signed, that is with Albania, Azerbaijan, Bulgaria, Brazil and Bosnia and Herzegovina, then two Memorandums of police cooperation (with Uruguay and Japan), and two Memorandums of Understanding (with Argentina and with the Serious Organised Crime Agency of the United Kingdom of Great Britain and Northern Ireland on the fight against illicit drug trafficking, illegal migration, money laundering, illicit trafficking in firearms, cyber crime and fraud).

During October 2009, presentation of the Project on Establishment of International Law Enforcement Coordination Units (ILECUs) was held, on which occasion the ideal ILECU model was introduced. This project was initiated and financed by the EU with the funds allocated from the CARDS. It has a regional character and involves Albania, Bosnia and Herzegovina, Montenegro, Croatia, Macedonia and Serbia as participating countries. The Federal Criminal Police of Austria is responsible for the implementation thereof, while Slovenia and Romania are the partners in implementation. EUROPOL, INTERPOL, BKA - Germany, EUROJUST, FRONTEX, OLAF, the SECI Centre Bucharest and RCC – Sarajevo also actively participate in the implementation process. The overall objective is to form the ILECU, i.e. "The Unit for Coordination of International Cooperation in Law Enforcement" in each beneficiary country. The National Project Team, including the MoI of RS, was established in the Republic of Serbia. The Introductory Conference, entitled "Police cooperation – the fight against organized crime, particularly illegal drug trafficking and prevention of terrorism", introducing the ILECU 2 Project, was held in April 2010 in Vienna. The project was assigned to Austrian Federal Ministry of Interior and to German Federal Criminal Police.

In September 2010, the Agreement on Establishing a Joint Body for the Promotion of International Cooperation in Combating Crimes was signed between the Ministry of Interior, the Ministry of Justice and the Ministry of Finance.

In October 2010, Ministerial Conference on "Strengthening of regional and transnational cooperation as a prerequisite for successful fight against organized crime in Southeast Europe" was held in Belgrade and was attended by Ministers of justice and Interior and public prosecutors from the Western Balkans countries, as well as representatives of the European Union countries and members of the European Commission. On that occasion, the ILECU's Office was opened in Belgrade, thus establishing the National Coordination Unit for coordinating international cooperation in the field of law enforcement.

The MoI of RS has launched an initiative to form a joint Regional centre for combating organized crime, in order to exchange operational information. Within the said Centre, joint operational teams will be formed, including prosecutors as well, and establishing joint database of criminal groups. In addition to operational cooperation, the MoI of RS and criminal police of Austria cooperate under the project of the Austrian Federal MoI, entitled "The fight against drug trafficking on the Balkan route (Drug Policing Balkan)". Since 2009, the project has entered a new phase, thus now being implemented under the title "The fight against drugs in the Balkans - a higher level 2009-2012" and, according to the concept of a new phase of the project, the Republic of Serbia is the host designate of the 2012 annual conference.

❖ **Development of Internal Control within the police**

The project on "Improvement of the capacity of regional centres within the Sector for Internal Control of the Police in Serbia", will improve the work of regional centres within this sector, while the Twinning project on "Police reform - internal control" enabled the purchase of modern technical equipment for the quality collection of evidence relevant to the investigation and the specialized training of police officers has been implemented. The Partner in the implementation of this project is a Consortium of Great Britain and the Czech Republic.

❖ **Development of Community Policing**

Within the Project on "Development of community policing", numerous activities were undertaken related to the development of communication and trust between the police and the community, training of the police, the community representatives, citizens and particular population categories, the establishment and development of police-community partnerships and development of problem-oriented activities in solving security related problems. Within implementation of this project, the cooperation was established with the OSCE Mission to Serbia, Division for International Development (DFID), the National Police Directorate of the Kingdom of Norway and the Swiss Agency for Development and Cooperation. A number of educational activities for police officers were carried out, the activity of informing citizens about their rights and obligations and about the way of establishing contacts with the police was improved, communication with the media was enhanced, the advisory bodies at the community level have been formed in order to involve relevant entities in addressing community safety issues, the project of "a school police officer" has been developed, the methodology of problem-oriented policing has been developed in cooperation with the National Police Directorate of the Kingdom of Norway (evaluation of the Ju-No 5 project was performed last year), measures have been taken to increase the representation of national minorities, the work of the police with the marginalized, minorities and socially vulnerable groups as well as with others have been promoted.

❖ **Development of public relations**

Within the reform activities of the Ministry, conducted in 2010, the most distinguished was the adoption of the Communication Strategy of the Ministry of Interior of the Republic of Serbia 2010-2012, setting out basic development directions and goals in the field of communications, and is based on European experiences and the EU guidelines. The overall objective is to develop support and trust of citizens of Serbia in the MoI of RS – by improving internal and external communications. The specific objectives of the Strategy are related to development of the proactive public relations, to provision of timely and consistent information, encouragement of positive attitudes towards the police officials, etc.

❖ **Human resources development**

Furthermore, implementation of the project on "Evaluation of human resource management", funded by the Government of Norway, was initiated in 2010 with an aim to create a starting point for building a modern and sustainable system of human resources according to best practices in EU countries. Implementation of this project is a requirement for development of public administration in general, and the adoption of the modern concept of human resources management in this Ministry is a necessary prerequisite for the reforms.

❖ **The concept of protection of citizens in emergency situations**

One of the most significant reform activities of the Ministry refers to the field of protection and rescue, the result being the establishment of a Unified Service for Emergency Situations within the Ministry of Interior, with the aim to consolidate all existing resources to protect, rescue and respond to emergency situations. In June 2009, the Sector for Protection and Rescue formally transformed into the Sector for Emergency Situations.

In December 2009, the most important strategic goal of the Sector for Emergency Situations was reached, and refers to adoption of the new Law on Crisis Situations and the Law on Fire Protection (the latter replacing the old law of 1988). The Sector for Emergency Situations currently conducts the activities on creating conditions for putting into operation two newly established directorates – Directorate for Risk Management and Directorate for Civil Protection, as well as the newly-formed National Training Centre that will educate and train members of professional and volunteer fire rescue units, as well as the citizens participating in civil defence. The rescue field is characterized by the formation of regional rescue teams specialized in flood rescue (formed in 2008. and assigned to Belgrade, Novi Sad, Nis and Kraljevo), and the establishment of five regional special rescue teams, assigned to Belgrade, Novi Sad, Nis, Kraljevo and Valjevo in case of earthquakes and ruins .

In 2009, in order to improve the operation and response in case of emergencies, the Sector for Emergency Situations developed the following projects: project to introduce a single operating system 112 for emergency situations and the project supporting optimization of work of the fire rescue units in forest fire emergencies.

The activities in international and regional initiatives and organizations are continued in order to further strengthen the international position of our country in the field of protection and rescue. In September 2009, the Sector for Emergency Situations became a full member of the Partial Agreement of the Council of Europe on European and Mediterranean Major Hazards (EUR-OPA), in the work which has been involved as observer since 2006. Furthermore, a Memorandum of Understanding was signed with the initiative of the Regional Council for Cooperation in South East Europe (DPPI), referring to prevention and preparedness in the event of natural and technological hazards, as well as the Memorandum between Serbia, Bosnia and Montenegro on Cooperation on Protection against Natural

and Other Disasters. According to the Agreement on cooperation in the humanitarian response in emergency situations, prevention of natural disasters and technogenic disasters and eliminating the consequences thereof, which was signed in October 2009 with the Ministry for Emergency Situations of the Russian Federation, Serbia will take a central place in the Balkans with regards to coordination of activities in the field of emergency situations. The Agreement provides for; inter alia, implementation of the project of the Balkan Centre for Emergency Situations with headquarters in Nis.

International Ministerial Conference, attended by ministers and representatives from 19 countries and other international institutions, was held in Belgrade in February 2010, providing the participants with exchange of opinions regarding the protection and rescue in emergency situations.

Drafting of the National Strategy for protection and rescue in emergency situations, defining the objectives and ways to create conditions for rapid response and rescue of persons and property in emergency situations is underway. Development of plans for acting in emergency situations will ensure a strategic approach to implementing preventive measures, emergency preparedness measures, and measures to be implemented during and after emergencies. Having in mind that the Law on Protection against Fire has already come into force, the drafting of the Strategy on Protection against Fire is underway. Upon adoption of the said Strategy, the conditions will be created for establishing of an integrated system of prevention and fire protection.

115. What are the current and future priorities of the police? What is the method for assessing priorities?

Current priorities of the police have been determined by the Action Plan of the Ministry of the Interior. They resulted from the assessment of the security situation, obligations laid down in the adopted strategic documents and legal regulations, and conditions which must be met by our country on its course to acceptance as candidate for EU membership. In 2011, the Ministry of the Interior will decisively and actively confront all security challenges and risks, and give its full contribution to strengthening of the institutions and lawful state. Building upon the programme orientations of the Government of the Republic of Serbia, absolute priorities in the work of the Ministry of the Interior will be focused on **full protection of personal safety of citizens, protection of their property and preserving stability of public order.**

2011 Annual Plan has established the following activities as top priority: to continue fighting against organised crime and all forms of international terrorism; to ensure stability of public order, to implement the community policing model, to maintain high standards of border control and security; to improve the traffic safety situation; to create further conditions for the operation of the Sector for Emergency Situations, to maintain high-quality of administrative and other affairs, to continue improving a responsible, transparent and efficient law enforcement internal control, to plan and develop strategic operations of the Ministry of the Interior; to comply legal and other regulations governing law enforcement field with the European standards; to intensify international activities.

Draft Development Strategy of the Ministry of the Interior, anticipating further strategic development action of the MOI. Systematic and comprehensive analysis of legal, political, economic and technological environment and the analysis of key internal indicators of the situation in the Ministry (security, strategic, legal and

economic framework, human resources, technological and organisational framework) were considered in preparing the Draft Development Strategy of the Ministry of the Interior 2011 – 2014.

Analysis of the strategic framework has been prepared by means of the situational analysis. Analysis and conclusions from the European Commission Progress Report on Serbia, OSCE Mission in Serbia, Council of Europe and other international, government and non-government organisations, and the results of research carried out in the preceding period referring to the public safety and matters related to the law enforcement activities, have also been used. On the basis of the analysis conducted, taking into account the continuous and fast social changes, as well as uncertain and often unpredictable factors, their complexity, interconnection and effects for the Ministry, opportunity arose to formulate and define strategic priorities and objectives.

116. Does a code on police ethics exist? How is it enforced?

The police have its Code of Ethics adopted by the Government of the Republic of Serbia (Article 12, Paragraph 6 of the Law on the Police) The Government of the Republic of Serbia adopted and published the Code of Police Ethics (*Official Gazette of RS* No 92/2006 of 24 October 2006), in view of achieving the highest national and international standards in the law enforcement procedures and support to the rule of law.

The Code of Police Ethics is incorporated into the content of the vocational education and training of the police officers, and it is implemented by the regular and professional exercise of the police powers, in line with the Constitution, Law and by-laws, through the police chain of command.

The Code of Police Ethics is implemented by the police officers carrying out law enforcement duties in line with the law and international standards accepted by the Republic of Serbia, following the objectives set before the police in a democratic society and abiding by the principle of the rule of law.

In performing the police duties and during the training to carry out the police duties, i.e. enforcement of the law and other regulations, the police officers and other law enforcement officers follow ethical principles determined by the national Code, in compliance with the European Code of Police Ethics - Recommendation (2001)¹⁰ adopted by the Committee of Ministers on 19 September 2001 (the European Code).

The police officers support measures and activities taken within the Ministry to effectively implement ethical and other principles established by the Code in practice, and to that effect, to implement improvements in relation to the objectives set before the police in a democratic society, its legal nature and contribution to the rule of law, relationship with the judicial authorities, its organisation, activity and accountability, oversight of the police, scientific research concerning the police and international cooperation of the police.

The police officer shall oppose any act of corruption; he/she shall not wrongfully obtain any benefit for himself/herself or another person; he/she shall not accept gifts or involve in the activities that are incompatible with his/her official duty and may affect his/her work or undermine the reputation of the police and state.

Measures to efficiently prevent and fight against corruption are taken at all organisational levels of the police.

The police officers shall only use the means of coercion, weapons in particular, in the cases and under conditions specified by the law and other regulations, they shall not use force exceeding the necessary; and shall use force only when it is absolutely imperative to do so and up to the extent dictated by realization of a legitimately set objective. If a police officer witnessed any prohibited activity, her/she would be obliged to indicate such a case to his/her superior officer, Sector for Internal Control of the Police and external oversight authorities competent for the work of the Ministry.

The police fulfil all their duties in the procedures concerning complaints against the police, including all similar submissions that refer to the police work. Any person shall have the right to file a complaint against a law enforcement officer before the Ministry, if the person believes the officer has violated rights or freedoms by unlawful or improper action, and to initiate the complaint procedure in the Ministry (Article 180 of the Law on the Police).

Disciplinary responsibility of the police officers and other personnel of the Ministry for the violation of official duty is regulated by the Law on the Police Article 155 to 166, and the disciplinary procedure is prescribed by the Regulation on Disciplinary Responsibility in the Ministry of the Interior (*Official Gazette of the Republic of Serbia* No 8/2006 of 27 January 2006).

117. What is done in the field of crime prevention? How is this linked to the threat assessment model and identified priorities?

The Republic of Serbia has ratified the following conventions and protocols of the United Nations with the aim of crime prevention: International Convention for the Suppression of Trafficking in Women and Children (ratification date 28 February 1929), International Agreement for Protection against Criminal Trafficking Known as the White Slaves Trade (effective as of 1929), International Convention for the Suppression of White Slave Traffic (effective as of 1929), The United Nations Charter and the Statute of the International Court of Justice (ratification date 26 August 1945), the Protocol amending the International Agreement for Protection against Criminal Trafficking Known as the White Slaves Trade and the International Convention for the Suppression of White Slave Traffic (ratification date 28 December 1950), Convention for the Suppression and Elimination of Trafficking in Human Beings and Exploitation of Others (ratification date 28 December 1950), the Protocol amending the Convention for the Suppression of Trafficking in Women and Children and the Convention on Combating Trafficking in Adult Women (ratified in 1950), Convention for the Suppression and Elimination of Trafficking in Human Beings and Exploitation, Convention on Offences and Certain Other Acts Committed on Board Aircraft (effective as of 1969), Convention for the Suppression of Unlawful Seizure of Aircraft (effective as of 1972), Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (effective as of 1973), Convention on the Prevention and Punishment of Crimes against Persons under International Protection, including Diplomatic Agents (ratification date 25 December 1976), International Convention against the Taking of Hostages (ratification date 31 October 1984), Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (ratification date 15 November 1990), Convention on the Rights of the Child

(ratification date 18 December 1990), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ratification date 20 June 1991), Amendment to Article 43 Paragraph 2 of the Convention on the Rights of the Child (ratification date 26 June 1997), International Convention for the Suppression of the Financing of Terrorism (ratification date 1 July 2002), Rome Statute of the International Criminal Court (effective as of 1 July 2002), Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (ratification date 2 July 2002), Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, with the Convention on the Rights of the Child (ratification date 3 July 2002), International Convention for the Suppression of Terrorist Bombings (effective as of 2002), United Nations Convention against Transnational Organized Crime (effective as of 29 September 2003), Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing United Nations Convention against Transnational Organized Crime (effective as of 25 December 2003), Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (effective as of 28 January 2004), Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (effective as of 2004), Convention for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Epicontinental Shelf (effective as of 2004), United Nations Convention against Corruption (ratification date 22 October 2005), Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, which supplemented the United Nations Convention against Transnational Organized Crime (ratification date 22 October 2005), Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ratification date 1 December 2005).

Conventions and Protocols of Council of Europe: Convention for the Protection of Human Rights and Fundamental Freedoms (ratified on 3 March 2004, effective as of 3 March 2004), Protocol to the Convention on the Protection of Human Rights and Fundamental Freedoms (ratified on 3 March 2004, effective as of 3 March 2004), European Convention on Extradition (ratified on 30 September 2002, effective as of 29 December 2002), European Convention on Mutual Legal Assistance in Criminal Matters (ratified on 30 September 2002, effective as of 29 December 2002), Second Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the possibility of the European Court of Human Rights to give advisory opinions (ratified on 3 March 2004, effective as of 3 March 2004), Third Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 29, 30 and 34 of the Convention (ratified on 3 March 2004, effective as of 3 March 2004), Fourth Protocol to the Convention on the Protection of Human Rights and Fundamental Freedoms, which provides certain rights and freedoms other than those contained in the Convention and the First Protocol (ratified on 3 March 2004, effective as of 3 March 2004), European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (ratified on 28 February 2001, effective as of 29 May 2001), Fifth Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 22 and 24 of the Convention (ratified on 3 March 2004, effective as of 3 March 2004), European Convention on the International Validity of Criminal Judgments (ratified on 26 April 2007, effective as of 27 July 2007), European Convention on the Transfer of Proceedings in Criminal Matters (ratified on 30

September 2002, effective as of 31 December 2002), Additional Protocol to the European Convention on Extradition (ratified on 23 June 2003, effective as of 21 September 2003), European Convention for the Suppression of Terrorism (ratified on 15 May 2003, effective as of 16 August 2003), Second Additional Protocol to the European Convention on Extradition (ratified on 23 June 2003, effective as of 21 September 2003), Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters (ratified on 23 June 2003, effective as of 21 September 2003), Convention on the Protection of Individuals with regard to Automatic Processing of Personal Data (ratified on 6 September 2005, effective as of 1 January 2006), Convention on the Transfer of Sentenced Persons (ratified on 11 April 2002, effective as of 1 August 2002), Sixth Protocol to the Convention on the Protection of Human Rights and Fundamental Freedoms concerning the abolition of death penalty (ratified on 3 March 2004, effective as of 1 April 2004), Seventh Protocol to the Convention on the Protection of Human Rights and Fundamental Freedoms (ratified on 3 March 2004, effective as of 1 June 2004), Eighth Protocol to the Convention on the Protection of Human Rights and Fundamental Freedoms (ratified on 3 March 2004, effective as of 3 March 2004), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ratified on 3 March 2004, effective as of 1 July 2004), Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ratified on 9 October 2003, effective as of 1 February 2004), First Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ratified on 3 March 2004, effective as of 1 July 2004), Second Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ratified on 3 March 2004, effective as of 1 July 2004), Eleventh Protocol to the Convention for the Protection of Human Rights and Freedoms, amending the control system established by the Convention (ratified on 3 March 2004, effective as of 3 March 2004), Additional Protocol to the Convention on the Transfer of Sentenced Persons (ratified on 30 September 2002, effective as of 1 January 2003), Criminal Law Convention on Corruption (ratified on 18 December 2002, effective as of 1 April 2003), Civil Law Convention on Corruption (ratified on 9 January 2008, effective as of 1 May 2008), Twelfth Protocol to the Convention on the Protection of Human Rights and Fundamental Freedoms (ratified on 3 March 2004, effective as of 1 April 2005), Second Additional Protocol to the European Convention on International Legal Assistance in Criminal Matters (ratified on 26 April 2007, effective as of 1 August 2007), Thirteenth Protocol to the Convention on the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty in all circumstances (ratified on 3 March 2004, effective as of 1 July 2004), Additional Protocol to the Criminal Law Convention on Corruption (ratified on 9 January 2008, effective as of 1 May 2008), Fourteenth Protocol to the Convention on Human Rights and Fundamental Freedoms, amending the control system established by the Convention (ratified on 6 September 2005, effective as of), Convention on Cyber crime (signed on 7 April 2005, ratification instruments submitted on 14 April 2009. In regard to Republic of Serbia, it is effective as of 1 August 2009), Additional Protocol to the Convention on Cyber crime (signed on 7 April 2005, ratification instruments submitted on 14 April 2009. In regard to Republic of Serbia, it is effective as of 1 August 2009), Convention on the Protection of Children from Sexual Exploitation and Sexual Abuse (National Assembly adopted the Law on Ratification on 5 May 2010).

Except for the ratified and signed international conventions and protocols in the field of prevention and fight against organized crime, the following laws are of importance: the Criminal Code (*Official Gazette of the RS*, No. 85/2005, 88/2005 - corrigendum, 107/2005 - corrigendum, 72/2009 and 111/2009), the Criminal Procedure Code (*Official Journal of the SRY*, No. 70/2001 and 68/2002 and *Official Gazette of the RS*, No. 58/2004, 85/2005, 115/2005, 85/2005 – other law, 49/2007, 20/2009 – other law, 72/2009 and 76/2010), the Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime, Corruption and Other Particularly Serious Criminal Offences (*Official Gazette of the RS*, No. 42/2002, 27/2003, 39/2003, 67/2003, 29/2004, 58/2004 – other law, 45/2005, 61/2005 and 72/2009), the Law on Enforcement of Criminal Sanctions (*Official Gazette of the RS*, No. 85/05 and 2005/05), the Law on Enforcement of Imprisonment Sentence for Criminal Acts of Organized Crime (*Official Gazette of the RS*, No. 72/2009), the Law on International Legal Assistance in Criminal Matters (*Official Gazette of the RS*, No. 20/2009), the Law on Juvenile Offenders and Criminal Protection of Juveniles (*Official Gazette of the RS*, No. 85/2005), the Act on Witness Protection Program in Criminal Proceedings (*Official Gazette of the RS*, No. 85/2005), the Law on Cooperation with the International Criminal Court (*Official Gazette of the RS*, No. 72/2009), the Law on Anti-corruption Agency (*Official Gazette of the RS*, No. 97/2008 and 53/2010), the Law on Financing of Political Parties (*Official Gazette of the RS*, No. 72/2003, 75/2003-amended 60/2009 - decision of CC and 97/2008), the Law on Seizure and Confiscation of Proceeds from Crime (*Official Gazette of the RS*, No. 97/2008), the Law on the Liability of Legal Persons for Criminal Acts (*Official Gazette of the RS*, No. 97/2008).

the Law on Public Prosecution (*Official Gazette of the RS*, No. 116/2008. and 104/2009, the Law on Organisation of Courts (*Official Gazette of the RS*, No. 116/2008 and 104/2009), the Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime, Corruption and Other Particularly Serious Criminal Offences (*Official Gazette of the RS*, No. 42/2002, 27/2003, 39/2003, 67/2003, 29/2004, 58/2004 – other law, 45/2005, 61/2005 and 72/2009), as well as the Law on Organisation and Competencies of State Authorities in Combating Cyber Crime (*Official Gazette of the RS*, No. 61/2005 and 104/2009) provides for establishment of Prosecutor's Office for Organized Crime as a separate prosecutor's office that will deal with the fight against all forms of organized crime, within High Prosecutor's Office in Belgrade a separate Department for Combating Cyber Crime was formed, and regarding courts, at the High Court in Belgrade, in accordance with the law, a Special Department for Combating Organized Crime, Corruption and Other Particularly Serious Criminal Offences was formed, as well as a Special Department for Combating Cyber Crime, within the same court. We would like to point out that the assigned judges and prosecutors in cases involving juveniles as criminal offenders, in accordance with the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles, must complete training organized by the Judicial Academy, in order to receive the appropriate certificate that permits assigning on such cases. Besides this, the Judicial Academy provides the initial and permanent training of judges and prosecutors in the field of criminal law, with special attention paid to criminal acts of organized crime and corruption. Apart from the abovementioned authorities and departments, Republic Prosecutor's Office, according to the Rulebook on Organization and Internal Job Classification, includes the Department for Combating Corruption, which is in accordance with the National Strategy of the Republic of

Serbia for combating corruption and along with established Departments for Combating Corruption at all Appellate Public Prosecutor's Offices in the Republic of Serbia and Departments or specially assigned Deputy Public Prosecutors at High Prosecutor's Offices for Combating Corruption, participate in processing of this type of criminal acts on the basis of legal authority.

Volume and status of criminality is reviewed on the basis of statistical and other types of data on criminal acts, structure, methods and location of perpetration, perpetrators of criminal acts and consequences in certain period, intelligence and other data collected by police officers and data received through cooperation with other public authorities, and as part of international cooperation.

Also, harmonization of national legislation with international legal documents and by producing strategic documents, such as the National Strategy for Combating Organized Crime and a corresponding Action Plan, make up the basis for efficient prevention of crime. Part of this prevention is elaborated in the Sector Action Plan of the Ministry of Interior for implementation of the National Strategy, that provides for inclusion of civilian sector in combating organized crime, raising social awareness on organized crime and trainings on organized crime for the government and private sector and civil society. In addition to this a very active participation of scientific and academic institutions in the research and study of causality between society and organized crime is envisaged. Already processed statistical data in combination with other manually processed data represent the basis for operational, tactical and strategic planning and determination of direction of future activities of the police in the area of combating organized criminal groups.

Practice of assessing the threats imposed by organized crime is not yet regularly established in the Ministry of Interior, at this moment activities are underway to adopt basic standards and mechanisms of reporting on assessed threats imposed by organized crime, according to OCTA procedure. This segment is also developed in the Sectoral Action Plan for the implementation of the National Strategy for Combating Organized Crime.

Regarding the implementation of preventive actions and programmes aimed to protect children and juveniles (school population), the Ministry of Interior, in cooperation with other Ministries, and Ministry of Education in particular, is realizing: "Central action of increased traffic control of selective type – School", "Action of increased control of prohibition of sale and serving alcoholic drinks to juveniles", "Preventive activities aimed at school pupils and youth", Action "Drug is zero - life is one", Programmes "School policeman" and "School without violence."

Basic goal of preventive actions is developing culture of safety in children and juveniles, their parents, teachers and those who play a significant role in and are in charge of solving the youth related problems.

**118. Which cooperation exists with international police cooperation bodies?
How is this cooperation organised?**

International Criminal Police Organisation INTERPOL (ICPO)

The Republic of Serbia is a member of the International Criminal Police Organisation INTERPOL; and it fulfils its international commitments, arising from its international legal personality and OUN membership, which resulted in formal and legal basis for the INTERPOL membership, through the Existence and activity of Belgrade National Central Bureau of INTERPOL, i.e. Division for International Police Cooperation - Criminal Police Directorate.

The European Police Office – EUROPOL

The Agreement on Strategic Cooperation between the Republic of Serbia and the European Police Office (EUROPOL) was signed on 18 September 2008 in Belgrade, and it came to force on 16 June 2009. The following documents were also signed on 28 May 2010 in The Hague:

Memorandum on Understanding and Establishing a Safe Communication Line between RS and EUROPOL,

Bilateral Agreement between the Republic of Serbia and EUROPOL on Interconnection of Computer Networks,

Roadmap on Fulfilling the Conditions for Conclusion of the Cooperation Agreement.

SECI Centre

The Federal Republic of Yugoslavia joined the SECI Centre in 2002. As of 2006, the Republic of Serbia has continued membership in the Centre, as the successor state to the State Union of Serbia and Montenegro.

Activities of the Centre reflect in day-to-day exchange of information important for the work of the national law-enforcement services via established secured communication link that connects all liaison officers and national focal points, in coordinating and supporting execution of joint operations of the member countries, preparation of the analytical reports concerning the state of various crime fields in the region, through organisation of training activities for the officers of the police, customs and prosecutors of the members countries, and in other activities aimed at promotion of the entire region and its member states.

A number of activities are implemented through the work of the permanent task forces. The task forces have been established according to the type of crime they address: There are eight task forces:

1. Trafficking in human beings and people smuggling
2. Drugs trafficking
3. Counterfeiting of money and securities and computer crime
4. Stolen vehicles,
5. Smuggling and customs frauds,
6. Terrorism
7. Container security,
8. Environmental protection (established in 2009)

In each member country there is a national focal point for cooperation with the SECI Centre, connected to the SECI Centre by secured communication link. In Serbia, the

function of national focal point is performed by the International Police Cooperation Division – NCB Interpol Belgrade.

The Ministry of the Interior has had the liaison officer appointed to the SECI Centre Headquarters for a long time. The Ministry of Finance - Customs Administration also has an appointed liaison officer in the SECI Centre.

European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union - FRONTEX

Working arrangement on establishment of cooperation between the Ministry of the Interior of the Republic of Serbia and the European Agency for Management of EU External Borders (FRONTEX) was signed in February 2009. Organisational unit of the Ministry of the Interior of the Republic of Serbia, which directly cooperates with this Agency, is the Border Police Directorate.

The Migration, Asylum, Refugees Regional Initiative - MARRI

The Republic of Serbia has been a member of this Initiative since 2006, as the successor state to the State Union of Serbia and Montenegro. The Republic of Serbia will take the annual Chair of this Initiative in April 2011.

Representatives of the Ministry of the Interior are actively involved in working bodies of this Initiative, projects and established cooperation networks that aim to improve cooperation between the member countries in accordance with the best European practice.

Southeast European Police Chiefs Association – SEPCA

Cooperation with the Southeast European Police Chiefs Association - SEPCA was established in 2007, by signing the SEPCA Articles of Association. Main goals of this Association are: long-standing development and integrated implementation of democratic principles in performing police activities in the region, cooperation in implementation of the regional strategies, systems and procedures, professional development of the police, implementation of preventive measures and fight against organised trans-border crime, development of partnerships between the police and local communities, and implementation of the concepts, practice and strategy of the community policing.

Representatives of MOI of the Republic of Serbia actively participate in the projects, trainings and work of established networks of cooperation within SEPCA.

Regional Cooperation Council - RCC

Regional Cooperation Council was established at the Belgrade meeting on 30 May 2006. It emerged from the former Stability Pact for South Eastern Europe –SP SEE), which was official confirmed during the Sarajevo Summit, on 30 July 1999. The Federal Republic of Yugoslavia was accepted into membership on 26 October 2000. The Republic of Serbia, as the successor state, has been a member of the Regional

Cooperation Council since 2006. The Regional Cooperation Council is principally dedicated to the cooperation in the following areas: economic and social development, infrastructure and energy, justice and home affairs, cooperation in the security field and human capacity building. Cooperation within the Regional Cooperation Council is implemented through organisation of expert meetings, conferences and workshops.

Geneva Centre for Democratic Control of Armed Forces (DCAF)

In the West Balkan Region, DCAF developed the assistance program for regional countries committed to creation of reliable and efficient system of border security, under the name of "Lessons Learned from the Establishment of Border Security Systems", with the goal of faster development and achievement of the European standards in this field, as a pre-condition for the European integration of the regional countries.

The Ministry of the Interior cooperates very intensively with the Geneva Centre for Democratic Control of Armed Forces, in particular through active participation at the meetings and workshops held within the scope of the Border Security Programs, which are implemented within the Annual Activity Programs.

The Protocol between the Ministry of the Interior of the Republic of Serbia and the Geneva Centre for Democratic Control of Armed Forces (DCAF), on appointing the liaison officers to DCAF head office in Ljubljana to work in the Secretariat of the Police Cooperation Convention for Southeast Europe, was signed in 2009.

OSCE Mission in the Republic of Serbia

The first Memorandum on Understanding between the Ministry of the Interior of the Republic of Serbia and the OSCE Mission to Serbia was signed in 2004, and since then, the MOI of RS has had a continuing cooperation with this international organisation.

Memorandum on Understanding between the Ministry of the Interior of the Republic of Serbia and the OSCE Mission to Serbia was signed on 7 September 2009. The Memorandum determines priority areas of cooperation between MOI of RS and OSCE Mission:

- Community policing
- Accountability of the police work
- Organised crime
- Specialized training
- Public relations and communication

United Nations Office on Drugs and Crime (UNODC)

To the aim of successful and high-quality reporting on implementation referring to the ratified UN conventions, the Ministry of the Interior has appointed the contact points for monitoring of the conventions on organised crime and corruption in the Ministry,

together with the appointment of the list of experts to participate at the expert meetings and consultations with UN representatives.

Office of the United Nations Development Program (UNDP)

Together with other law enforcement institutions of the Government of the Republic of Serbia, the Ministry of the Interior has an active role in fulfilling its international commitments. In this regard, the Ministry of the Interior involves in the UN Pilot Project for monitoring of implementation of the UN Convention against Transnational Organized Crime and its implementation Protocols (Palermo Convention - UNTOC), project on achieving global standards in combating terrorism and project on combating corruption in line with the UN Convention against Corruption (UNCAC).

Office of the United Nations Development Program supports the work of the Sector for Emergency Situations of the Ministry of the Interior through two projects:

Regional Disaster Risk Reduction Project

Strengthening of the Disaster Risk Reduction System and Faster Recovery in Serbia.

International Organisation for Migration (IOM)

The Ministry of the Interior maintains considerable cooperation with the Mission of International Organisation for Migration in the scope of joint fight against illegal migrations. Activities of the International Organisation for Migration aim at solving practical issues of the migration policy, providing humanitarian assistance to migrants and achieving international cooperation in the field of migrations.

Together with the International Organisation for Migration, the Ministry of the Interior actively participates in realization of trainings, seminars and projects in order to stamp out illegal migration and to attempt to bring them into legal flows.

South-East European Cooperation Process – SEECP

South-East European Cooperation Process (SEECP) constitutes a forum for political and diplomatic dialogue of the member countries for the purpose of cooperation in the interests of future regional development, establishment of joint positions and exchange of experience. The Federal Republic of Yugoslavia involved in the activities of SEECP in full capacity on the Skopje Summit held in October 2000. The Republic of Serbia, as the successor country of the State Union of Serbia and Montenegro, has been a member of SEECP since 2006. Political framework of this process of cooperation involves issues of security and stability, development of cooperation in the field of economy and environmental protection, promotion of humanitarian, social and cultural cooperation, and cooperation in the field of justice, combating organised crime, terrorism, drugs trade, arms and human trafficking.

Police Cooperation Convention for Southeast Europe – PCC SEE

Police Cooperation Convention for Southeast Europe - PCC SEE was signed on May 5 2006 in Vienna. National Assembly of the Republic of Serbia adopted the Law

Ratifying the Police Cooperation Convention for Southeast Europe on 17 July 2007 (*Official Gazette of RS - International Treaties* No 70 from 25 July 2007).

Pursuant to the provisions of the Convention and the Implementation Agreements concerning the Convention, it is anticipated that member countries should meet at least once a year on the ministerial level (Committee of Ministers), in order to discuss the achieved results in implementation of the provisions of this Convention.

The Republic of Serbia actively participates in realization of the Implementation Programme and in the Working Groups of the Convention (expert working group, integrated border management working group, police education and Convention related education working group, working group for exchange of information on forged and false travel documents within the Convention), work of the Convention Secretariat via our liaison officer in Slovenia, acting as the member of Convention Secretariat.

Disaster Preparedness and Prevention Initiative for South Eastern Europe – DPPI SEE

Main goal of the Disaster Preparedness and Prevention Initiative for South Eastern Europe is to contribute to the institutional capacity building that deals with disaster management, in order to boost the prevention and preparedness for disasters both in the country and the region.

The Sector for Emergency Situations of the Ministry of the Interior of the Republic of Serbia has been actively participating in the activity of this Initiative since 2002.

In 2009, the Republic of Serbia signed the Memorandum on Understanding about the institutional framework of the Disaster Preparedness and Prevention Initiative for South Eastern Europe, which was ratified in the National Assembly of the Republic of Serbia on 26 May 2010 (*Official Gazette of RS*, No 5/2010).

Adriatic Ionian Initiative – AII

The Adriatic Ionian Initiative was founded at the Foreign Affairs Ministers Convention on Security and Development of the Adriatic and Ionian Sea in Ancona on 20 May 2000.

The cooperation within this Initiative develops through the work of Round Tables concerning various fields, among which the Round Table for Combating All Forms of Organised Crime. The Republic of Serbia will take the chair of this Initiative in 2011.

119. Which international instruments regarding police are adhered to and implemented (Council of Europe, UN, Interpol Convention etc.)?

In the scope of the activities from its competence, the Ministry implemented the following conventions:

1. The Convention on the Civil Aspects of International Child Abduction (*Official Journal of SFRY - International Treaties*, No 7/91)
2. Optional Protocol to the Convention on the Rights of Child on the Sale of Children, Child Prostitution and Child Pornography (*Official Journal of FRY, - International Treaties* No 7/2002)
3. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation Done at Montreal on 23 November 1972 (*Official Journal of FRY- International Treaties*, No 7/2002)
4. Convention for the Suppression of Unlawful Seizure of Aircraft (*Official Journal of SFRY*, No 33/72)
5. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (*Official Journal of SFRY*, No 33/72)
6. United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotic Substances *Official Journal of SFRY - International Treaties*, No 14/90)
7. Single Convention on Narcotic Drugs, 1961 (*Official Journal of SFRY*, No 2/64)
8. Protocol Amending the Single Convention on Narcotic Drugs from 1961 (*Official Journal of SFRY – International Treaties*, No 3/78)
9. Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs (and Protocol Bringing under International Control Drugs Outside the Scope of the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 13 July 1931, as amended by the Protocol signed at Lake Success on 11 December 1946, adopted in Paris on 19 November 1948) (*Official Journal of FPRY* No 41/49)
10. Protocol relating to a Certain Case of Statelessness (*Official Journal of FPRY - International Treaties*, No 7/60)
11. Optional Protocol Concerning Acquisition of Nationality (*Official Journal of FPRY - Supplement* No 2/64)
12. Convention relating to the Status of Stateless Persons, and Final Act of the UN Convention (*Official Journal of FPRY – International Treaties*, No 9/59)
13. European Convention on the International Validity of Criminal Judgements, with Appendixes (*Official Journal of FRY – International Treaties*, No 13/2002, *Official Journal of Serbia and Montenegro – International Treaties*, No 18/2005, 2/2006)
14. European Convention on Extradition, with additional protocols (*Official Journal of FRY* No 10/2001)
15. United Nations Convention against Transnational Organized Crime and its additional protocols (*Official Journal of FRY*, No 6/2001)
16. Optional Protocol to the Convention on the Rights of Child on the Sale of Children, Child Prostitution and Child Pornography (*Official Journal of FRY – International Treaties*, No 7/2002)
17. Protocol Amending the Single Convention on Narcotic Drugs from 1961, (*Official Journal of the SFRY – International Treaties*, No 3/78)
18. International Convention for the Suppression of the Financing of Terrorism (*Official Journal of the FRY – International Treaties*, No 7/2002)

19. Criminal Law Convention on Corruption ("Official Journal of the FRY – International Treaties", No 12/2002. *Official Journal of Serbia and Montenegro – International Treaties*, No 18/2005)
20. Convention on the Prevention and Punishment of the Crime of Genocide (*Official Gazette of the Presidium of National Assembly of FPRY*, No 2/50)
21. Convention on Psychotropic Substances (*Official Journal of SFRY*, No 40/73)
22. European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by the Protocol No 11, Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, Protocol No 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the First Protocol thereto, Protocol No 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of death penalty, Protocol No 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Protocol No 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms and Protocol No 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances (*Official Journal of Serbia and Montenegro - International Treaties* No 9/2003 and 5/2005)
23. Charter on Human and Minority Rights and Civil Liberties (*Official Journal of Serbia and Montenegro* No 6/2003)
24. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (*Official Journal of FPRY* No 2/51)
25. Protocol to amend the Convention for the Suppression of the Traffic in Women and Children and Convention for the Suppression of the Traffic in Women of Full Age (*Official Journal of FPRY* No 41/50)
26. Convention on the Law Applicable to Traffic Accidents (*Official Journal of SFRY – Supplement – International Treaties*, No 26/76)
27. Convention relating to the Status of Refugees, with the Final Act (*Official Journal of FPRY-International Treaties* No 7/60)
28. Protocol relating to the Status of Refugees (*Official Journal of SFRY-Supplement* No 15/67)
29. European Agreement on Travel Documents (*Official Journal of FPRY-International Treaties* No 8/59)
30. Convention relating to the Status of Stateless Persons – with Appendixes and the Final Act of the United Nations Conference on Legal Status of Stateless Persons (*Official Journal of FPRY* No 9/59)
31. Optional Protocol concerning Acquisition of Nationality (*Official Journal of SFRY-Supplement* No 2/64)
32. Convention on the Issue of Multilingual Extracts from Civil Status Records (*Official Journal of FPRY-International Treaties* No 8/91)
33. European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches ("Official Journal of FPRY-International Treaties" No 9/90)
34. United Nations Convention against Corruption ("Official Journal of Serbia and Montenegro - International Treaties" No 12/2005)

35. Criminal Law Convention on Corruption (*“Official Journal of FRY – International Treaties”* No 12/2002, *“Official Journal of Serbia and Montenegro – International Treaties”* No 18/2005)
36. Additional Protocol to the Criminal Law Convention on Corruption (*Official Gazette of RS*, No 102/07)
37. Civil Law Convention on Corruption (*Official Gazette of RS*, No 102/07)
38. Convention on Offences and Certain Other Acts Committed on Board Aircraft (*“Official Journal of SFRY”* No 47/70)
39. European Convention on Mutual Assistance in Criminal Matters with Additional Protocol (*“Official Journal of FRY—International Treaties”* No 10/2001)
40. European Convention on the Suppression of Terrorism (*“Official Journal of FRY – International Treaties”* No 10/2001)
41. International Convention for the Suppression of Acts on Nuclear Terrorism (*“Official Journal of Serbia and Montenegro – International Treaties”* No 2/2006)
42. Protocol amending the European Convention on the Suppression of Terrorism (*Official Gazette of RS – International Treaties*, No 19/2009)
43. International conventions for the suppression of the financing of terrorism (*“Official Journal of FRY – International Treaties”* No 7/2002)
44. Council of Europe conventions on prevention of terrorism (*Official Gazette of RS - International Treaties* No 19/2009)
45. Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (*Official Gazette of RS – International Treaties*, No 20/2009)
46. European Convention on the Suppression of Terrorism (*Official Journal of FRY – International Treaties* No 10/2001)
47. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*Official Journal of SFRY– International Treaties*, No 9/91)
48. Council of Europe Convention on Action against Trafficking in Human Beings (*Official Gazette of RS – International Treaties*, No 19/2009)
49. United Nations Convention against Corruption (*Official Journal of Serbia and Montenegro – International Treaties*, No 12/2005)
50. Protocol against the Illicit Fabrication and Trade of Fire Arms, its Parts, Components and Ammunition that complements the United Nations Convention against Trans-National Organized Crime (*Official Journal of Serbia and Montenegro - International Treaties*, No 11/2005)
51. United Nations Convention on the Rights of Child (*Official Journal of the SFRY – International Treaties*, No 15/90, *Official Journal of the FRY – International Treaties*, No 4/96, 2/97)
52. Convention for the Protection of Architectural Treasures of Europe (*Official Journal of SFR – International Treaties*, No 4/91)
53. Convention for the Protection of Architectural Heritage of Europe (*Official Journal of the SFRY International Treaties*, No 9/90)
54. Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (*Official Journal of FRY – International Treaties*, No 1/92, *Official Journal of Serbia and Montenegro - International Treaties*, No 11/2005, *Official Gazette of RS – International Treaties*, No 98/2008)

The Republic of Serbia is a signatory country of all the UN and Council of Europe conventions, which represent the international instruments for combating crime, implemented in the national legislation by amending the existing laws or passing national laws that regulate the same subject-matter contained in the convention as a separate law. All conventions or treaties that are the legal basis for membership of our country in the above stated international organisations are also implemented. The International Police Cooperation Division of the Criminal Police Directorate of the Ministry of the Interior acts according to these international instruments on a daily basis, considering the fact that these international instruments constitute a part of the legal system, which have been implemented by adopting laws or by ratification of the international (bilateral, trilateral or multilateral) treaties.

120. What is the current state of play in relation to Europol? What is your capacity to participate in Europol? What are the future plans? What actions have been taken to take necessary steps to prepare for the conclusion of an operational cooperation agreement with Europol?

Cooperation with EUROPOL currently takes place on the basis of the Agreement on Strategic Cooperation with EUROPOL, signed on 18 September 2008 in Belgrade, ratified by the National Assembly of the Republic of Serbia on 13 May 2009 and came to force on 16 June 2009.

Via the National Contact Point for cooperation with EUROPOL (situated in the CPA of the MOI of the RS), the Republic of Serbia and EUROPOL exchange strategic and technical information which include new methods in committing criminal offences, trends and development of these methods, smuggling routes or persons involved in criminal offences, forensic police methods and investigative procedures, methods for training of officers, criminal-intelligence and analytical methods etc.

In addition, the following documents were signed on 28 May 2010 in EUROPOL Headquarters in The Hague:

- 1) Memorandum on Understanding and establishing a safe communication line between the Republic of Serbia and EUROPOL;
- 2) Bilateral Agreement between the Republic of Serbia and EUROPOL on Interconnection of Computer Networks;
- 3) Roadmap for fulfilling the conditions set in order to conclude the Operational Cooperation Agreement, containing two parts: positive sides of our National Contact Point for cooperation with EUROPOL and chart presentation of the future steps that lead to conclusion of the operational cooperation agreement.

Soon after signing of the Memorandum of Understanding and establishing a safe communication line between the Republic of Serbia and EUROPOL, the secure communication line between the Republic of Serbia and EUROPOL has been established. All the activities specified in the Roadmap have so far been realised according to the agreed dynamics. EUROPOL has forwarded the Questionnaire on personal data protection, to which the MOI of the Republic of Serbia gave the replies, together with the summary of national legislation related to the field of personal data protection.

The Republic of Serbia has also prepared an internal Action Plan defining the obligations and terms set before the MOI and other competent state institutions to the aim of fulfilling the conditions specified in the Roadmap, and it is ready to take

further necessary activities aimed at reaching the final decision-opinion of the European Union Council of Ministers, since the Republic of Serbia is firmly in favour of strengthening further cooperation with the EU agencies in the field of home affairs, especially in the operational field.

Further plans are related to the commencement of negotiations on the conclusion of the Operational Cooperation Agreement, in view of the full willingness of the Republic of Serbia, i.e. its competent authorities, to comply with the conditions specified in the Roadmap, but having regard to the mutual importance that the conclusion of this Agreement would have, considering that the Operational Cooperation Agreement would enable exchange of the operational information (classified information which is classified by secrecy i.e. confidentiality levels), in addition to the above mentioned exchange of the strategic and technical information carried out so far on the basis of the Strategic Cooperation Agreement, which would eventually contribute to more efficient fight against organized crime, both in the West Balkan Region and the rest of Europe.

121. What information tools exist and are used (databases (owner, content, access); data registers, on-line sources etc.)? Describe how police officers access these tools. What are the regimes in place for ensuring data quality within the databases and systems?

Joint Information System which was developed 30 years ago, primarily on the BULL mainframe computer, now operates in the MOI of the Republic of Serbia. Today we use Bull DPS9000 servers, production (2002) and back-up (1999) with matching disc case and peripherals (tape drive, consoles and communication servers which are part of the system configuration). GCOS operating system is in use, with TP8 transaction system over IDS-II network database, and the application software was developed by using program tools COBOL74 and COBOL85. Around 20 log files are located on this platform, covering the fields of criminal-operations and a few back-up files. New, more up-to-date platform is based on UNIX operating systems and ORACLE relational database. Platform includes the following UNIX servers (Sun - SunFire, HP ProLiant and Compaq, IPM - p system). Application software for these program systems was developed by using program tools Java J2EE, Oracle Forms and Reports. They contain production applications from the area of administrative operations concerning citizens and foreigners (identity documents, nationality, residence permits etc.). There are several hundreds of Intel servers on Windows 2000/2003 platform in the system, with MS SQL and Access databases. Application server for these program systems was developed by using Visual Basic, NET C# program tools, making them a support platform incorporated in the joint information system of the Ministry of the Interior, which supports the activities of the Ministry itself (human resources records, calculation of salaries, inventory management and financial operations).

Organisational unit responsible for record keeping edits and deletes data from the files.

Application of methodology of collecting, filing, processing and use of data via information technology, the manuals for work in the JIS program systems and the quality (accuracy, update and integrity) of filed data fall under responsibility of the heads of organisational units in charge of data record filing.

The head of organisational unit in charge of record keeping provides filing of data in cases of IS inaccessibility and data filing in the program system-application after reestablishment of a normal operating regime.

Access to the information system is available according to the user right of access. Competent IT expert service assigns and revokes the access rights, on the basis of a written request submitted by the immediate superior of the officer who the rights will be assigned to. By his/her signature on the request to assign the access rights, immediate superior confirms that the officer is trained to apply those rights and that he/she is familiar with this instruction.

The request to assign right of access to the user contains the following information:

- First and last name
- Personal identity number (PIN);
- List of program systems the access rights are assigned to;
- Operations the user will perform at the program system level (for instance: search, data entry, existing data editing etc.)
-

Immediate superior submits new request to assign the rights of access each time the user changes position.

The user logs on to the computer by user name and password or by the official ID card.

Upon receiving the assigned user name, the user must change his/her password, memorize the new one, change it from time to time, and must not give his/her password to another person.

The user is held responsible for everything done by using his/her user name and password. After completing the work, the user must sign out.

Databases

Criminal and Operational Records

CRIMINAL OFFENCES AND PERPETRATORS

To the aim of efficient protection, tracking and using data on criminal offences and perpetrators, a single criminal record on criminal offences and perpetrators has been formed and kept within the JIS of MOI of the Republic of Serbia, containing the following:.

- Criminal offences
- Injured parties (natural and legal persons)
- Criminal offence modus operandi (specific data on committed offence)
- Perpetrators of criminal offences
- Police activities
- Course of pre-trial investigation
- Requests of the public prosecution service
- Criminal Records Number

SEARCH AND INVESTIGATIVE ACTIVITY

Information on search warrants issued by national and foreign courts, persons under investigation, missing persons and unidentified bodies. Contains main information on

person's identity, who and when issued a search warrant, and measures required to be taken when the person is found.

CRIMINAL INVESTIGATION TECHNIQUE

Broadly speaking, the criminal investigation technique unfolds within the following general activities: Investigation at the scene of crime, criminal technique activities, trace examination, protecting and securing the crime scene, and identification of persons and bodies. The police station will file an event as a criminal offence, minor offence or an incident following the investigation at the scene, criminal investigation or examination of trace evidence.

The file will contain information on:

- Investigations
- Criminal technique activities related to investigation of the scene, or the activities carried out upon demand with no previous investigation, to the aim of detection of criminal offences and perpetrators (for instance the police polygraph test, drawing up of photo documentation, search etc.))
- Examination of trace evidence found during the investigation or upon demand if no investigation was carried out
- Biometric data on persons with prior criminal record or operational contact with the police – persons subjected to establishment of identity; fingerprinted persons; face photos and DNA analysis (DNA profiles database, AFIS – Automated Fingerprint Identification System and FIS – photo database of criminal offenders).

INTERPOL Databases

In the Criminal Police Directorate – International Cooperation Division, the police have an on-line access to ASF database of the INTERPOL General Secretariat via INTERPOL secured communication system I-24/7, established computer communication with SECI Centre, access to national database – JIS MOI of Serbia and Intranet of the MOI of Serbia; and there is also an internal database which enables entering of new data acquired in exchange with national and foreign competent authorities, which can be classified into new or already formed files based on the comparison with the existing data. The Division also avails with an archive containing approximately half a million files. The quality of data is based on INTERPOL standards. The archive referred to above is manual, though great efforts are being invested to the effect of providing electronic archive. All officers in the Division have the status of authorised police officers and are therefore responsible for the work with data contained in mentioned databases. A part of the source databases is also available to other users in the MOI, while the remaining part is not. The Manual on the Use of System is adopted and obligatory for all system users. The system is also protected by the sub-system of access passwords and specification of identity of the persons using the system. The information systems are: secured information system of INTERPOL, national information system of the MOI of Serbia, NCB Belgrade database, internal Intranet connection of the MOI of Serbia, public internet connection, secured internet and fax connection with SECI Centre.

COA Database

Database of the criminal and operational analytics (COA) is the “ownership” of the CPA of the MOI, containing all types of operational documents structurally processed: information, official records, controls, actions, treatments and subjects of investigation on the national and regional level. The access to data is only given to the personnel of Operational Analytics Division and it is provided in several ways:

- By user passwords,
- Via various levels of task performing, i.e. user role
- The case-level protection, when only the officers in charge of a case have the right to access data.

Assessment of information and sources in COA database is based on 4x4 standards. The basis of COA database consists of information about the person, firm, group and relations between the mentioned entities. In addition to the main identification data, the person entity includes 27 more details. In addition to the main identification data, the firm entity includes 14 more details. In addition to the main identification data, the group entity includes 9 more details.

Sub-System: MISSING VEHICLES

Information on the missing motor vehicles and plates.

Database on Public Order

- **Persons checked for identity** – data on persons checked for identity, time, place and circumstances of identity check.
- **Violations of public order** – data on violations and violators of public order.

The Analytics Directorate is responsible for:

- **Criminal records** – data on final convictions, penalties and persons convicted, delivered by the national and foreign courts.

Database related to foreigners

Sub-system: REGISTRATION OF PARTICULAR FOREIGNERS –REGISTRATION OF PARTICULAR YUGOSLAV CITIZENS (RPF-RPYC) – DATA ON PARTICULAR FOREIGN AND DOMESTIC CITIZENS

In order to monitor more efficiently the movement of those foreigners and nationals that provoked some form of police action, the police keep records and use data on such persons:

- Nationals of Serbia and foreigners subjected to the operational police measures.
- Nationals of Serbia against whom criminal proceedings were initiated for criminal offences prosecuted ex officio, provided that the decision on detention has been issued by the competent authority and that his / her presence cannot be secured in any other way.
- Foreign nationals against whom criminal proceedings have been initiated, provided that the decision on detention has been issued by the competent authority and that his / her presence cannot be secured in any other way .

- Foreign nationals under prohibition of entry or refusal of stay in line with the court ruling or decision
- Foreign nationals against whom an international arrest warrant has been issued, and it can be reasonably assumed that such persons will arrive to Serbia.

Sub-system: REGISTRATION OF FOREIGNERS' STAY

In order to monitor the movement of foreigners more efficiently, and to identify and monitor the arrivals of the persons of interest, the MOI of the Republic of Serbia collects, keeps record and uses data on foreigners' stay, creating a joint database on registration of foreigners; stay and business visits about:

- Foreigners who notified their stay with legal or natural persons
- Foreigners who were in the country on a business visa
- Foreigners of the particular interest for the authorised officer
- Foreigners involved in the police action that has been initiated
- Foreign members of parties, organisations or groups

Record on registration of foreigners' stay is kept separately with respect to all persons staying on the territory of the Republic of Serbia under no obligation to request approval.

Record of business visits is kept with respect to all foreigners in business visit to an undertaking, on any basis whatsoever and under no obligation to request approval.

Records of the foreign persons of interest (information), actions and foreign members of parties, organisations or groups form integral part of the automated records.

Sub-system: PARTICULAR CATEGORIES OF FOREIGNERS

For the purpose of more efficient and effective monitoring of movement and stay of the particular categories of foreigners, and identification of foreign persons of interest, the MOI of the Republic of Serbia collects, keeps records and uses data based on the documents which are, in line with the existing regulations on movement and stay of foreigners, provided in terms of the foreigners with the following status:

- Approved permanent stay
- Recognized right to asylum
- Approved refugee status
- Approved temporary stay
- Against whom police measures have been taken

Database on Traffic Safety

- Records on traffic accidents (and persons involved)
- Records on traffic violations (and persons against whom charge sheets have been submitted and penalties imposed)

Database on Registered Vehicles

All motor and attached vehicles must be registered. Records are kept on registered vehicles. Only those motor and attached vehicles which pass the compulsory

technical check as serviceable can be registered. Compulsory insurance of the vehicle is necessary before it is registered. Vehicle registration book and license plates are issued for the registered vehicle.

Application contains the following data:

- Identification data on the vehicle in question;
- Vehicle specifications and technical data;
- Technical check of the vehicle
- Vehicle's owner;
- Insurance information;
- On administrative procedure.

Database on Issued Identity Documents

Records on issued identity documents and records on non-valid identity documents are formed in the process of issuing personal identity documents, ID cards and passports, containing all personal information on the visible part of the document and in microchips inserted into documents. Personnel can access the records of identity documents on the basis of defined procedures and operating processes related to verification of the identity documents and establishment of identity.

Weapons Database (mission weapons including)

- Records on missing weapons are kept concurrently in the automated records "Missing Weapons" – in the JIS of the MOI of the Republic of Serbia and in manually kept records (such as the card registers) . Only the personnel working in the record's department can enter data on missing weapons, based on the criminal charges and forwarded dispatches, and only they can access the data. The records in question contain data on the types, calibres and serial numbers of the missing weapons.
- Records on weapons are kept in electronic form, in accordance with the Law on Arms and Ammunition, and contain the following data:
 - Records on submitted applications to purchase arms and ammunitions;
 - Records on registered weapons;
 - Records on weapons confiscated and surrendered;
 - Records on licences to carry weapons.

Human Resources Database

- Records on the law enforcement personnel, classified jobs within the Ministry, education of the police officers, their status, length of service etc.
- Records on salaries of the police officers, inventory and financial operations.

All databases are in the "ownership" of the organisational units which enter and update data and database nomenclatures. They are accountable for the accuracy and updating of entries and changes in databases in question, while the Information Technology Directorate in the Department of Analytics, Telecommunication and

Information Technologies is in charge of technical maintenance and proper functioning of databases.

122. What information equipment is used (fax, phone, radio communication, beepers, pagers, data networks, etc.)?

Telecommunication Network for Transfer

Telecommunication junction boxes are located in all regional police directorates (27), linked to the main junction box in the Headquarters of the Ministry of the Interior. All other organisational units of the Ministry of the Interior are linked through their affiliated police directorates. Networks are generally of the star-shape structure, with a few of the ring-shape structure. Communication junctions are linked by digital circuits $n \times 2 \text{ Mb/s}$ ($n=1,2,3\dots$), depending on the scope of the activity carried out in an organisational unit of the Ministry of the Interior. Telecommunication network of the Ministry of the Interior enables transfer of both analogue and digital signals. The major part of telecommunication network of the Ministry relies on the outsourcing by “Telekom Srbija”, with a part of the links in the system provided via radio-relay links. A dispatch system for secured (encrypted) transfer of documents is also in use.

Phone System of the MOI

The phone system of the MOI consists of a network of special and in-house telephone centrals. Special telephone network is of closed type and consists of 28 phone centrals installed in all larger organisational units of the MOI, with approximately 4000 connections. The centrals are of Alcatel 4400, GTD120 and GTD1000 type. In-house phone network consists of over 30 phone centrals of a smaller or larger capacity, mainly the centrals Alcatel 4400, Panasonic KX-TDA100 and KX-TDA200.

Installation of the IP telephony (VOIP) and IP video telephony (VVOIP) started in 2010, through secured network of the MOI (Intranet). Around 30 IP video phones have been installed (30 more IP phone are expected to be installed by mid 2011, via IPA 2008 project). By using new technologies and IP telephony, a video link between the Ministry of the Interior of the Republic of Serbia and the Republic of Croatia has been set up, and depending on the needs, the same type of link will be set up with the other neighbouring and European countries.

Radio Connection

Though the analogue systems are still in use (both in UHF and VHF range), the activities are underway to create conditions for the entire radio communication to carry out via digital radio system according to TETRA standard. TETRA system which has been set up (Motorola Dimetra IP ver.6.2) is completely in function (including data transfer through the system), consists of two commutation centres, and at this moment it has 65 installed base stations and over 6000 users. According to the financial capabilities, expansion will take place until full coverage of the Serbian territory. At the moment, territory of the Republic is still not fully covered by TETRA signal, only the headquarter areas of the police directorates, major part of main roads and part of the border (almost completely towards Hungary, Romania and

Croatia) Taking into account that by the end of July 2011 the project IPA07 should be realized, we expect the TETRA signal to cover all areas/regions of the Republic of Serbia, which are considered as priority from the point of view of the border police activities.

High-quality communication equipment “brand name” by manufacturer with universal X21 interface that enables transfer up to 2 Mbps is used to transfer data. Depending on the technical conditions on the field, we use: Copper coils, optical and radio-relay links, Network of structure cable setting has been completed in all border facilities, enabling centralized transfer of data, video and audio signals. Preparation of the plan to update communication equipment and increase the transmission range of communication links is underway, in order to create conditions for high-quality transmission of all IP services (IP telephony, video conferences, transmission of other video communication for the purpose of surveillance of the border crossing. Transfer of data in the Ministry of the Interior is carried out via intranet network, which covers the entire territory of the Republic of Serbia, including almost all border crossings. Intranet network of the Ministry of the Interior is used to access records and databases that are kept in the Joint Information System of the MOI (JIS MOI RS). Regional police directorates also have access to an opened computer network, for external communication and access to Internet.

JIS MOI RS enables access to personal data, data on property and events in the following fields: administrative procedure, all types of criminal records, operational data and establishment of personal identity, traffic safety, border management and stay of foreigners, protection and rescue field and internal records of the MOI.

123. Please provide details about forensic capacity for law enforcement purposes, including the detecting, securing, transporting, storing and analysing of forensic DNA.

Within the Ministry of Interior –General Police Directorate, within the Criminal Police Directorate, there is a National Criminal Technical Centre (NCTC). In the organizational structure of NCTC there are regional centres in Novi Sad and Nis, as well as Sections for Criminal Techniques in 27 regional Police Directorates in the Republic of Serbia, that deal with operational criminal techniques - investigations, preliminary processing, securing (packaging) and storing of forensic trace evidences (including biological trace evidence for DNA analysis).

Police officers from this line of work, which number 500 staff at the present moment, are developing their skills through a system of specialized training organized by the National Criminal Technical Centre (NCTC) and the Directorate for Education, Training, Development and Science of the MOI. Obligatory condition for carrying out forensic duties is completion of a criminal technical course, lasting 5 months, and upon completion they are undergoing through system of mentor training. Also, depending on the needs of the service, a number of these officers attend courses for specialization in the following areas: dactyloscopy (finger prints), counterfeits of vehicle documentation and producer’s markings, functionality of weapons and gunpowder test, counter diversion examinations, accident investigations (fires, explosions, disasters), etc. As a part of the development project for improving investigation performance, with the assistance of the Swedish Police, during 2006 and 2007, all officers from this line of work have completed advanced training for

processing at the crime scene, and they have adopted specific knowledge and skills to fix and process the trace evidence, according to methods used with the equipment acquired through this project. Curriculum of the advance training is implemented in the above mentioned mandatory criminal technical course.

Within control and monitoring activities, NCTC besides implementation of described system of training also participates in selection of staff for this line of work, determines methodology of work and application of concrete forensic methods and techniques, acquires complete forensic equipment, tools and materials and conducts professional control and inspection monitoring.

With the aim of providing integrity and continuity of all forensic trace evidence (including biological, intended for DNA analysis), and consequently all future material evidences related to committed criminal acts, forensic trace evidences are transported by courier service of MOI, for further processing and analyses in the forensic labs, primarily to NCTC (three centres: Belgrade, Novi Sad and Nis).

NCTS has forensic laboratories and expert teams for the following areas:

- forensic medicine (participation in investigations and autopsies related to murders and other criminal acts and suspicious deaths)
- laboratory for forensic toxicology
- laboratory for DNA analyses and expertise
- physical and chemical laboratory for expertise on drugs, explosives, inflammable and other materials of unknown origin, with application of TLC, IR, GC, GC/MS, GC-headspace, LC
- expertise on micro-trace evidence (threads, colours, glass, GSR), with application of SEM, GRIM and other methods
- ballistic laboratory for expertise on fire arms and exploitation of ABIS system
- trace laboratory for expertise on traces of tools, footwear, pneumatics, etc.
- graphology laboratory for expertise on documents and handwriting
- voice expertise
- dactylographic laboratory for inducing, fixing and expertise on finger prints and exploitation of AFIS system
- expertise on accidents (fires, explosions, disasters) at the scene.

In the past 8 years, in the forensic service of the Republic of Serbia - NCTC and described line of work of investigation forensics, around 10 million euros was invested in forensic equipment and staff training, primarily through development projects. Apart from regular acquisition of capital forensic equipment (comparative microscopes, SEM, devices for chemical analytics, photo laboratory equipment and other) and the above mentioned development project for improvement of investigations (1.5 million euros), the following projects were realized: establishing DNA laboratory at NCTC in Novi Sad and Nis (750,000 euros each), improvement of NCTC in Belgrade (approximately 750,000 euros), establishing laboratory for forensic acoustics and forensic toxicology (75,000 and 200,000 euros), while at the same time intensive education of forensic staff and thorough reconstruction of laboratories and other working spaces at NCTC took place. In the last 5 years, number of employees at NCTC rose from 33 to 112, which is their total number at the present moment. This was done in part due to establishing of new laboratories that were mentioned previously, and due to real growth in volume of work, which resulted from an increase in number and complexity of forensic trace evidences, and which is a

consequence of development of investigative forensics. In 2010, NCTC processed approximately 16,000 cases.

As of April 2009, NCTC is a full member of European Network of Forensic Science Institutes, ENFSI, and is participating in operations of 15, of the total number of 16 working groups at ENFSI, although NCTC is performing forensic duties in two areas that are not covered by ENFSI – forensic medicine and forensic toxicology. Besides participation in operations of ENFSI, NCTC staff regularly attends a great number of prestigious domestic and international scientific and professional meetings, and certain forensic experts are members of domestic and international professional associations. NCTC continuously implements new forensic methods and techniques into the entire forensic service.

NCTC is developing a system of quality control in the entire forensic service (operational forensic service and forensic laboratories of NCTC), there are three experts in the field of quality control – managers for quality (2 for investigative forensics and 1 for forensic laboratories of NCTC) and is currently entering a project of accreditation of forensic laboratories, guided by ENFSI (Project EMFA2).

124. Please provide details about the use of special investigative means (capacities, bodies responsible, conditions for use, procedures oversight etc.).

Legal basis for implementation of special investigation methods is defined by the Law on Criminal Procedure (*Official Gazette of the RS*, No. 72/09 and 76/10) in the Chapter XXIXa: Special Provisions on Proceedings for the Organized Crime Offences, Corruption and Other Extremely Severe Criminal Offences, in Article 504a, containing individual special provisions regarding proceedings for the organized crime offences, corruption and other extremely severe criminal offences. In regard to implementation of provision from Article 504e of the Law on Criminal Procedure, **Monitoring and Recording of Telephone and Other Conversations and Communications**, we would like to point out that the said provision is implemented in the MOI in such way that police officer of the Criminal Police Directorate submits written and explained request for application of the measure to the competent public prosecutor, then, upon a written and explained suggestion submitted by the public prosecutor, the Investigative judge can order wiretapping of a person who is suspected to have committed a criminal offence from Article 504a or is suspected of preparing the said criminal offence. The measure is determined by the investigative judge by means of an elaborated order. Measure can last six months at most, and due to justified reasons it can be extended not more than two times, each time for a period of three months. Order of the investigative judge from the Article 504a can be executed by police officers of the CPD of MOI, SIA and MSA.

At the Ministry of Interior in the Criminal Police Directorate, implementation of measures is conducted by police officers of the Special Investigation Methods Office, at the Police Directorate for city of Belgrade by police officers of the Electronic Surveillance Office, and at the individual, regional police directorates on the territory of the Republic of Serbia by police officers of the Section for Implementation of Measures within Criminal Police Office, in such a way that after receiving an order from the Investigative judge they implement, i.e. exploit the measure. The said

measure is applied only towards individuals indicated in the order, and that are using specific telephone numbers. The entire material (audio material and statistical reviews) are delivered to investigative judge of the competent court to take further action. No wiretapping of telephones is allowed without a court order.

Security Information Agency (hereinafter referred to as: SIA, as a civilian security intelligence service of the Republic of Serbia, on the basis of present regulations of the Republic of Serbia, under conditions and in the manner prescribed by the regulations of the Criminal Procedures Code (*Official Journal of the SRY, No. 70/2001 and 68/2002 and Official Gazette of the RS, No. 58/2004, 85/2005, 115/2005, 85/2005 – other law, 49/2007, 20/2009 – other law, 72/2009 and 76/2010*), is authorized for implementation of special measures and procedures - special investigative techniques.

On the basis of a written and explained order of the Investigative judge, resulting from the request submitted by the Public Prosecutor, SIA is authorized, in order to uncover and prove organized crime offences, corruption and other extremely serious criminal offences, including criminal acts against constitutional order and security of the Republic of Serbia and the most severe crimes against humanity and international law, to undertake:

- monitoring and recording of telephone and other conversations or communication by other technical means and optical recording of individuals;
- offering simulated business services and concluding simulated legal agreements;
- automated computer research of personal and other related data and their electronic processing;
- utilization of undercover agents.

Based on the approval of the Republic Public Prosecutor or other public prosecutors in charge for the territory of the Republic of Serbia, SIA may, in order to detect and prove these criminal offences, under conditions and in a manner prescribed by the regulations of the Criminal Procedure Code, carry out a measure of controlled delivery.

These measures may not exceed 6 months and upon an explained request of the prosecutor, can be extended not more than two times, for three months each time (CPC - Article 504e).

Report with the data that represent the results of the implementation, as well as the entire documentation incurred in connection with the implementation, adapted for use in criminal proceedings, is delivered by SIA to investigative judge and prosecutor, in accordance with the provisions of the law that is governing criminal procedure.

Also, in accordance with Article 13 of the Security Information Agency (*Official Gazette of the RS, No. 42/02 of 18 July 2002 and No. 111/09 of 29 December 2009*), based on the previous decision of the Supreme Court of Cassation, Director of SIA, in the interest of security of Serbia, in order to preclude a security threat, may order that towards certain natural and legal persons measures are taken, which diverge

from the principle of inviolability of secrecy of letters and other means of communication.

Approved measures may not be implemented more than six months and on the basis of new suggestion, can be extended up to six months (the Law on SIA - Article 14).

In cases of urgency, due to domestic or international act of terrorism, Director of SIA may decide to order application of these measures on the basis of previously acquired approval of the President of the Supreme Court of Cassation (the Law on SIA - Article 15). The President of Supreme Court of Cassation is obliged to decide on the application within the following 72 hours upon submission of a suggestion for application of the measure, that must be submitted within 24 hours upon the commencement of implementation of the measure. If the decision is negative – the measure must be suspended.

In addition to the principles of foundation in the Constitution, regulation by laws voted by the National Assembly, legal application of limited duration, non-discrimination in regard to the nationality and place of residence of persons - separate principle that is the basis for application of these measures by SIA, represents a guaranteed right of individuals to effective legal remedy and the right to information related to implementation.

Specifically, the Constitution of the Republic of Serbia (8 November 2006 - ***Official Gazette of the RS*, No. 98/2006**) in the basic principles, in Article 42, guarantees for the protection of personal data and defines that the collection, keeping, processing and using of personal data are all governed by the law. Also, the same Article, Paragraph 3, prohibits, under the threat of penalty, the use of personal data for purposes different than those for which they were collected in accordance with the law, **except for the purpose of conducting criminal proceedings or for the protection of security of Serbia**, in the manner stipulated by the law. In the Paragraph 4 of the same Article, the Constitution guarantees everyone the right to be informed about data collected about him/her, in accordance with the law.

The Law on Personal Data Protection (23 October 2008 – ***Official Gazette of the RS*, No. 97/2008 and 104/2009 – other law**), establishes the right of citizens to information, insight and copy of data that were collected on them. This right may be restricted due to reasons stated in the law and which are related to abuse or endangering public interests or individual interests of the person (LPPD – Article 23).

Regarding insight gained, the person has the right to request correction, amendment, updating or deleting of data, as well as suspension or termination of processing if purpose or the manner of processing are not defined or are unlawful, or if data collected are not matching the purpose or are inaccurate (LPPD - Article 22).

On the other hand, every person believing that individual activities or actions of SIA have violated or denied their rights and freedoms, in order to protect their own rights, may contact the Ombudsman, the competent committee of the National Assembly, the Government or other competent authorities or institutions of the Republic of Serbia, as well as the internal control service of the SIA or its Director.

Also, in case when SIA, on the orders of the competent investigative judge, applies these measures based on the provisions of the Criminal Procedure Code, Chapter XXIXa - Special Provisions on Proceedings for the Organized Crime Offences, Corruption and Other Extremely Severe Criminal Offences, if the public prosecutor does not initiate criminal procedure in the period of six months upon seizure of the measure or if he claims that they will not be used in the proceedings, or that no proceedings will be initiated against the suspect, all collected data must be destroyed, **and the persons to whom these data are related to, must be informed about the implementation of this measure.**

Military Security Agency is authorized to apply special investigative techniques, in order to detect, investigate and document specific criminal acts in its jurisdiction, in accordance with the provision of Article 23, Paragraphs 1, Point 9 of the Law on Military Security Agency and Military Intelligence Agency. MSA applies special investigative techniques (**monitoring and recording of telephone and other conversations and communications; providing simulated business services and simulated legal transactions; automated computer search for personal and other related data and undercover investigating**), under conditions and in a manner prescribed by the provisions of the *Chapter XXIXa* of the Criminal Procedure Code, as the threats of terrorism, organized crime and corruption represent a clear and immediate danger for the national security and the security of Ministry of Defence and Army of Serbia. Application of special investigative techniques by the SIA is under supervision and control of legislative, executive and judicial authorities.

125. What are the modalities of and conditions for cooperation of the police with other public security bodies (customs, security and intelligence services)?

The Law on Public Administration (14 September 2005 – *Official Gazette of the RS, No. 79/05 and 101/07*), stipulates that the state authorities of the Republic of Serbia are obliged to cooperate on all common issues and to share among each other data and notifications necessary for their work, and are authorised to form joint bodies with the aim of carrying out tasks whose nature requires participation of several authorities. Cooperation of all public authorities is proscribed by the following laws: Criminal Procedure Code (*Official Gazette of the RS, 72/09 and 76/10*), the Law on Police (*Official Gazette of the RS, No. 101/05 and 63/2009*), the Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime, Corruption and Other Particularly Serious Criminal Offences, the Law on Security Information Agency, the Law on Seizure and Confiscation of Proceeds from Crime, the Law on Organization and Competencies of State Authorities in Combating High Technology Crime (*Official Gazette of the RS, No. 104/09*), *the Law on the Prevention of Money Laundering and Financing of Terrorism, (Official Gazette of the Republic of Serbia, No. 91/10), the Law on the Liability of Legal Persons for Criminal Acts, the Law on Anti-corruption Agency (Official Gazette of the Republic of Serbia, No. 53/10), etc.*

The Law on Foundations for the Regulation of Security Services of the Republic of Serbia (11 December 2007 – *Official Gazette of the RS, No. 116/2007*), established the base of security intelligence system of the Republic of Serbia, and provided

guidance and coordination of security service's operations in the Republic of Serbia and supervision of their work.

Police officers of the Ministry of Interior, Criminal Police Directorate, as part of their daily duties perform cooperation related activities with various ministries and their agencies and bodies, e.g. Ministry of Justice, Ministry of Finance (Tax Administration, Customs Administration and Directorate for Money Laundering Prevention), Ministry of Health, Ministry of Defence, National Bank of Serbia, etc.

In September 2010, Agreement on establishing of the joint body for improvement of international cooperation in the field of suppression of crime was signed by the Ministry of Interior of the Republic of Serbia, the Ministry of Justice of the Republic of Serbia and the Ministry of Finance of the Republic of Serbia (ILECU).

In addition to the obligations pertaining to cooperation at the national level required by the law, there are individual agreements on cooperation between individual authorities, which closely define modalities of cooperation (e.g. MOI and MF - Customs Administration, Administration for Money Laundering Prevention).

Also, as a part of the implementation of the integrated border management, on 6 February 2009, Ministry of Interior, Ministry of Finance, Ministry of Agriculture, Forestry and Water Management and Ministry of Infrastructure, concluded agreements in relation to integrated management of the border. Defined areas of cooperation are related to joint activities pertaining to: harmonization and coordination of activities in the area of border control and cooperation at the central, regional and local levels; providing mutual professional and technical assistance; exchange of information; joint analysis of risks; sharing of the equipment; international cooperation; joint professional education; procedures in cases of emergencies, etc.

The principal modality of cooperation between the Customs Administration and other state authorities is the exchange of information. Joint actions in prevention, detection and investigation of criminal acts are also undertaken. Cooperation is also implemented through the Department for Customs Regulations Implementation Control. Within this body there is the Department for Analysis and Risk Management which uses the collected information to create risk profiles.

The legal framework for modalities and conditions of cooperation between the police and MSA and MIA, is in the legislation governing the work of MOI of the Republic of Serbia, i.e. police and security services, and it is contained in the provisions of the Law on Military Security Agency and Military Intelligence Agency (*Official Gazette of the RS*, No. 88/2009) and related provisions of the Law on Police. Cooperation between MSA and MOI of the Republic of Serbia, i.e. the police, takes place primarily at the level of data exchange in areas of detection, investigation and documenting of criminal acts in their jurisdiction, and especially criminal acts of organized crime, terrorism and other extremely serious criminal offences that represent a threat to the national security, i.e. the security of Ministry of Defence and Army of Serbia. Also, when needed, joint analytical and operational teams are

formed. Cooperation between MIA and MOI of the Republic of Serbia, i.e. the police, is realized within the limits of their jurisdictions.

Provisions of the Law on Foundations for the Regulation of Security Services of the Republic of Serbia, prescribe the jurisdiction of the National Security Council, which, among other things, at the state level, reviews mutual cooperation between authorities responsible for defence, authorities responsible for internal affairs (police), and security services and their cooperation with other state authorities and security services of foreign countries and international organizations. The Council also adopts decisions that govern cooperation of security services with security services of foreign countries and international organizations.

In addition, Bureau for Coordination was established, that coordinates the operational work of security services and executes conclusions of the National Security Council, that are in its jurisdiction. Members of the Bureau are directors of security services and Secretary of the National Security Council, and according to need, representatives of the Ministry of Foreign Affairs, Director of the Police and Heads of Police Directorates, the Republic Public Prosecutor, Director of Customs and executive level officials of other state authorities.

When required by the security reasons of the Republic of Serbia, the Security Information Agency on the basis of the Law on Security Information Agency (18 July 2002 – *Official Gazette of the RS*, No. 42/02 and 111/09), can takeover and directly perform tasks in jurisdiction of the Ministry of Interior. Decision on taking over and performing duties of the Ministry of Interior, are agreed by the Director of the Agency and the Minister.

In the area of fight against various types of criminality, national strategies are adopted, that served as a basis for establishing several bodies responsible for coordination of activities of various state authorities in the fight against crime and terrorism.

126. What statistical data exist (police activities, crime prevention, convictions)? Please provide details about the methods and quality of these statistical data. How are statistics used to guide policy development?

The Ministry of Interior systematically collects information about events of interest from the security point of view from the whole territory of the Republic of Serbia, criminal and other infringing activities and pursuant to this takes measures in order to protect security.

A Joint Information System exists in the MIO of the RS which provides centralized databases in various areas of public security. The method of collection, input and use of the data from these bases is governed by specific methodologies specially tailored for every base. For example, there is a Methodology of collecting, filing, processing and use of the data from the field of criminality by utilization of information technology. An integral part of this methodology is the Working manual for a software system “Criminal offences and offenders, list of characteristics and review of regular and periodical statistical reports”.

Data bases which include data on all types of criminal offences and their offenders, victims, missing persons, unidentified bodies, criminal records – records of persons that have been served with final rulings, person searches, records on seized weapons, missing and found motor vehicles and registrations, persons checked for identity, infringements of public policy, traffic infringements, traffic accidents, motor vehicle records, records of fire hazards, explosions and other emergency situations, movements and residence of our and foreign citizens and vehicles across the state borders, have been established. There is also a register of certain foreigners, register of certain Yugoslav citizens, natural persons database, legal persons database, records of new ID documents, records of registration and termination of temporary and permanent residence of citizens, as well as other records which fall under the competence of this Ministry, pursuant to the Law on Police or special laws (Law on Identity Cards, Law on Travel Documents, Law on Foreigners etc.).

The organizational units i.e. authorised police officers which are responsible for taking certain police actions and measures execute entries of data into the standing JIS databases, depending on the area of their purview (e.g. the police officer who has filed a criminal charge carries out the entry of the data concerning the criminal offence in the criminal offences and offenders database) starting from the lowest organisational level (police stations). Data from the existing data bases are used by police officers from certain lines of work to whose activities or fields these data relate to as well as by other police officers in accordance with their powers, i.e. authorization- clearance granted by the competent line of work. The processed data from the UIS are used for daily needs of operational work and planning of police actions, as well as for analytical monitoring and assessment of security issues in general, as well as by the areas of security, territorial distribution, dynamics, trends, etc. The statistical data are processed on the UIS and are presented on monthly and cumulative level by areas of work or security and also by the territorial principle (starting from the lowest territorial organisational units of the MOI – police stations, police directorates and the MOI in general). Regarding the specific operational needs and present security situation, a part of the data is processed manually in form of tables, or reports and information.

Apart from the needs of operational work and practice, as well as for analytical assessment of security issues in general or by areas, the processed data are used to evaluate the efficiency and operation of all segments of the MOI, as well as of the Ministry as a whole, and thus determine the course of further actions.

Therefore, statistically processed data in the UIS (Unified Information System) of the MOI of the Republic of Serbia in conjunction with other manually processed statistical data form the basis for operational, tactical and statistical planning and determine the course of further development of the police and the security system as a whole in the Republic of Serbia through making of analytical information materials concerning specific issues or security state in general (reports, information, analysis, studies). In addition, monthly statistics are used to produce analytical material that provides analytical support to operational lines of work in the Ministry's headquarters and allows for more efficient coordination and directing of the work of regional police directorates, which means that they are used primarily for operational planning of daily activities of the police, while the cumulative data are used for tactical planning, and support the effective management process and management of work processes,

and thus more efficient performance of security activities in general. The processing of annual and perennial statistics provides a fair view of the problematic issues in certain security areas which is a good basis for planning of further development of the police and the Ministry as a whole that provides a quality decision making on further courses of police development. Also, the statistical data processed in this way are one of the sources for the compilation of analytical reports that serve the function of external reporting - to all the relevant stakeholders, including those that have a role in civilian surveillance of the work of the police - the National Assembly of the RS and the Government of the RS, as well as the other state authorities and organizations and international organizations and their bodies (UN, EC, etc.).

As for the courts of first instance within the Ministry of Justice, after the final conclusion of criminal proceedings, they deliver data of all judgments to the Statistical Institute, including convictions, in uniformed forms (*SK-II* form for adult offenders and *SK-IV* form for juvenile offenders) which contain a broad range of relevant information on convicted individuals, criminal offences and criminal penalties. Detailed data are kept monthly, quarterly, semi-annually and annually.

The Law on Organization and Jurisdiction of Government Authorities in Suppression of Organised Crime, Corruption and Other Particularly Serious Criminal Offences (*Official Gazette of RS*, No. 42/02, 27/03, 39/03, 67/03, 29/04, 58/04, 45/05, 61/05 и 72/09), provides jurisdiction of the High Court in Belgrade, as the court of first instance, and the Appellate Court in Belgrade, of deciding on the second instance, to deal with cases of organized crime, and there are Special divisions within the courts managed by division presidents. A special division for organized crime offences was established after the entry into force of the above mentioned law in 2003 as a division of the District Court in Belgrade. Since 2003 until 24 December 2010 a total of 77 judgments was issued, of which 55 became final, the number of convicted persons was 665, while the number of legally convicted persons was 354.

The statistical data are used, inter alia, by the competent authorities of the High Judicial Council and the Ministry of Justice and prosecutorial organizations in order to harmonize regulations and material and human resources.

The organized crime prosecution service keeps annual statistics by the following categories:

- number of persons
- number of cases – total number sorted by types of criminal offences
- number of criminal charges
- number of investigation requests
- the number of resolved investigations - by suspension, termination, filing of indictment
- number of pending investigations
- number of filed indictments
- number of first instance judgements
- number of persons served with first-instance judgement
- number of convictions
 - o prison sanction
 - o pecuniary sanction
 - o warning measure – conditional sentence
 - o security measure
- number of appeals from the public prosecutor – by the type of appeal
- number of acknowledged appeals

- number of rejected appeals
- number of persons detained in custody over 3 days
- number of pending criminal charges from previous years
- number of pending investigations at the end of the reporting period
- number of suspended proceedings on indictment
- number of indictments transferred to the jurisdiction of another public prosecution service
- number of defendants issued with a first instance judgement in the previous year

In addition, a separate record for seizure of criminal proceeds is kept by following categories:

- number of persons and their virtue
- asset value
- number of orders of financial investigations
- number of requests for temporary seizure of property
- number of orders prohibiting disposal of assets
- number of acknowledged and rejected requests for temporary seizure of assets
- number of acknowledged and rejected appeals for temporary seizure of assets
- number of requests for permanent seizure
- number of acknowledged and rejected requests for temporary seizure of assets
- number of acknowledged and rejected appeals for permanent seizure of assets
- final asset value

All statistic data collected by the Prosecution Service for Organized Crime are sent to the Republic Public Prosecution Service, which forwards them to the Republic Statistical Office.

Other state authorities report statistics on their activities and from their competence, and these data are submitted to the Republic Statistical Office. However, the problem is their incompatibility, and the statistical indicators are not identical.

For precise statistics concerning the work of the Prosecution Service for Organized Crime

127. What actions have been taken to increase the efficiency of police cooperation between national agencies, especially border guards, police, customs officers, as well as cooperation with the judicial authorities?

State administration bodies of the Republic of Serbia are bound by law to cooperate on all common issues and to share data and information necessary for work. They are also authorised to establish joint bodies for the purpose of conducting activities that require participation of several authorities.

In this regard, special laws relating to the work of state authorities in the field of security also contain provisions which govern the principles of cooperation with other state authorities when performing activities from the area of their competence.

Exchange of information about joint actions is carried out under existing Cooperation Agreements, in compliance with the following laws:

- Law on Government of the Republic of Serbia (Official Gazette of RS, No. 55/05, 71/2005, 101/2007, 65/2008);
- Law on Ministries (Official Gazette of RS No. 2008/65, 36/2009);
- Law on Public Administration (Official Gazette of RS, No. 79/2005, 101/2007);
- The Law on the Police (Official Gazette of RS No. 2005/101, 63/2009);
- Law on State Border Protection (Official Gazette of RS, No. 97/08);
- Integrated Border Management Strategy (IBM) in the Republic of Serbia (January 2006).

Cooperation Agreements on Integrated Border Management Strategy between Ministry of Interior (Border Police Directorate), Ministry of Finance (Customs Administration), Ministry of Agriculture, Forestry and Water Management (Veterinary and Phyto-Sanitary Inspection) and Minister of Infrastructure (Port authorities) was signed on 6 February 2009.

By Decision of RS Government of May 2009, Coordination Body for Implementation of Integrated Border Management Strategy in the Republic of Serbia was founded.

Operational Working Group for Coordination of Integrated Border Management Strategy at the Central Level was set up by signing the foundation Agreement on 30 June 2010.

Working Cross-Department Sub-groups were also founded at the central (national) level and they are competent for six fields: legal framework, institutional framework, common procedures and risk management, human resources and training, communication and exchange of information and infrastructure and equipment. These Sub-groups will perform duties and tasks that come within areas of their competence upon order and request of the Operational Working Group for Integrated Border Management Strategy Coordination at the Central Level (8 July 2010);

Representatives of border services hold regular meetings at the local and central level, while regional border police and customs representatives coordinate and take active part at local level meetings.

Also, there are designated contact persons competent for dealing with all questions arising from Integrated Border Management Strategy at the local and regional level for every organizational unit of border services;

Joint risk analysis of border services at the regional and local level was also made;

The International Police Cooperation Department (until recently only as Interpol National Central Bureau (NBC) and currently cooperating with Europol as well) exists and operates within the Criminal Police Directorate in the General Police Directorate of the Ministry of the Interior. Department for International Police Cooperation acts as national focal point through which all correspondence with competent foreign authorities is carried out. Ministry of Interior is the main user but other Ministries can equally utilize the services of the Department (e.g. Ministry of Justice). The area of competence of the Division is following: extradition affairs, international arrest warrants issuing, controlled deliveries, search for persons,

collecting, processing and exchange of criminal and intelligence data concerning: organized crime, narcotic drugs, human trafficking and smuggling, counterfeiting and money laundering, economic violations, financial crime, terrorism, identification of persons and documents, child pornography, cybercrime, providing opinions on laws that come within the competence of Ministry of Interior when concluding Agreements on bilateral police cooperation, providing international legal assistance in criminal matters, keeping records on final court convictions on organized crime related criminal offences, keeping records on persons and objects, taking part in multilateral, regional and bilateral cooperation outside cooperation with Interpol, cooperation with other law enforcement agencies outside the Ministry of Interior, education of officers of other organizational units of the Ministry of Interior of RS and cases and phenomena analysis.

International Police Cooperation Department of the Criminal Police Directorate, Ministry of Interior (CPD MOI) has direct access to the national database of the Ministry of Interior, internal database and ASF 24/7 Interpol database and not only does it represent the focal point of international police cooperation but also has the possibility of direct communication with all sectors of the Ministry of Interior and other national partners as well (Security-Information Agency, Ministry of Justice, Ministry of Health, Ministry of Finance, courts, prosecution and any other state administration body should the need arise).

Agreement on Establishing a Joint Body for the Promotion of International Cooperation in Combating Crime between the Ministry of the Interior of RS, the Ministry of Justice of RS and the Ministry of Finance of RS was signed in September 2010 (International Law Enforcement Cooperation Unit- ILECU).

Having in mind that the International Police Cooperation Department is currently part of the General Police Directorate Criminal Police Department and considering regulations stipulating for the organizational unit that provides services and/or coordinates the work of other state authorities has to be independent, it is reasonable to expect that the Department will be the future nucleus of ILECU as soon as it becomes completely functional and that the Department will become completely independent Directorate within the General Police Directorate. Job specialisation was also carried out and all employees are familiar with rules and procedures of international police cooperation. They are also familiar with corresponding national and international laws and regulations. International Police Cooperation Department already coordinates the area of information exchange.

International Police Cooperation Department has already got access to national databases at the disposal of the Ministry of Interior of RS. The personnel can also access all public databases. The creation of ILECU would expand the scope of accessible databases towards other law enforcement authorities, such as:

- Customs Administration of the Ministry of Finance of RS,
- Administration for the Prevention of Money Laundering of the Ministry of Finance of RS,
- Republic Public Prosecutor's Office of the Republic of Serbia,
- Ministry of Justice of RS.

Ministry of Interior uses the Intranet system of the secure electronic communication and the International Police Cooperation Division is part of this network. However, secure electronic communication is non-existent with other state authorities. The project was made and it is conditional on reaching strategic decisions by the IT Directorate of the Ministry of Interior of RS. International Police Cooperation Division planned to introduce BTB communication system but the existing solution is intermediary, not integrated type.

When it comes to cooperation between judicial and police authorities, foundation of the Commission for Harmonisation of Activities and Further Cooperation Enhancement in the Field of Justice and Home Affairs in General Interests Matters (hereinafter “Commission”), especially fight against corruption, organized crime, terrorism, narcotic drugs, human trafficking, seizures of assets, money laundering and other related matters are essential. The Commission was founded on 11 December 2008, pursuant to the Decision of the Government of the Republic of Serbia. 05 No.02-5582/2008 and in compliance with the obligation assumed in the Readiness Report, which was produced within visa liberalization process of RS, in the chapter entitled *“Improvement of exchange of information between national agencies by setting up an adequate coordination mechanism”* in the aim of further improvement of cooperation between the police and judicial authorities and the overall improvement of exchange of information and coordination between different state authorities.

The Commission holds important role in further improvement and enhancement of cooperation between state authorities, implementation of the Action Plan adopted on 10 June 2009, setting up new frameworks and procedures for cooperation and facilitating cooperation between state authorities in the process of choosing state representatives for different international organizations committees.

Two-way communication is maintained between Republic Public Prosecutor’s Office and the Administration for the Prevention of Money Laundering, bank through Bank Association, Tax Administration etc. pursuant to the Article 55 of the Law on the Prevention of Money Laundering and Financing of Terrorism (“Official Gazette of the RS” No. 20/2009, 72/2009). Republic Public Prosecutor’s Office delivers information on all criminal charges and processed criminal cases of money laundering to the Administration for the Prevention of Money Laundering (hereinafter “Administration”). The Administration compiled statistical reports based on received data.

Article 55 of the Law regulates the information requests from authorised state authorities and entities exercising public powers. If there is any ground for doubt that certain persons or transactions are connected with money laundering or financing of terrorism, the Administration can file the request to the state authorities, organizations and legal entities exercising public powers to provide the data, information and documentation necessary to detect and prove money laundering or terrorism financing offences. The Administration can request from the abovementioned authorities and organizations the data, information and documentation necessary to detect and prove money laundering or financing of terrorism related to persons who took part or collaborated in the transactions or business operations of the persons for whom there is reasonable doubt that they are involved in money laundering or terrorism financing. The abovementioned authorities and organizations are obliged to provide the

Administration with the requested data in writing, eight days from the receipt date of the request or to allow the Administration direct electronic access to the data, free of charge. In case of urgency the Administration can request the data to be delivered in the deadline shorter than eight days.

As envisaged by the work plan of the Republic Public Prosecutor's Office which is based on the Action Plan for Implementation of National Money Laundering and Terrorism Financing Strategy, regular meetings were held with police authorities, aimed at developing the cooperation between the police and local (district and municipal) public prosecutors. Different permanent and ad-hoc working groups were set up in the course of this process.

Public prosecutor is authorized to issue orders for launching financial investigations and to manage them in direct cooperation with police authorities pursuant to the Law on Seizure and Confiscation of the Proceeds from Crime (Official Gazette of RS, No. 97/2008).

The work of the Public Public Prosecutor's Department for Combating Corruption and Money Laundering De - Within the activities on implementation of Action Plan for Implementation of the National Strategy for Combating Corruption, the prosecution continues to monitor the working progress in criminal cases related to corruption and money laundering in compliance with Work Programme and Mandatory Guidelines A No.194/10 on proceedings in the cases in this field.

128. What actions have been taken to improve the capacity of the specialised police services to investigate financial crime and to establish an efficient system of special investigative techniques tackling cross-border crime?

Improving the capacity of the specialised police services to investigate financial crime and to establish an efficient system of special investigative techniques tackling cross-border crime have mostly been carried out through increasing the number of police officers tackling this kind of crime and enforcing special investigative techniques. Financial Investigation Unit has recently increased the number of police officers dealing with financial investigations which resulted in augmentation in the number of financial investigation cases. Police officers undergo intensive training in line with the best practice and experience of the countries with rich tradition in financial investigations and so far it consisted of 39 seminars, courses, workshops, etc., organised with the support of American Embassy in Belgrade, Organization for Security and Cooperation in Europe (OSCE), Italian Guardia Di Finanza (financial police), etc. Also, technical equipment of the Unit has been improved by purchasing computers, etc. while efforts for computer networking with state authorities and institutions which possess data relevant for financial investigations have also been increased. The Council of Europe organised the project named "Strengthening the capacities of the Directorate for Management of Seized and Confiscated Assets and other relevant institutions involved in the seizure of assets process and improvement of the system for detection, seizure and confiscation of proceeds from crime in Serbia" Duration of this project is 36 months and its implementation began on 1 April 2010. The aim of the project is strengthening of the institutional capacities and efficiency of the work of the Directorate for Management of Seized and Confiscated

Assets of the Ministry of Justice, Financial Investigation Unit of the Ministry of Interior and other relevant institutions involved in detection, seizure, management and confiscation of proceeds from crime in Serbia.

In addition, special attention is paid to carrying out specialised trainings in the field of acquisitive crime in line with the best practice and experience of the countries with rich tradition in financial investigations (such as Italy, Germany, Belgium, USA, etc.).

Also, intensive efforts have been made to raise the level of technical equipment, especially to carry out computer networking with state authorities and institutions which possess data relevant for financial investigations.

In the field of establishing the system of special investigative techniques, the most important project was implemented in the period between 2006-2007- CARDS 2005-Twinning project SDR05JHO "Building and Strengthening the Capacities of the Ministry of Interior". It was realized to match the needs of the Criminal Police Directorate and carried out in cooperation with the Federal Criminal Police Office of Germany.

The project was realised in the field of improving the system of special investigative techniques used by Criminal Police, especially for combating all types of organized crime. The Government of the Republic of Serbia supported the project by the Conclusion 05 No.023-6184/2005 reached at the meeting held on 6 October 2005 and it was carried out between the Criminal Police Directorate and the Federal Criminal Police Office of Germany.

European Commission for Reconstruction provided 4 million EUR funds for this project; 1.5 million EUR was allocated for training and 2.5 million EUR was used for purchasing the equipment.

The project was designed and carried out through five components:

- Component 1- the assessment of the existing Serbian legislation, the analysis of the rules of law correlating with EU practice, preparing draft proposals and amendments of the laws modelled on the EU best standards in the aim of improving the fundamentals of procedures in cases of organised crime.
- Component 2- the training of the operation/ investigation officers on organised crime investigation procedures and the efficient use of SIM in investigations.
- Component 3- the training of the Heads of Departments on organized crime investigation management and the efficient use of available resources, Component 4 and Component 5- technical components for Specialised Department for SIM implementation.

71 activities were realized and 100 employees of the Ministry of Interior took part in them throughout the duration of the project.

129. Please describe if, and to what extent, criminal investigation in your country are driven by a 'proceeds-oriented' policy and which authorities are involved?

Besides from revealing criminal offences, criminal investigations are in great part oriented towards detection and seizure of the proceeds from crime. Authorities involved in criminal investigations are police officers who during their work in

criminal cases came across operational data and evidence on the proceeds from crime of the persons subjected to criminal investigation and police officers of the Financial Investigation Unit within the Ministry of Interior of RS, whose responsibility is collecting evidence on assets, lawful income and costs of living of defendants and persons connected to them.

A special domain of criminal investigations, and the one with the best results are certainly organized crime investigations. From the very beginning of criminal proceedings aimed at detecting criminal offences and the perpetrators, the Ministry of Interior employees, at the request of the public prosecutor, carry out activities to prove the existence of proceeds from crime to the aim of applying the Provisions of the Article 91 and 92 of the Criminal Law (Official Gazette of RS, No. 85/2005, 88/2005 – corrigendum 107/2005- corrigendum .72/2009 and 111/2009) and the subsequent seizure of the proceeds from crime.

Adopting the Law on Seizure and Confiscation of the Proceeds from Crime (“Official Gazette of the RS”, No 97/08) created the new legal grounds for seizure of all proceeds from crime of the person subjected to criminal investigation and charged with criminal offence pursuant to the Article 2 of this Law, for which the person in question can not prove its legality.

130. Is there an official investigation (police) or prosecution policy to trace crime proceeds (financial investigation)? If so, on what is it based?

Pursuant to the Law on Seizure and Confiscation of the Proceeds from Crime (“Official Gazette of the RS”, No 97/08), in the process of detection, seizure and management of proceeds from crime, financial investigation is prescribed as the mandatory phase of the criminal proceedings.

Financial investigation is instituted against the owner when reasonable grounds exist to suspect that he/she possesses considerable assets deriving from a criminal offence. During financial investigation, the evidence are collected on assets, lawful income and costs of living of the defendant, cooperative witness or bequeather, evidence of assets inherited by the legal successor, that is, evidence on assets and compensation transferred to the third party.

It is the duty of all authorities and persons participating in a financial investigation to act with particular urgency. Information relating to the financial investigation is classified as confidential and represent an official secret. In addition to officials such data may not be disclosed by any other person who gets access to such information. An official is required to notify other persons that this information is strictly confidential.

Financial investigation is instigated at the order of the public prosecutor. A public prosecutor manages such financial investigation. Evidence on assets, lawful income and costs of living of the defendant, cooperative witness or bequeather, evidence of assets inherited by the legal successor, that is, evidence on assets and compensation transferred to the third party collects the Unit at the request of the public prosecutor or *ex officio*.

The public prosecutor may order banking or other financial organisation to transmit to the Unit the data on the status of the owner's business and private accounts, and safety deposit boxes and he can also permit the Unit to undertake automatic data processing on the status of the owner's business and private accounts, and safety deposit boxes which is of great importance to establishing the existence of crime proceeds of the person against whom financial investigation is launched.

131. How much priority is accorded to the investigation/prosecution of acquisitive crime in your official investigation (police) or prosecution policy?

Financial investigations gained special priority after the adoption of the Law on Seizure and Confiscation of the Proceeds from Crime. Having in mind that the goal of most criminal offences, especially those related to organized crime, is precisely obtaining illegal material gain, state authorities (police, prosecution and judiciary) adopted the practice that alongside with criminal investigation and procedure, financial investigation is also carried out, in the aim of confiscation of crime proceeds.

Pursuant to the Law on Seizure and Confiscation of the Proceeds from Crime, the public prosecution is obliged to carry out the financial investigation as part of the criminal investigation. If the person charged with criminal offence, cooperative witness, bequeather or any other legal entity or natural person possesses the assets disproportionately greater than their legal incomes would allow.

If financial investigation proves the existence of the assets disproportionately greater than legal incomes of the person, the public prosecutor files a motion for temporary seizure of assets to avoid a risk that subsequent, permanent seizure of the proceeds from crime could be hindered or precluded; permanent seizure of the proceeds from crime occurs after the conviction of the person charged with criminal offence referred to in the Article 2 of this Law.

132. Are the tracing, seizing and confiscation of assets a separate goal of criminal investigations? Does it warrant the deployment of extra manpower, resources and/or investigation time?

Detecting, seizure and confiscation of the assets are additional goals of the criminal investigations, alongside with the discovery of the criminal offence and finding and identifying the perpetrators as well as proving the existence of criminal activities. Because of the fact that the basic goals of criminal investigations can not deal the final blow to criminal activities, especially when it comes to organized criminal groups, the investigation is fulfilled with identifying and confiscating the proceeds from crime which significantly undermines or completely eliminates the ability of organized criminal groups to further participate in criminal activities or to exert any other influence on criminal activity in the country or abroad.

The Law on Seizure and Confiscation of the Proceeds from Crime ("Official Gazette of the RS", No 97/08) prescribes the deployment of additional number of police employees and police and judiciary resources, which resulted in setting up of the Financial Investigation Unit as a part of the Criminal Police within the Ministry of Interior (hereinafter "Unit") and the specialised Directorate for Management of Seized and Confiscated Assets of the Ministry of Justice (hereinafter "Directorate").

The Unit is involved in the process of financial investigation as a specialised organisational unit responsible for detecting the proceeds from criminal offences. The Unit acts upon its law-prescribed tasks *ex officio* or at the order of the public prosecutor and the court. State and other authorities, organisations and public services are required to extend assistance to the Unit upon its request. The members of the Unit perform their tasks with particular urgency.

Financial Investigations Unit currently has 34 employees. Most of them are located at the Headquarters in Belgrade while less number of members of the Department for Planning and Coordination of Financial Investigations are deployed at the local level in cities of Novi Sad, Nis, Kragujevac and Bor. The plan is to expand the capacities at the central level and set up new sections of the Department in Zrenjanin, Kraljevo, Sabac and Uzice.

As it is already mentioned, the Directorate is the administration body within the Ministry of Justice. The Directorate commenced its operations on 1 March 2009. It performs tasks *ex officio* under the competence thereof or at the order of the public prosecutor and the court. State and other authorities, organisations and public services are required to extend assistance to the Directorate.

The Directorate manages the seized/confiscated proceeds from crime, objects resulting from the commission of a criminal offence, material gain obtained by a criminal offence, assets given as pledge in criminal proceedings and conducts activities related to material gain obtained by committing economic offence or violation; conducts professional assessment of the seized proceeds from crime; stores, safeguards and sells temporary seized proceeds from crime and administer funds thus obtained in accordance with the law; maintains records of assets under its management including the records on court proceedings deciding on such property; participates in providing the international legal support; takes part in training of civil servants and magistrates on seizure of the proceeds from crime and performs other tasks in accordance with this Law.

According to the Rulebook on Job Classification, adopted by the conclusion of the Government 05 No.110-5297/2010 of 22 July 2010, the Directorate shall have 30 employees. It currently has 20 employees.

133. Are there national statistical instruments for measuring the crime rate and the clear-up rate? Please provide the relevant statistics for the last two or three years.

The Republic Statistical Office is not only the organizer and coordinator but also the main producer and disseminator of the official statistics. It presents and publishes the data on the reported, charged and convicted criminal offenders in the annual Statistical Yearbook, which is an important instrument for monitoring criminal activity as the negative social phenomenon. These data are the result of the four regular yearly statistical surveys on perpetrators of criminal offences, carried out according to the Programme and Plan of Official Statistics – Survey on adult perpetrators of criminal offences against whom the proceedings by crime reports and preliminary proceedings were terminated; Survey on accused adults against whom the criminal proceeding is legally effective (form SK-II); Survey on minor perpetrators of criminal offences against whom the proceedings by crime reports and preliminary

proceedings were terminated (form SK-III) and Survey on minor perpetrators against whom the criminal proceeding before the juvenile court is legally effective (form SK-IV).

Data collected in these surveys can provide information about the perpetrator, criminal offence and the phase of criminal proceedings, especially through the data on termination of proceedings, type of decision, duration of proceeding and pronounced sanctions. Statistical surveys are compiled annually. The data are processed annually, for each calendar year and collected monthly. The method of data collection is documentation analysis and it is conducted by forms SK-I, SK-II, SK-III and SK-IV. These forms are filled in on the termination of proceedings or in other words at the moment of pronouncing the final court decision pursuant to the provisions of the law. The forms are filled in by authorised report units competent for conducting the criminal proceedings. Fundamental sources for data collection are final decisions of the public prosecutor's office or final court decisions. Therefore, the authorised report units responsible of filling in and delivering statistical forms are: competent basic and higher public prosecutor's offices and competent basic and higher courts.

The Republic Statistical Office determines the methodology for conducting the surveys, drafts forms and methodology manuals and deliver them to the report units. Filled forms are returned to the Republic Statistical Office. The Republic Statistical Office monitors the scope and accuracy of the data, encoding, and data records entry, logical and computer control. Eventually the survey results are being published (they are also available at the Republic Statistical Office web-site www.stat.gov.rs.com).

1. Reported persons (known – adult and unknown) perpetrators of criminal offences by types of decisions, 2004 - 2009.

Year	Overall number	Known perpetrator									Unknown perpetrator	
		Total	Crime report rejected		Investigation suspended		Investigation discontinued		ndictments - indictments for abridged proceedings		Total	%
				%		%		%		%		
2006	105701	63970	15357	24,0	280	0,4	2540	4,0	45793	71,6	41731	39,5
2007	98702	61992	14488	23,4	248	0,4	2998	4,8	44258	71,4	36710	37,2
2008	101723	67407	15750	23,4	413	0,6	2683	4,0	48561	72,0	34316	33,7
2009	100026	64656	15779	24,4	357	0,6	2166	3,4	46354	71,7	35370	35,4

Data of the Republic Statistical Office

2. Charged adult perpetrators of criminal offences by types of decisions, 2004 - 2009.

Year	Total number	Pronounced guilty		Not pronounced guilty				
		Total	%	Private charge rejected	Criminal proceedings terminated	Acquittal of the charges	Charges denied	Security measure passed without sentence pronounced

					%		%		%		%		%
2006	55369	41422	74,8	564	1,0	6324	11,4	3406	6,2	3510	6,3	143	0,3
2007	48903	38694	79,1	462	0,9	4152	8,5	3073	6,3	2372	4,9	150	0,3
2008	53035	42138	79,5	474	0,9	4393	8,3	3337	6,3	2489	4,7	204	0,4
2009	50404	40880	81,1	478	0,9	3501	6,9	3264	6,5	2143	4,3	138	0,3

Data of the Republic Statistical Office

3. Reported minor perpetrators of criminal offences by types of decisions, 2004 - 2009.

Year	Total	Submitted proposal for imposition of sanctions		Criminal proceedings not initiated		Preliminary proceedings terminated	
			%		%		%

2006	3041	1657	54,5	881	29,0	503	16,5
2007	3434	2070	60,3	991	28,9	373	10,9
2008	4085	2220	54,3	1359	33,3	506	12,4
2009	3497	2074	59,3	1080	30,9	343	9,8

Data of the Republic Statistical Office

4. Minor perpetrators charged with criminal offences by types of decisions 2006-2009(motion submitted to the Juvenile Court).

	Total	The sanction of juvenile imprisonment pronounced		Proceedings before the juvenile court terminated		Safety measure pronounced	
			%		%		%

2006	2267	1566	69,1	689	30,4	12	0,5
2007	2501	1996	79,8	489	19,6	16	0,6

2008	2833	2229	78,7	587	20,7	17	0,6
2009	2465	1902	77,2	551	22,4	12	0,5

Data of the Republic Statistical Office

The Ministry of Interior uses Joint Information System (JIS) with centralised databases that contain information concerning different fields of public security. In the aim of efficient storing, tracking and using data on criminal offences and perpetrators and also assessing the scope and type of the problem in order to facilitate more efficient planning of work activities and their improvement, “Criminal offences and offenders” electronic database was designed and maintained.

This database contains information on criminal proceedings launched *ex officio* reported by police officers throughout the territory of the Republic of Serbia and also the data about the perpetrators and their victims.

The authorization to keep this database is stipulated by Provisions of the Article 76 of the Law on Police and it is kept and used as prescribed by the Methodology of collecting, filing, processing and use of data from the field of criminality via information technology. The Methodology also contains Working manual for software system “Criminal offences and offenders”, list of characteristics and review of regular and periodical statistical reports.

The data entering falls under the competence of organisational units of the Criminal Police or authorised police officers responsible for conducting certain police activities and measures, depending on the field of their engagement, starting from the lowest organisational level (police stations). The information from this database are used both by police officers of the Criminal Police and by other authorised police officers who received the permission from the competent police authorities. The processed data from Joint Information System (JIS) database are not only used to meet daily needs of the police, such as planning at operational and tactical level, but also for analytical monitoring and identifying the problems of the crime as a whole and in its particular fields, for the purpose of detecting the trends and monitoring the current situation in the field of crime and to that effect, improving the work and more efficient planning of the police activities. It is also possible to provide statistics and figures on criminal offences, perpetrators and their victims to the competent expert and scientific institutions for the purposes of carrying out scientific research, upon their substantiated request, pursuant to the Article 77 of the Law on Police.

The database contains information on:

- criminal offence,
- damaged parties,
- the way of perpetrating criminal offence -modus operandi,
- perpetrators,
- activities of the police,
- the result of the criminal report and the course of the proceedings,
- requests of the public prosecutor’s office,
- time and place of perpetrating the criminal offence

The data are also statistically expressed according to the abovementioned categories (criminal offence structure, number of perpetrators and injured parties, gender, age, marital status etc.); JIS allows searches according to all abovementioned categories.

In addition, the standard set of statistical data collected in the “Criminal offences and offenders” database is regularly published in the edition “Statistical Survey on the State of Public Security” published by the Directorate for Analytics, based on the Guidelines on the manner of monthly statistical reporting on public security events and phenomena, at the monthly and cumulative level. The printed version of this edition is submitted to the highest management level at the Ministry of Interior and to the Directors of competent divisions at the Ministry (up to the level of police directorates) while any other statistical data related to the criminal offences can be acquired by special request.

Crime rate is calculated on the basis of yearly data on total number of detected and reported criminal offences on the territory of the Republic of Serbia. For assessing the performance and efficiency of the police in solving the criminal offences or detecting the perpetrators who were unknown in the moment of committing the offence, it is necessary to calculate the solving rate- ratio of the number of subsequently solved criminal offences by work and engagement of the police and the number of detected and reported criminal offences where the perpetrators were unknown in a certain period of time (monthly and cumulatively).

CRIME RATE AND SOLVING RATE

Year	Total number of criminal offences	Crime rate	solving rate
2006	98361		53,74
2007	103908	5,64	56,9
2008	104520	0,59	57,77
2009	102369	-2,06	58,76

Data of the Ministry of Interior

Therefore, this is “police” statistics, which means that it comprises criminal proceedings launched *ex officio*, and it is formed on the bases of parameters acquired from criminal reports against known and unknown perpetrators, submitted to the competent Public Prosecutor’s Office, regardless the result of the report. Thus, the statistical data processed in this way is different from the official statistics provided by the Republic Statistical Office, which is grounded on persons against whom the criminal proceedings are launched (criminal report is submitted) and on the result of the proceedings led against these persons (based on the records of the prosecutions and courts).

134. Are performance indicators or benchmarks available to assess the quality of police activities? In the absence of such data, how is police performance evaluated?

There are no laws or by-laws governing the evaluation of the police performance or any performance criteria to assess the of police performance quality.

The performance is evaluated by means of operational analysis, and it is declared by lines of work in percentages. For instance, decrease in rate of crime, traffic accidents etc., under the responsibility of the organisational unit under assessment, done annually or quarterly.

135. What are the tools for career development? How is the performance of the individual police officer assessed?

Article 87 of the Law on Civil Servants, applicable to the employees of the Ministry of the Interior based on the Article 169 of the Law on Police, anticipates, inter alia, that a public officer shall develop his / her carrier by promotion to the next higher position or by a promotion to the higher position, or to the senior position, in the same or another state institution. The next higher position means the position involving duties inherent to the next higher grade, or to the same grade, but on the position of a senior officer of an internal unit in the state institution.

Article 88 of the Law on Civil Servants provides that a senior officer achieving the highest mark for work “outstanding” for two consecutive years, or “very good” for four consecutive years, may receive promotion to the next higher position if a vacancy for such position exists and the civil servant in question fulfils the requisite conditions to carry out duties inherent to the position. Exceptionally, a civil servant who has been promoted to the next higher position for achieving the highest mark for work “outstanding” for two consecutive years, may be promoted to the next higher position if the performance of the officer in question has again been evaluated as “outstanding”, even though he or she does not meet the requirement related to the work experience. Evaluations that were the basis for the last promotion are not taken into account for the next promotion.

Also, Article 89 of the Law on Civil Servants provides that a civil servant may advance to any position, not only the next higher one, and that for promotion to take place the requisite conditions concerning the relation between the performance evaluation referred to in the Article 69 of this Law, available vacancy and work experience must be met in order to advance to the next higher position.

Pursuant to the Article 118 of the Law on Police, the police officer, i.e. other law enforcement employee, shall acquire the next higher grade under the following conditions:

The employee possesses the required professional qualifications;

The grade is appropriate for the job position to which the employee is appointed;

The employee served in a lower grade for the required period of time;

The employee received positive evaluation for the previous two years;

The employee has not been convicted of a criminal offence, sentenced to an actual term of incarceration, or received a disciplinary measure for grave dereliction of duty in the previous two years;

The employee is not undergoing criminal proceedings for an offence subject to public prosecution, or disciplinary proceedings for grave dereliction of duty.

No impediment exists for acquiring the grade pursuant to Paragraph 1, Point 5 of this Article, if proceedings are dismissed during re-trial or on due process motion, or if an acquittal is issued, or if the charges are dismissed other than for non jurisdiction of the court, i.e. it shall be deemed that no impediment exists pursuant to Paragraph 1, Point 6 of this Article, if the proceedings are discontinued, an acquittal is issued or charges are dismissed, other than for non-jurisdiction of the court.

In cases pursuant to Paragraph 2 of this Article, a police officer or other law enforcement employee who is eligible under this Law shall acquire the grade upon satisfying all conditions.

An employee shall lose grade upon termination of employment with the Ministry.

Article 127 of the Law on the Police also provides for another form of promotion of the police officers, through institutes of Early and Extraordinary Promotion to the next higher grade (promotion).

The employee receiving the highest mark for work for the preceding two years, and holding the current grade for a minimum of one half of the time stipulated for promotion to the next higher grade, and meeting other conditions defined in the Article 118 of this Law, may receive early promotion to the next higher grade.

The employee achieving exceptional results and making a special contribution to the performance of police duties, or the employee fulfilling requirement for old age retirement, may receive a special promotion to the next higher grade. Extraordinary promotion may be awarded only once.

The performance of each individual police officer is evaluated by the annual performance evaluation. The objective of performance evaluation is to reveal and correct deficiencies in performance of the police officers, stimulate better performance results and create conditions for a proper decision-making on career development and professional improvement. Job performance receives a positive or a negative evaluation.

Positive evaluations are “adequate – 2”, “satisfactory – 3”, “very good – 4” and “outstanding – 5”, and the negative evaluation is “inadequate – 1”.

PERFORMANCE EVALUATION ELEMENTS

EXTENT OF DUTIES CARRIED OUT

Level of achievement of duties determined by the plan of activity, and unplanned duties, i.e. regular and extraordinary tasks and duties and tasks performed during off-hours or under very hard circumstances.

2. PERFORMANCE QUALITY

Achieved performance results from point of view of the performance quality (high-quality performance, deficient or negligent performance), complexity, importance, benefit and completeness of the tasks carried out (extra work required or not required), lawfulness, efficiency and effectiveness of performance.

3. PROFESSIONAL QUALIFICATIONS

Acquired practical knowledge, general and special physical abilities important for job performance, taking into account the evaluations

received during testing of physical ability and ability to handle weapons and shoot, having regard to the shooting results, other abilities (commanding, organisational, instructional, educational abilities and abilities of oral, written and aesthetical articulation) of importance

for job performance, results of applied knowledge and ability to exercise official duties.

4. PERSONAL RELATION TO WORK

Independence, initiative, efforts and creativity in work, respect for established order and discipline, responsibility, behaviour and personal appearance while exercising duties, general work culture – preciseness and meticulousness, relation to entrusted and personal official equipment and means.

5. PROFESSIONAL RELATION TO OTHER PERSONS

Relation to the citizens and employees of business companies and other organisations and state and other institutions, relation to superior officers, colleagues and subordinate officers in the Ministry, reputation, authority and sense for cooperation and joint work.

136. Which information do you store and, if yes, who has access to the following data:

- a) data on persons wanted for extradition?**
- b) data on aliens to whom entry was refused?**
- c) data on missing persons?**
- d) data on persons to be placed under police protection for their own protection or to prevent threats?**
- e) data on witnesses, on persons summoned to appear before judicial authorities and on persons who are to be served with a criminal judgement or summons to report in order to serve a penalty involving deprivation of liberty?**
- f) data on persons (or vehicles used) for whom there is clear evidence or, based on an overall assessment, reasons to suppose that serious criminal offences will be committed?**
- g) data on convicted persons (of Serbian nationality, European citizens, third country nationals)?**
- h) data on objects (stolen, misappropriated or lost vehicles, trailers, firearms, blank official documents, and issued identity papers including invalidated, vehicle number plates and registration certificates, banknotes)?**
- i) criminal intelligence data?**

a) Data on persons wanted for extradition are kept in the Criminal Police Directorate-Department for International Cooperation, in two separate manners: Serbian international arrest warrants are kept in international databases while foreign arrest warrants (over 40.000 of them) are filed into the national police database Joint

Information System (JIS) of the Ministry of Interior of RS (MOI RS), in the "Search Activity" sub-system and it is available to all police officers.

b) These records come within the competence of the Border Police Directorate. Article 78 of the Law on Foreigners stipulates the obligatory record keeping of entry and exist refusals to foreigners. Collected data is then entered in the central database maintained by the Ministry of Interior and can be used by authorised police officers of the Ministry and competent authority, authorised civil servants of the Ministry competent for foreign affairs and personnel of diplomatic and consular posts of the Republic of Serbia for the purposes of conducting activities prescribed by the Law on Foreigners.

c) Data on people and objects search (including missing persons) are filed in the automated "Search Activity" database, which is the sub-system of Joint Information System (JIS) MOI RS. Police officers responsible for carrying out search activities and National Central Bureau (NBC) Interpol Belgrade are in charge of data entering into this database. The access to these records is approved to authorised officials who have received the permit to use JIS by the Ministry of Interior of RS.

Data on persons are filed as:

Local search notice- a search notice for persons for whom there are ground for suspicion of having committed a criminal offence and for fugitives; in cases when legal actions are undertaken in pre-criminal proceedings A search notice is instigated upon request of police stations, police departments, branch offices and Criminal Police Directorate of the Police Directorate for the City of Belgrade.

- Central arrest warrants- filed into the system after the court orders arrest warrant issuing or when the warden of the institution orders arrest warrant issuing after the convicted fugitive who serves the sentence in the institution. Central arrest warrants are published in the monthly Warrants and Notices Gazette published by the Ministry of Interior of RS.
- International arrest warrants- issued and filed by the National Central Bureau of Interpol Belgrade, at the request of the foreign judicial authorities.
- Missing person notices- issued on the bases of filed missing person reports.
- Unidentified bodies notices- for the purpose of establishing the identity of an unidentified body.

Police officers responsible for carrying out search activities and NBC Interpol Belgrade are authorised to terminate the search.

Criminal Police Directorate has access to the missing persons data and If there are any information that the person in question can possibly be abroad, the international

missing persons search is instigated. Additionally, the international missing person notices are delivered to the competent authority.

Missing Persons Section of the Commissariat for Refugees conducts expert, administrative and technical work for the purposes of the Commission for Missing Persons, which exists from 1994 as the Government's body for the search of persons disappeared during the armed conflicts in the former Socialist Federal Republic of Yugoslavia. Starting from 2003, the Commission is also involved in solving missing person cases in the conflict in the Autonomous Province of Kosovo and Metohia (APKM). Regarding that the Commission has under its competence the implementation of a number of international documents from this field, conducting negotiations with other parties, realization of the concluded agreements and that it handles many regional requests (by the Republic of Croatia, Bosnia and Herzegovina and UMNİK) and vice versa, thus, resulting from the scope of its activities, the Commission has discovered large number of data and abundant documentation (mostly in electronic form) regarding missing persons during the armed conflicts at the territory of the former SFRY and APKM:

1. Database of persons disappeared in the Republic of Croatia and Bosnia and Herzegovina;
2. Ante mortem database of persons disappeared in the Republic of Croatia and ante mortem database of persons disappeared in Bosnia and Herzegovina;
3. Database containing ante mortem data of persons disappeared in the APKM;
4. Database of missing persons searched by the Republic of Croatia in electronic form;
5. Records of the International Committee of the Red Cross on missing persons in APKM in electronic form;
6. Records of the International Committee of the Red Cross on missing persons in the Republic of Croatia, in electronic form;
7. Records of submitted positive DNA reports of the International Commission on Missing Persons (ICMP) in electronic form, etc.

Additionally, Missing Persons Department also possesses large body of documentation: autopsy reports and photo-documentation of identified persons, identification protocols for unknown persons whose post mortem remains were brought by the rivers at the regions caught in armed conflicts between 1991-1995 and buried in city cemeteries in the Republic of Serbia; documentation connected to identification and transfer of posthumous remains exhumated from mass grave yards in the Central Serbia, Batajnica, Perucac and Petrovo Selo, identification protocols for persons killed in military operations of the Croatian army and police forces, named "Flash" and "Storm" and other documentation related to the cooperation with competent authorities of the Republic of Croatia, Bosnia and Herzegovina, UNMIK and international institutions and organizations.

Expert service personnel, president and members of the Commission have access to the documentation, competent authorities and organizations of the Republic of Serbia upon request while family members of missing persons can gain access to the part of documentation related to the concrete cases of their interest by filing the request. In

addition, it is important to note that access is determined by the level of confidentiality of archived documents.

d) Directorate for Protection of Certain Persons and Facilities of the Ministry of Interior of RS in line with its authorization provides protection to certain persons and facilities and also to certain foreigners and delegations during their official visits, at the territory of the Republic of Serbia. In this regard, members of the Cabinet of the Minister, General Police Directorate, police directorates within the headquarters of the Ministry of Interior and local police directorates have the access to the data concerning the persons under protection, planning, coordinating, ordering and realization of necessary measures and activities undertaken for the protection purposes, in compliance with the Guidelines on the manner of protection of certain persons and objects. The access is allowed for the purposes of undertaking the necessary measures and activities from the area of their competence.

e) Data on witnesses, persons summoned to appear before judicial authorities and on persons who are to be served with a criminal judgement are archived in the documentation of the proceedings led before Higher court in Belgrade in which the presence of the abovementioned persons is obligatory in accordance with the Criminal Procedure Code. Therefore, the access to the data is allowed not only to acting judges, keepers of the minutes, officers performing administrative and technical tasks in the registry, judicial assistants and interns that help the judges in their work, but also to parties in criminal proceedings- public prosecutor, defendant and his attorney, the injured party and his attorney, in accordance with The Criminal Procedure Code which also permits them to view and copy court documents.

Data are filed in the Intelligence database of the Customs Administration. Also, data is available to the employees of the Intelligence Department while other departments, national agencies and customs administrations can gain access solely by filing the request, in compliance with the legal procedure.

g) data on submitted criminal reports from 1991 and their results are filed in the Joint Information System of the Ministry of Interior (JIS MOI RS). Additionally, JIS MOI RS comprises the centralised Penal records- the records of persons against whom legally valid conviction was pronounced. The Criminal Code of the Republic of Serbia ("Official Gazette of the RS", No.85/05, 88/05, 107/05, 72/09, 111/09) and the Criminal Procedure Code ("Official Gazette of the RS", No.72/09) regulate the content and filing of the Penal records and the exact terms and way of transmitting the data from this database. By-law act stipulates that the Ministry of Interior is competent to maintain Penal records and allows the access to the records. Penal records data can be given to the citizens on their request or to other authorities in cases prescribed by the Law.

Penal records are maintained in manually kept records (such as the card registers) and as automated records within JIS MOI RS. Both forms of the records along with personal information also contain data about the criminal offence the person is convicted of, the type and duration of the conviction, name of the court that pronounced the sentence, time of going into effect and legal consequences of the conviction. Subsequent alterations of the data comprised in the records are also filed, such as data on serving the sentence and erasing the records on wrongful decision.

Penal records contain: personal data on perpetrators of criminal offences, data on pronounced sentences, safety measures, suspended sentences, court reprimands and acquittals of the persons in the Penal records as well as the legal consequences of the acquittals, records on later changes of the court decisions (the effect of extraordinary legal remedies and amnesties) as well as data about the served sentence.

The Law stipulates to whom and under what conditions these data can be given. It is prescribed that the Penal records data can be given only to court, public prosecutor and police services, in relation to the criminal proceeding led against the previously sentenced person; furthermore, to the authority for enforcement of criminal sanctions and to the authority participating in the process of granting amnesty, rehabilitation or deciding on termination of legal consequences of the sentence and to the custodial authorities, provided that the data is necessary for conducting the activities within their competence. Penal records data can be given to other state authorities competent for detection and prevention of criminal offences in the cases prescribed by law.

In addition, Penal records data can be given to a state authority, company or other organisation or entrepreneur provided they file a substantiated request and that legal consequences of the conviction or safety measures are still effective or provided that justified, legally grounded interest exists in this matter. Citizens can receive information on whether they have been sentenced in the court of law upon their request.

Pursuant to the provisions of the Rulebook, Penal records contain data obtained from the effective court decisions, reports and other documents delivered to the state authority competent for Penal records maintenance:

- information about legal name of the criminal offence with indications of the article, paragraph and point of the applied law, type and duration of the sanction, security measures of each effective ruling and every alteration regarding the data is delivered by the first degree court;
- information about amnesty granting is delivered by the court that received the decision on granting the amnesty from the competent authority;
- information about legally effective court convictions pronounced by foreign courts is delivered by authority that received that information from the foreign court in question;
- information about enforced sanction is delivered by the competent authority;
- information about the termination of sanction is delivered by the competent court.

Having in mind that carrying out of the custodial sentence is under the competence of the basic court of the sentenced person's residence or domicile in the time of coming into effect of the sentence, records on persons who are to be served with the order to serve custodial sentence is kept by the abovementioned court. Pursuant to the Law on Enforcement of Criminal Sanctions ("Official Gazette of the RS", No 85/05 and 72/09) adequate records shall be kept on persons on whom legal sanctions or custodial sentence is imposed. More detailed regulations about the record keeping are issued by the Minister competent for jurisdiction.

The Court Rules of Procedure ("Official Gazette of the RS" No. 110/2009) stipulates keeping the different registers in criminal cases. Cases on persons convicted on custodial sentence at large when summoned to serve it, persons summoned to serve custodial sentence from detention, for persons for whom the arrest order for sentence serving was issued, persons against whom arrest warrant order was issued or who were sent to serve the custodial sentence before the pronouncing legally valid decision on their own request are filed in the "IK" register. Cases on persons against whom alternative sanctions are pronounced in the criminal or misdemeanour proceedings are filed in the "IK" register. Additionally, pursuant to the Article 328 of the Court Rules of Procedure, courts are required to keep the directory of persons summoned to serve custodial sentence.

Data on stolen or lost objects of the Ministry of Interior of RS is used to facilitate identification of found objects of doubtful origin and to support solving the criminal offences during which the objects were taken away. This record stores only objects which contain individual features through which they can be easily and quickly identified, e.g. serial number. Basis of data registration, alteration and amendment is criminal report, copy of the document or the report on finding the objects of the unknown ownership.

Data on stolen or missing vehicles are kept in automated records named "Lost vehicles", a sub-system of JIS database of the MOI of the Republic of Serbia and correspondingly in manually kept records, so called. "MOS records". It is possible to find there the information on stolen and lost vehicles, articulated vehicles, for which in line with the procedures of departments authorised for data storing, it is necessary to keep records on the plate, engine and/or chassis number as primary identification and search sources, and on secondary data, such as the type and model of the vehicle and on descriptive data such as engine power, number of seats and doors, colour, which is correspondent to the data in the registration book for the vehicle. Access to the data is allowed to the officers whose line of work is authorised to keep records on and search for lost vehicles and to any other services authorised by them to conduct checks. Their access is limited to the records on lost vehicles. For the purposes of carrying out checks on vehicles it is also possible to use the database of the registered motor vehicle which comprises technical information on the vehicle as well as information on registration validity, technical serviceability, insurance, the form of registration certificate, issued by the Ministry of Interior. This database contains data on cancelled plates so it is possible to conduct to search according to this criterion as well.

Computerised records on issued identity documents and records on non-valid identity documents (declared non-valid, cancelled or taken when it comes to travel documents) are formed in the process of issuing personal identity documents, ID cards and passports, containing all personal information on the visible part of the document and in microchips inserted into documents; these records are part of JIS database of MOI RS (register of issued ID cards and register of submitted requests for issuing ID cards). Police personnel who received special access authorisation and SMART ID cards can access the records of identity documents on the basis of defined procedures and operating processes related to verification of the identity documents and establishment of identity.

Data on lost drivers licences and registration certificates are kept in appropriate computer application in JIS database of the MOI RS and in manually kept record (vehicle and driver file). Police personnel who have specially awarded access right can access computerised records by using special password, while the vehicle and driver file can be used only by officers who work on related cases, conduct supervision and Criminal Police employees, provided that the access to this file is necessary for carrying out their regular tasks.

The Directorate for Administration of the Ministry of Interior launches the search for lost and stolen blank registration certificates and driving licences while the access to this information have police officers monitoring the registration of vehicles and driving licences issuing and officers in the local police directorates and stations conducting the tasks of vehicle registration and driving licences issuing.

Data on vehicles with annulled registration are filed in JIS database of the MOI RS and in manually kept record (vehicles file). Regular access is allowed to police personnel who have specially awarded access right and special password, while police officers carrying out registration of vehicles, supervising the registration process and Criminal Police employees can gain access, provided that it is necessary for carrying out their regular tasks.

Records on missing weapons are kept concurrently in the automated records “Missing Weapons” – in the JIS of the MOI of the Republic of Serbia and in manually kept records (such as the card registers) . Only the personnel working in records can enter data on missing weapons, based on the criminal charges and forwarded dispatches, and only they can access the data. The records in question contain data on the types, calibres and serial numbers of the missing weapons.

Operational Analytics Division of the Criminal Police Directorate designed the database of the Criminal and Operational Analytics (COA) where all data relevant for lawful and efficient combating of all types and forms of criminal activities are being filed, processed and analysed. Ministry of Interior personnel single-handedly developed this database at the standard Oracle platform. The purpose of designing the COA database is unique operational analysis in all organisational units of the Criminal Police of MOI, faster exchange and better utilization of information, decrease in data duplication and parallel processing of the same data, fast searches of necessary and missing data, quick creation of analytical data, active participation in criminal data processing and planning the activities of the Criminal Police aimed at deterrent actions. Setting up COA database throughout the territory of the Republic of Serbia facilitated the work of analytical units on operational cases, primarily organised crime and terrorism cases.

This database is available to the operative personnel of the MOI, public prosecutor’s office and courts. The existence of this kind of database presents great support to the work of operative personnel of the Criminal Police Directorate. It comprises data from various sources and the analysis of this data creates clearer picture about criminal activities of persons, groups and companies located at the territory of the Republic of Serbia. Data are currently entered in the Ministry Headquarters, Belgrade

Police Directorate (PD), Novi Sad PD, Nis PD and Kraljevo PD and the goal is to connect other Police Directorates until the middle of 2011.

70 licences for I2 Analyst's Notebook, 28 licenses for Ibridge and 2 licenses for TextChart are available. The Geographic Information System (GIS) is also used in our daily work.

The Integrated criminal intelligence system does not exist, but the Section for criminal and intelligence and undercover agents is currently part of the project "Strengthening the Capacity of the Intelligence-led policing and Creation of Criminal-Intelligence System in the Ministry of Interior of RS" implemented in cooperation with Swedish International Development Cooperation Agency (SIDA) and Sweden's International Police Board. In 2009, Serbia became the member of "European Association of Undercover Agents" and adopted amendments

The Criminal Procedure Code made it possible to share and engage undercover agents in undercover investigations which will be led in Serbia, with the possibility to their engagement abroad. The training of agents in undercover investigations is carried out through series of seminars and workshops supported by the police experts from Germany, USA, Slovenia, Croatia, Macedonia, etc.

137. Please provide information on national legislation or other rules governing this area, and their adhesion to relevant international conventions.

With regard to the organized crime, the entire Chapter 29a of the Criminal Procedure Code (*Official Journal of SRY*, No 70/2001 and 68/2002 and *Official Gazette of the RS* No 58/2004, 85/2005, 115/2005, 46/2006, 49/2007, 122/2008, 20/2009 and 72/2009) is dedicated to this field, under the title: "Special Provisions on Proceedings for the Organized Crime Offences, Corruption and Other Extremely Severe Criminal Offences". Law on Organisation and Competence of the Government Authorities in Suppressing Organized Crime is also in force (*Official Gazette of RS*, No 42/2002, 27/2003, 39/2003, 60/2003, 67/2003, 29/2004, 58/2004, 45/2005, 61/2005 and 72/2009). The National Strategy for the Fight against Organized Crime of the Republic of Serbia was also adopted (*Official Gazette of RS*, No 23/2009), along with the Action Plan containing specific activities, measures and terms for their implementation.

Competence, powers and actions of all government authorities participating in the fight against organized crime are governed by several laws, the most important being the following: The Criminal Code (*Official Gazette of RS* No 85/05, 88/05 - corrigendum, 107/05 - corrigendum), the Criminal Procedure Code (*Official Journal of FRY*), No 70/01, 68/02 and *Official Gazette of RS* No 58/04, 85/05 - other law, 85/05, 115/05 and 49/07) and the Criminal Procedure Code (*Official Gazette of RS*, No 46/06, 49/07 and 122/08), the Law on Police (*Official Gazette of RS*, No 101/05), the Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organized Crime (*Official Gazette of RS*, No 42/02, 27/03, 39/03, 60/03 - US, 67/03, 29/04, 58/04 - other law, 45/05 and 61/05), the Law on Basis of Organisation of the Security Services of the Republic of Serbia (*Official Gazette of the RS*, No 116/07), the Law on the Security Services of the Federal Republic of Yugoslavia (*Official Journal of FRY*, No 37/02 and *Official Journal of Serbia and Montenegro*,

No 17/04), the Law on Security Information Agency (*Official Gazette of RS*, No 42/02), the Law on Seizure and Confiscation of the Proceeds from Crime (*Official Gazette of RS*, No 97/08), the Law on the Liability of Legal Entities for Criminal Offences (*Official Gazette of RS*, No 97/08), the Law on the Protection Programme for Participants in Criminal Proceedings (*Official Gazette of the RS* No 85/05) the Law on Customs (*Official Gazette of RS*, No. 73/03, 61/05, 85/05 - other law and 62/06 – other law), the Law on the Prevention of Money Laundering and Terrorism Financing (*Official Gazette of RS*, No 107/05, as amended in 117/05 and 62/06 – other law), the Law on Tax Procedure and Tax Administration (*Official Gazette of RS*), No 80/02, 84/02 - corrigendum, 23/03 – corrigendum, 70/03, 55/04, 61/05, 85/05 - other law, 62/06 – other law and 61/07), The Law on Enforcement of Penal Sanctions (*Official Gazette of RS*, No 85/05) and the Law on Organisation and Jurisdiction of Government Authorities in Suppression of Cyber Crime (*Official Gazette of RS*, No 61/05).

138. Please provide an overview of your activities to implement the action-oriented measures that were adopted by the Government as a follow-up to the London Conference and presented at the EU-Western Balkans JHA ministerial meeting of 28 November 2003.

In line with undertaken commitments arising out of London Conference and presented at the EU-Western Balkans JHA ministerial meeting of 28 November 2003 on justice and home affairs, the set of actions have been taken to create judicial and institutional framework for fight against organised crime, priorities have been defined and enforced by the reform of criminal legislation, harmonisation with international legal documents and training of state officials (judges, prosecutors and police officers). Therefore, new legislation which comprises unique definition of organized criminal groups formulated in compliance with UN Convention against Transnational Organized Crime have been adopted, namely the Law on Amendments and Additions to the Criminal Procedure Code (*Official Gazette of RS* No. 72/09, 76/10) and the Criminal Code (*Official Gazette of RS* No.72/09, 111/09) of 11 September 2009. Some of the criminal offences listed in the Criminal Code have been amended to comply with international conventions, new types of criminal offences have been sanctioned, especially organised crime and corruption offences and in addition, the new penal policy was established. Similar legal solution is provided for by the Law on Amendments and Additions to the The Law on Organization and Jurisdiction of Government Authorities in Suppression of Organised Crime, Corruption and Other Particularly Serious Criminal Offences (*Official Gazette of RS*, No. 72/09) by expanding the jurisdiction of specialised state authorities responsible for tackling organised crime to new types of criminal offences (corruption at the level of state officials, international terrorism, money laundering when proceeds are obtained through organised crime activities).

Representatives of the Criminal Police Directorate of the Ministry of Interior actively participated in developing strategic documents relevant for fight against organised crime, such as: National Strategy for the Fight against Organized Crime of 26 May 2009 (*Official Gazette of RS*, No. 23/09), Action Plan for the Implementation of the National Strategy for the Fight against Organized Crime of 24 September 2009 (“*Official Gazette of the RS*, No 81/2009), Action Plan of the Ministry of Interior for

the Fight against Organized Crime, Action Plan for the Implementation of National Strategy for Combating Money Laundering and Terrorism Financing ("Official Gazette of the RS, No. 65/08), Action Plan of the Ministry of Interior against Money Laundering and Terrorism Financing, National Strategy for Combating Corruption ("Official Gazette of the RS, No. 109/05), Action Plan to implement the Strategy, Action Plan of the Ministry of Interior for Combating Corruption of 25 December 2009, "Strategy for Combating Trafficking in Human Beings in the Republic of Serbia" (adopted in 2005), National Strategy for Prevention and Protection of Children against Violence(adopted in 2008), Initial Framework of the National Crime Prevention Strategy, Strategy for the Fight against Drugs of the Republic of Serbia for the period 2009-2013, adopted in March 2009 along with the Action Plan for Implementation of Strategy against Illegal Migrations for the period 2009-2014, adopted in 2009.

Fight against organised crime is carried out at the institutional level as well, by setting up the Office for Fight against Organised Crime within the Criminal Police Directorate. In 2009 the Financial Investigation Unit was formed within the Office. In addition, Terrorism Monitoring and Investigation Department was set up while other Criminal Police Divisions tackling drugs smuggling, corruption, financial crime, human trafficking and other forms of organised crimes operate within Police Directorates throughout the territory of the Republic of Serbia.

Besides from the abovementioned, Police Directorates personnel throughout their regular activities implement all available measures intended to identify and launch legal proceedings on criminal groups dealing with drugs, human and arms trafficking, terrorist activities, corruption, etc.

139. What particular types of crime, especially organised and serious crime, does your country have to deal with? Please provide a description of the issues and any available statistics.

The significant characteristics of the organized crime in Serbia are the following: there are OCG in which every member of a criminal organisation has predetermined, or obviously determinable task or role, while there are also criminal organisations which have rather liberal structure and links among the members of the group; the activity of a criminal organisation is planned in long-term or for an indefinite period of time, and is often based on application of certain rules of internal control and discipline of the members; the activities of most criminal organizations are planned and performed at the international scale, which is the least reflected in regional dimension of acting; in performing activities, they use violence, intimidation, or show readiness for their use; in performing activities, economic or business structure, money laundering and laundering of illegally acquired profit; there is an influence, or an attempt of influence of the organizations or part of the organizations to political power, mass media, legislative, executive or judiciary power, or some other important social or economic factors.

From 2007 to October 2010, a total of 393.060 criminal offences were registered in the Republic of Serbia. Out of total number of criminal offences, as many as 88,1% are criminal offences of general crime (346.385), 10% are criminal offences of economic crime, and some 1,9% are criminal offences of cyber, ecological, and other areas of crime.

Year	Total criminal offences	General crime	Economic crime	Cyber crime	Ecological crime	Other
2007	103.908	91.588	10.488	1.095	665	72
2008	104.520	92.342	9.971	1.309	835	63
2009	102.369	90.060	10.560	678	1.012	59
I-X 2010	82.263	72.395	8.295	818	719	36
Total	393.060	346.385	39.314	3.900	3.231	230

Table 1 – structure of criminal offences by areas of crime from 2007 to October 2010, at the territory of the Republic of Serbia (data taken over from the Statistical Review of Situation in the Area of Public Security of the MIA of the RS).

Criminal offences against property prevail in the structure of general crime, making almost 60% of general crime. Unlike them, the most serious criminal offences – against human life and body, make 5,3%, and criminal offences against sexual freedom – 0,5%, followed by criminal offences against public transport safety – 11,1%, against public peace and order – 7,1% and other criminal offences of general crime - 13,8%. Criminal offences against human and people's rights and freedoms make less than 3% - 1,1%; against human health – 0,05%; against general safety – 1,1%;, against government authorities – 0,9%.

Year	Total criminal offences of general crime	Criminal offences against human life and body	Criminal offences against sexual freedom	Criminal offences against property	Criminal offences against public transport safety	Criminal offences against public peace and order	Criminal offences against human and people's rights and freedoms	Criminal offences against human health	Criminal offences against general safety	Criminal offences against government authorities	Other criminal offences of general crime
2007	91.588	5.018	413	54.735	10.499	6.142	590	30	1.080	810	12.271
2008	92.342	4.770	422	54.385	10.511	6.490	732	17	1.035	876	13.104
2009	90.060	4.707	436	52.284	10.315	6.816	1.067	107	941	817	12.570
I-X 2010	72.395	3.694	402	43.299	7.055	5.177	1.473	21	672	743	9.859
Total	346.385	18.189	1.673	204.703	38.380	24.625	3.862	175	3.728	3.246	47.804

Table 2 shows structure of criminal offences by areas of crime from 2007 to October 2010, at the territory of the Republic of Serbia (data taken over from the Statistical Review of Situation in the Area of Public Security of the MIA of the RS).

All the mentioned statistical data are processed in the UIS of the MIA in the database "Criminal Offences and Perpetrators", as centralized records. These records contain data of:

- Criminal offences,
- Number of aggrieved parties,
- Manner of execution – *modus operandi*,
- Perpetrators,
- Measures taken towards perpetrators,
- Police activities,
- Outcome of criminal charges and further course of procedure,
- Requests of the public prosecution service,
- Time and place of execution,
- Criminal Records Number.

Statistical data may be obtained from the mentioned database, by all the parameters entered for perpetrators and aggrieved parties (age and sex structure, marital status, employment, and similar), number of perpetrators against whom the measures of deprivation of freedom and detention are taken, number of criminal offences and structure, number of perpetrators and aggrieved party, place and time of execution, and other.

The data of all discovered and reported criminal offences are entered into this centralized database by police officers which have pressed criminal charges. Therefore, criminal offences of organized crime are also located in this database. The amendments and modifications to the Criminal Code (of 18 September 2009) provided easier recognisability of these criminal offences, considering that, in some criminal offences, special circumstances in execution are criminalized, including the

crime committed by organised criminal group (e.g. extortion, blackmail, human trafficking, etc.). In accordance with the legal amendments to the application "Criminal Offences and Perpetrators", a possibility for search of the data related to the offences of organised crime was introduced.

According to the estimates of the MIA of the Republic of Serbia, some 60% of identified criminal groups deal with smuggling narcotics, and precisely these groups manifest the highest degree of organization and violence and are of expressed international character. Besides, organized people smuggling, trade and smuggling of firearms and ammunition, organised stealing and re-selling of stolen motor vehicles, organised money counterfeiting, etc, are also present. A geographic position of our country as crossroads between Western Europe and Middle and Far East is certainly one of very important factors which contributes to the occurrence and development of international forms of organized crime, but the increasingly important role in their presence is played by the area of the AP of Kosovo and Metohija, which represents a significant international point in trade and smuggling narcotics and human smuggling. Organised crime at the territory of the Republic of Serbia is characterized by the acting of groups in close connection with the organised criminal groups in the region, but also at broader international level, and, as shown at the end of 2009, at the broadest – transcontinental level, which is another new dimension of organized crime in this region (discovering of the transnational criminal group smuggling cocaine from South America to Serbia and Western European countries, via the ports in Spain, Italy, Belgium, and The Netherlands). The groups vary in number and composition, and their basic characteristic is fast renewability after police actions. They are mostly of "specialized" character, but the occurrence of those dealing with various criminal activities is ever more present lately. From 2009 to October 2010, 60 narco groups of different level and grade of organization were discovered (31 in 2009 and 29 in 2010) with total of 335 members (146 in 2009 and 189 in 2010), out of which 299 were arrested (130 in 2009 and 169 in 2010). Out of total number of narco criminal groups, 24 were dealing with procurement and sale of various types of narcotics, 26 were dealing with sale of heroine, two groups were dealing with smuggling and sale of cocaine, and 7 were dealing with procurement and distribution of marijuana and "skunk", while one of them was dealing with production and sale of synthetic narcotics.

Smuggling and trade in heroine represents a traditional form of organized crime in our country. A presence of heroine is conditioned by the fact that the shortest land and other ways between the countries producing and storing heroine (Turkey, Afghanistan, Pakistan and Iran) and the Western European countries at whose narco markets it is being sold pass through our country. This transit line in smuggling of heroine from East to West is better known as the "Balkan Route". In 2009, the Ministry focused on cutting the channels for smuggling of heroine over the state border, precisely at the branches of the "Balkan Route". When it comes to smuggling of heroine, it must be mentioned that changes in directions of smuggling of heroine via the "Balkan Route" were noted during 2009, which significantly move Serbia from the main direction. The smuggling tendencies lead in direction of Schengen borders on one side, towards Macedonia and the AP of Kosovo and Metohija on the other side. For this reason, more and more confiscations of heroine are realized at the territory of Macedonia, and less of them are realized in our country and the other ex-Yugoslavian countries.

Marijuana is the most frequent narcotic at the illegal market in the country. It is mostly grown in our country and smuggled from Albania via Montenegro. Besides smuggling from Albania, smuggling of marijuana from other surrounding countries is occasionally present as well. What stands out in discovering smuggling and trade in marijuana is that the international criminal group, dealing with smuggling of large quantities of modified marijuana (so-called "skunk") from Albania via Montenegro to our country, where it was stored for further distribution to Bosnia and Herzegovina, Croatia, Slovenia, Italy and other Western European countries, was discovered for the first time in 2009. 60 kilograms of "skunk" were confiscated (33 kg at the territory of Nis, and 27 kg at the border pass Sid exiting from our country), which has been the largest confiscated quantity of this type of marijuana in our country so far. Also, the criminal group of 12 members (out of which 11 were deprived of freedom), dealing with production of modified marijuana - "skunk" in artificial conditions at several locations at the territory of the AP of Vojvodina and organising its further sale at the territory of the Republic, was discovered in 2010.

In the area of organised financial crime from 2009 to October 2010, a total of 15 organised criminal groups were discovered (7 in 2009 and 8 in 2010). Out of a total of 255 members of these groups (111 in 2009 and 144 in 2010), 211 were deprived of freedom (86 in 2009 and 125 in 2010). Some organised criminal groups dealing with organised abuses in public procurement procedures, disability insurance, circulation of excise products, granting state investment funds (credit funds from the NIP), payment of public income, than with a view to money laundering and frauds, were discovered in the past period. An important fact is that the group formed for performing fraud was discovered for the first time in 2009, and another group formed with the same objective was discovered in 2010. The characteristics of organized financial crime in the past period concern, above all, more intensive presence of money laundering as basic criminal activity of criminal groups (three organised criminal groups, formed with objective of money laundering, were discovered in 2010). A presence of criminal activities related to excise goods and fast moving consumer goods was discovered in the past period – organized criminal activities related to oil and oil derivatives were discovered in 2009, and in 2010, an expansion of circle of organized abuses took place – they were also performed in relation to alcoholic beverages and textile goods. Two organised criminal groups were discovered in the past period, formed with the objective of acquiring material gain through corruptive actions – performing abuses in public procurements, for the needs of the healthcare institutions.

Fight against corruption, pursuant to programme documents in which it has been marked as one of the key strategic tasks of the Ministry, resulted in increased discovering of criminal offences by some 20%, or from 3.318 in 2008 to 3.970 in 2009. The number of criminal offences with the element of corruption discovered in 2009 is the largest since 2000, and by 44% exceeding a total number of discovered offences in the six-year-period from 2000 to 2005. 3,5 times more criminal offences of giving and receiving bribes were discovered (268 in 2009, comparing to 77 in 2008). 3.601 person was reported, among whom 1.227 directors of various enterprises, 208 employees of public enterprises, 100 employees in customs,

education and judicial authorities, 87 members of the MIA, 139 employees in various government authorities, 26 bank employees, and other.

In the area of organized distribution of counterfeit money, an organized criminal group of 13 people (6 deprived of freedom) was discovered, which in 2008 and 2009 put several hundred thousand counterfeit Euro into circulation at the territory of the Republic Serbia and the European Union countries, out of which 2.160 counterfeit 100 Euro banknotes were confiscated. The group distributed counterfeits banknotes in the EU countries via the Republic of Montenegro and the Federation of Bosnia and Herzegovina. This form of organized crime is frequent in our country, and the expectations that it will manifest itself to the same extent in the period to come are quite realistic. Such danger is particularly influences by development and availability of high information technologies (which make money counterfeits ever more quality), but also by coming of fake money (especially Euro) from the Republic of Bulgaria, where this criminal activity is highly frequent.

Human trafficking and smuggling are one of the most frequent forms of organized crimes, to which the Ministry dedicates special attention in its work. The so-called internal trafficking prevails within human trafficking, taking into consideration that it has been mostly concerning victims – nationals of the Republic of Serbia in the past several years. During 2009, out of total of 85 victims - 79 are domestic nationals. The fact that more and more children and minors are among victims (around 60%) is very concerning. In 97% of cases, the perpetrators are nationals of the Republic of Serbia, or, out of total of 94 persons with criminal charges, 91 is from Serbia, two are from Macedonia, and one is from Turkey. Among numerous examples in this area, we can single out discovering of the criminal group of five members, which exploited three our female nationals from Subotica in Novi Pazar, through prostitution and labour exploitation, as well as arresting of two our nationals which sexually exploited 8 our female nationals, among whom four minors, at the territory of Novi Sad. Within fighting against human trafficking, and during 10 months of 2010, actual tendencies were related to the presence of the so-called internal trafficking whose victims are mostly our nationals. 32 criminal charges were pressed against 75 persons (72 nationals of the Republic of Serbia, 1 from Turkey, 1 from Bosnia and Herzegovina and 1 from Croatia) for criminal offence of human trafficking, which aggrieved 51 parties. Among the victims, there are 48 nationals of the Republic of Serbia (94%), and one female national of Moldavia, one of Croatia, and one of Macedonia. The largest number of criminal charges (12) was registered at the territory of Novi Sad.

In 2009, in suppressing human smuggling, 82 criminal charges were pressed against 156 persons dealing with this criminal activity (criminal offence of illegal crossing of state border and human smuggling). Most frequently the perpetrators are our nationals (141), but also the nationals of China, Bosnia and Herzegovina, and other. The action of arresting of 14 members of one of the best organized criminal groups in the region of the Balkan countries (Serbia, Bosnia and Herzegovina, Croatia, and Slovenia) especially stands out, by which, at the same time, the channel for illegal transportation of Albanian nationals across the territory of our country towards the EU countries was cut. The group smuggled 53 Albanian nationals and realized a profit in the amount of EUR 300.000. The action was executed in cooperation with the MIA of the Federation of Bosnia and Herzegovina, and with support and coordination of the SECI Centre

and the INTERPOL. We can also emphasized arresting of 17 members of the international organized criminal group, which illegally transported Chinese nationals across our country and the Republic of Macedonia towards Greece and other EU countries from December 2008 to April 2009. Based on the data and evidence forwarded by the MIA of the Republic of Serbia, 13 members were arrested at the territory of the Republic of Macedonia. The action was executed with the coordination of the SECI Centre. From January to October 2010, 66 criminal charges were pressed against 132 persons (122 nationals of Serbia) for the same number of criminal offences of illegal crossing of state border and human smuggling. The same persons are suspected of having organized illegal transportation across the state border for 257 persons, among whom mostly our nationals from the territory of the AP of Kosovo and Metohija (145), nationals of Afghanistan (22), of Turkey (20), and other. As Hungary is the most popular when it comes to the direction of movement of illegal migrants across the territory of the Republic of Serbia, the Regional Centre of Border Police towards Hungary pressed the largest number of criminal charges (26), followed by Sremska Mitrovica (8), Sombor (5), Belgrade (4) and other. Through joint efforts of several organisational units of the Ministry of Internal Affairs, the organised criminal group of nine members, suspected of having organised illegal transportation from October 2009 to May 2010 (most frequently at the territory between the border passes Kelebija and Horgos) of a large number of persons, realizing a gain of several to ten thousand euro, was deprived of freedom during May 2010. During August, two realized actions of the Regional Centre of Border Police towards the Republic of Hungary especially stand out, during which the criminal charges were pressed against a total of 8 our nationals, which are reasonably suspected of having organized illegal transportation of 20 persons (11 nationals of Serbia from the territory of the AP of Kosovo and Metohija, 4 nationals of Turkey, 4 nationals of Pakistan, and one national of Albania). Illegal transportation was organized with a view to acquiring material gain in the amount of more than EUR 60.000.

In the area of suppression of organised property crime, from 2009 to October 2010, 33 criminal groups of different level and grade of organization were discovered (12 in 2009 and 21 in 2010), with total of 212 members (78 in 2009 and 134 in 2010). Criminal activity of 14 groups concerned robberies in the objects doing transactions with cash - banks, post-offices, foreign exchange offices, jewellery shops, casinos, gas stations, betting places, and various business objects, as well as over money transports. Ten groups were dealing with larcenies, three – with larcenies and thefts, and three – with robberies and larcenies. Two criminal groups were dealing with extortions, and one with theft and smuggling of stolen vehicles abroad. Organized property crime is performed by the groups mostly consisting of perpetrators – domestic nationals. As regards foreign nationals, the nationals of Bosnia and Herzegovina appear most frequently, independently or in cooperation with domestic ones, except when it comes to organized stealing of vehicles, wherein the nationals of other countries also take place. One of the characteristics of organized property crime, especially when it comes to robberies, is that they are most frequently performed with the use of firearms.

Beside the groups with ‘specialized’ criminal activity, the attention in 2009 was also dedicated to discovering the groups simultaneously dealing with various forms of organized crime. Four such criminal groups were disrupted, and the important fact is that three of them are of international character.

The most frequent form of cyber crime represents counterfeiting and abuse of payment cards, conditioned and supported by the development of electronic cashless payment transactions in our country, and assuming forms of organized criminal activity. In 2009, the organized criminal group of 8 members (11 persons reported in total) was arrested, dealing with counterfeiting and abuse of counterfeit payment cards in the sales objects at the territory of the Republic of Serbia and the countries in the region. In the first ten months of 2010, intensive actions were taken in discovering organised forms of cyber crime, which is best shown by the realization of the action from March and April when the organized criminal group of 18 members which were using computer equipment to influence the outcome of SMS auctions for some time, thus misleading game organizers and other players with a view to acquiring material gain, was arrested in Belgrade.

Organised smuggling, trade and illegal possession of firearms and ammunition are most directly conditioned by armed conflicts at the territory of ex-Yugoslavia, and influence an overall security situation in the Republic. They also represent one of the sources of violence crime, boost some segments of organized crime, incite conflicts, and lead to more serious forms of endangering personal and material safety of the citizens, and they might also be in function of terrorist activities. In accordance with the grade of danger to security implied by this problem, the Ministry at the same time intensified both repressive and prevention measures with a view to as complete suppression of this socially negative phenomenon as possible. In the area of suppression of trade and illegal possession of firearms, in the first ten months of 2010, three organised criminal groups were discovered (two at the territory of the Republic of Serbia and one in Bosnia and Herzegovina) with a total of 21 persons, out of which 16 were deprived of freedom. There were no such groups in 2009.

Organised crime and corruption represent a threat to the security of the Ministry of Defence and the Serbian Armed Forces, or to the defence system of the Republic of Serbia in whole. From 2004 to the end of 2009, the Military Security Agency clarified several dozens of cases of criminal activity for which there were indications of elements of organised crime and corruption. The mentioned criminal activity is mostly frequently manifested in the area of public procurements, solving of status matters, and lately in the area of healthcare and military duty as well.

During 2009, in cooperation with the Service for Fight against Organised Crime of the MIA of the Republic of Serbia, the activity of one organized criminal group, which was directed primarily against the Ministry of Defence, was discovered, investigated, and documented. It was the organized criminal group whose members, in exchange for money and other counter-services, by means of abusing official position, making of untrue medical records and forging of documents, enabled certain persons to illegally exercise a right to disability pension, to acquire a status of military disabled veterans and to realize an indemnification for damage in the court proceedings based on injuries in the war actions at the territory of the ex-SFRY and at work, to solve their housing problem in the Ministry of Defence, or to be discharged from the duty of serving military service.

Although holders of criminal activity in the mentioned period were mostly the persons from the Ministry of Defence and the Serbian Armed Forces, their conjunction with

the civilians, especially in the area of public procurements, has been reinforced in recent years.

Several criminal offences of theft of armament and military equipment from the military facilities were committed in the past period. The biggest part of the stolen firearms was recovered in the meantime, and the offenders were criminally prosecuted.

Acting within its competences, the Security-Information Agency registered illegal trade in narcotics, of wider regional and intercontinental character, as especially expressed and endangering,

During 2009, based on the operational engagement of the Agency and in cooperation with the foreign partner services and police structures, 2.662 kg cocaine meant for the European market were confiscated at the territory of South America.

The statistic indicators available to the Prosecutor's Office for Organised Crime concern the period from establishing the Special Prosecutor's Office for Organised Crime in 2003 to March 2009. The Special Prosecutor's Office for Organised Crime, which was a separate division of the District Public Prosecutor's Office, was defined as prosecutor's office with special jurisdiction by adoption of the amendments and supplements to the Law on Public Prosecution (*Official Gazette of the RS*, No. 116/2008, 104/2004, and 101/10) of 1 January 2010.

The statistical data and general indicators of organised crime in this part regard the work of the Special Public Prosecutor's Office for Organised Crime. The Special Prosecutor's Office in its work from 2003 to 2009 had as a subject of criminal proceedings criminal offences from a total of 12 chapters of then applicable Criminal Code, prescribed by the Criminal Law of the Republic of Serbia, Basic Criminal Law, and numerous other so-called "special laws", prior to its entering into effect.

According to the statistical data of the Prosecutor's Office, criminal proceedings against a total of 1068 persons for 2410 criminal offences in 102 criminal cases were launched in this period. This practically means that one criminal case included, on average, the proceedings against more than 10 persons, and each of them with 2-3 criminal offences.

Most criminal proceedings concern criminal offences from the chapter against public order and peace, 898 in total. This is understandable, as criminal offence of criminal association – 653, as a basic criminal offence committed by the members of organised criminal groups, is systematized in this chapter. Precisely the indictments for this criminal offence, along with the fulfilment of other legally prescribed conditions as well, made possible that their illegal activities become qualified as organized crime. Besides, this group also includes criminal offences of association for committing criminal offences by certain federal law – 87, illegal crossing of border and human smuggling - 81, illegal possession of arms and explosive substances - 71, as well as criminal conspiracy – 6.

A large number of criminal proceedings were launched due to criminal offences against official duty, 619 in total, out of which 465 concern abuse of official position, 72 concern receiving bribes, and 57 concern giving bribes. With exclusion of criminal

offence of criminal association which is, logically, most frequently prosecuted criminal offence, one can conclude that criminal offences against official duty were the most frequent in the actions of the Special Prosecutor's Office. It is about the so-called corruptive criminal offences, out of which arises that the Special Prosecutor's office was to a large extent engaged in the proceedings for the mentioned criminal offences, even if it is not about the criminal offences from its "basic" jurisdiction. The jurisdiction for the criminal offences related to corruption is given to the Prosecutor's Office for Organised Crime by the Law on Amendments and supplements of the Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime (*Official Gazette of the RS*, No.72/09), applying as of 1 January 2010.

Here follow criminal offences against property – 221 (larceny - 26, robbery – 43, covering – 59, fraud – 73, extortion – 17, unauthorized use of vehicle - 3), then against economy - 182 (money counterfeiting - 27, counterfeiting and abuse of payment cards - 13, forgery of value designations - 42, making, obtaining and giving of counterfeit means to another person - 7, tax fraud - 22, smuggling - 50, money laundering – 17, abuse of authorizations in economy – 3, illegal trade – 1), and against human health – 180 (criminal offence of unauthorized production, holding, and putting into circulation of narcotics), as typical criminal offences of organized crime. The criminal offences from this chapter of the Criminal Code make almost half of total number of prosecuted criminal offences arisen out of the criminal plans of organized criminal groups for the realization of which they were formed in the first place.

The number of proceedings for criminal offences against the constitutional order and security of the Republic of Serbia, 95 in total, is also significant. These are criminal proceedings launched at the very beginning of work of the Special Prosecutor's Office and during 2007, regarding criminal offences of terrorism, association for anti-constitutional activity, serious crimes against the constitutional order and security of Serbia, and murder of a representative of highest government authorities.

A situation is similar with the proceedings for a total of 67 criminal offences against human life and body (out of that, 57 criminal offences are murders and very cruel murders, and 10 criminal offences are severe body injury). These are criminal proceedings launched during 2003 for criminal offences mostly committed by the so-called "Zemun Clan".

The proceedings for criminal offences against legal procedures were part of the work of the Special Prosecutor's Office to somewhat smaller extent. Most frequently, these criminal offences (forgery of identification document and forgery of official identification document) were committed along with other, much more serious criminal offences. Basically, they represented a means and manner for committing typical criminal offences of organised crime by which a large material gain was acquired.

Criminal offences against human and people's rights and freedom (37) - criminal offence of abduction (35) and extortion (2), as well as against humanity and other benefits protected by international law (36), prosecuted from 2003 to 2005, regarding human trafficking, had similar frequency of occurrence.

At the end, it should be mentioned that criminal proceedings against 22 criminal offences against general security and one criminal offence against government authorities were launched as well.

When it comes to the statistics for 2010, the Prosecutor's Office for Organised Crime lodged the requests for enforcement of investigation against 195 out of 232 reported persons from 1 January to 10 December, and the indictments for 94 persons were issued in this period. The most frequent criminal offence is abuse of office (lodged 66 requests for enforcement of investigation), then unauthorised production and putting into circulation of narcotics (lodged 38 requests for enforcement of investigation), criminal offence of fraud (36 investigations requested), and illegal production, holding, possession and circulation of arms and explosive substances (lodged 13 requests for enforcement of investigation).

When it comes to proceedings before a Special Division of the Higher Court in Belgrade, the most frequent criminal offences which the defendants are charged with are criminal offence of unauthorised production and putting into circulation of narcotics from Article 246 of the Criminal Code (Official Journal of the RS, No. 85/05, 88/05, 107/05, 72/09, and 111/09), criminal offence of illegal crossing of state border and human smuggling from Article 350 of the Criminal Code, and criminal offence of abuse of official position from Article 359 of the Criminal Code. More precisely, when it comes to the Special Division, 15 criminal proceedings have been conducted due to criminal offence of unauthorised production and putting in to circulation of narcotics from Article 246 of the Criminal Code, out of which 12 have been validly finished by now, a total number of prosecuted perpetrators in all these proceedings is 107, out of which 88 were pronounced guilty by final judgments. Due to criminal offence of illegal crossing of state border and human smuggling from Article 350 of the Criminal Code, 13 criminal proceedings were launched, out of which 10 have been finished by final judgments by now, a total number of prosecuted perpetrators in all these proceedings is 100, and 85 were pronounced guilty by final judgments, and due to criminal offence of abuse of official position from Article 359 of the Criminal Code, 6 criminal proceedings were launched, out of which 3 were finished by final judgments, a total number of prosecuted perpetrators is 85, out of which 29 have been pronounced guilty by final judgments by now.

140. Specify if there is a proven international dimension of organised crime in your country.

This has also been explained in the answer to question 139.

The international dimension is one of the main features of organised crime in Serbia. It has been identified in almost investigations conducted by the Criminal Police Directorate of the Ministry of Interior of the Republic of Serbia. It is reflected in international links among persons – members of organised criminal groups or movements in goods being subject to criminal offences, as well money flows whereby criminal offences are committed, supported or financed. This has been confirmed (proven) not only by our investigations conducted so far, but also through the highly successful, coordinated and joint actions with the neighbouring and other European countries, as explained in answer to question 139.

The nature of some forms of organised crime (e.g. all types of smuggling and illegal trade) usually implies cross-border and transnational activity, i.e. international dimension as well. Organised crime in Serbia usually fits into the dimensions of organised crime in terms of the assessment of threat from organised crime for the region of Southeast Europe. The international dimension of organised crime is also confirmed by directions of continuous contacts and cooperation of the Service for Combating Organised Crime.

In the area of organised smuggling of narcotics, the most frequent cooperation is that with representatives of the police of Great Britain, FR Germany, Austria, Nordic countries – Norway, Sweden and Denmark, as well as Italy, Belgium, Holland, Australia, Slovenia, Croatia, the USA, etc.

In terms of suppression of organised financial crime, mainly in relation to money laundering, counterfeiting of banknotes, documents and value tokens, most frequent cooperation is that with representatives of the police of Italy, Belgium, Austria, Slovenia, etc.

In terms of suppression of organised general crime (organised murders, kidnappings and blackmails, organised smuggling and theft of cultural property, human trafficking and smuggling of migrants, smuggling of weapons, international smuggling of stolen motor vehicles), the most frequent contacts are established with representatives of the police of Sweden, Great Britain, Austria, FR Germany, Bulgaria, Hungary, Romania, Slovenia, Italy, Holland, Slovakia, France and countries in the region – Croatia, Bosnia and Herzegovina, Montenegro, Macedonia.

Given the increasing gravity of criminal acts (drugs, tobacco, weapons) committed by criminal organisations from the Balkans, whose members also include Serbian nationals, as well as close links with criminal groups active in other countries, as already indicated, there is a proven international dimension of crime in Serbia. It is therefore important to emphasise the developed international cooperation of the prosecution with judicial authorities of other states and representatives of international organisations and institutions, such cooperation being one of important conditions for the successful fight against organised crime. Only in rare cases is organised crime linked to national boundaries, which is why the Special Prosecutor's Office for Organised Crime has acted, since its establishment, on the development of international cooperation, both at the regional level and wider.

Most proceedings instigated in 2009 were a result of cooperation of the Prosecutor's Office for Organised Crime mainly with prosecutor's offices in the region and numerous other prosecutor's offices in Europe and the whole world. In statistical terms, between 70% and 80% of criminal proceedings in 2009 were instigated owing to the cooperation with prosecutor's offices and police of other countries. The process was mutual and the activities of the Prosecutor's Office for Organised Crime and cooperation enabled the initiation of criminal proceedings in other countries as well. Different forms of international cooperation take place through the exchange of information with prosecutor's offices of other countries, particularly through mutual provision of legal assistance in criminal matter, such as the submission of evidence, implementation of investigative techniques, transfer of convicted persons, etc.

The analysis of cases of the Special Division of the Higher Court in Belgrade has shown that in criminal proceedings conducted before this Division in relation to the illegal crossing of state border and human trafficking referred to in Article 350 of the Criminal Code (*Official Gazette of RS*, Nos. 85/05, 88/05, 107/05, 72/09 and 111/09), the international element is present to the greatest extent – it relates either to perpetrators themselves or to injured parties in these proceedings (persons being smuggled) and to the fact that these criminal offences are committed, as a rule, in the territory of a greater number of states. Since 2003, 13 criminal proceedings have been initiated in relation to that offence – of this number, 10 final judgments have been pronounced, the number of processed perpetrators in these proceedings totals 100 and 85 of them have been pronounced guilty by final judgments. In addition, the existence of the international element and thus the cooperation between organised criminal groups from different countries has also been observed in case of the criminal offence of unlawful production and circulation of narcotics referred to in Article 246 of the Criminal Code, though there are fewer foreign nationals who commit that criminal offence. We would like to point out that the Republic of Serbia, as generally known, is one of the transit routes for the smuggling of heroine and human trafficking towards European Union countries, which is why, in the case of these criminal offences as well, the international element appears most often and is reflected through cooperation of criminal groups from different countries. In that regard, there is significant cooperation at the international level as well, resulting in processing, in other countries as well, of organised criminal groups which cooperated with the so-called domestic criminal groups.

141. What are the main elements of your policy dealing with organised crime? Does your legislation criminalise the sole fact of belonging to a criminal organisation? Please provide a description (offences covered, exceptions, level of sanctions etc).

In March 2009, the Government of the Republic of Serbia adopted the National Strategy for Combating Organised Crime (*Official Gazette of RS*, No. 23/09), in which it proclaimed the main elements of its policy of combating organised crime, as well as the directions and methodologies that state authorities implement in combating organised crime. In line with international standards and recommendations, the Strategy envisages, over a longer period, possible trends and development directions of organised crime and defines the main objectives and possibilities of the Republic of Serbia to prevent and minimise organised crime.

The core activities of law enforcement authorities in the field of combating organized crime, such as: detection, identification and proving of criminal activities of the main actors of organized criminal groups through operational work and use of special investigative techniques in line with the law; establishment and promotion of cooperation between the police and citizens; implementation of provisions of the Criminal Code and the Criminal Procedure Code; implementation of international instruments and harmonization of legislation with international standards; intensification, widening, maintenance and promotion of all forms of international police cooperation with the aim of successful suppression of organized crime; the exchange of data and information; and confiscation of assets and material gain

acquired through a criminal offence, have been incorporated into the main objectives of the Strategy and thus into the state policy of combating organized crime. These main objectives are the following: development of a proactive approach in combating organized crime; increasing the efficiency of combating organized crime by the appropriate implementation of preventive and repressive actions and the seizure of the proceeds from crime; harmonization of the national legislation with international standards in the field of combating organized crime; strengthening capacities (human resources and material-technical capacities) of all state authorities participating in combating organized crime; strengthening cooperation at the national, regional and international level; strengthening cooperation among state authorities, the private sector and civil society.

The most important laws regulating the fight against organised crime are the following: the Criminal Procedure Code (*Official Journal of FRY*, Nos. 70/01 and 68/02 and *Official Gazette of RS*, Nos. 58/04, 85/05, 115/05, 49/07, 20/09, 72/09 and 76/10), Criminal Code (*Official Gazette of RS*, Nos. 85/05, 88/05, 107/05, 72/09 and 111/09), Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime, Corruption and other Particularly Serious Criminal Offences (*Official Gazette of RS*, Nos. 42/02, 27/03, 39/03, 67/03, 29/04, 58/04, 45/05, 61/05 and 72/09), Law on the Protection Programme for Participants in Criminal Proceedings (*Official Gazette of RS*, No. 85/05), Law on Seizure and Confiscation of the Proceeds from Crime (*Official Gazette of RS*, No. 97/08) and Law on the Execution of the Prison Sentence for Criminal Offences of Organised Crime (*Official Gazette of RS*, No. 72/09).

Article 346 of the Criminal Code prescribes the criminal offence of criminal alliance – whoever organises a group whose purpose is to commit criminal offences punishable by imprisonment of three years or by graver punishment, is punished by imprisonment of six months to five years, unless graver punishment is prescribed by law for such organisation. Whoever organises an organised criminal group is punished by imprisonment of one to eight years, unless graver punishment is prescribed for such organisation. A member of the group is punished by imprisonment of three months to three years, and a member of an organised criminal group is punished by imprisonment of six months to five years. If a group or organised criminal group aims to commit offences punishable by imprisonment of twenty years or imprisonment of thirty to forty years, the organiser of the group or organised criminal group is punished by minimum ten years' imprisonment or thirty to forty years' imprisonment, and a member of the group or organised criminal group by imprisonment of six months to five years. The organiser of the group or organised criminal group who by exposing the group or organised criminal group or otherwise prevents commission of the offences for which the group was organised, is punished by imprisonment up to three years and may be remitted from punishment. A member of the group or organised criminal group who exposes the group before committing as a member or on behalf of such group an offence is punished by fine or imprisonment up to one year. Under Article 112, paragraph 35 of the Criminal Code, an organised criminal group is a group that exist over a certain period, comprising minimum three or more persons acting in conspiracy to commit one or more criminal offences punishable with imprisonment of four or more years, to acquire direct or indirect financial or other gain.

The Criminal Code envisages criminal offences such as: unlawful production and circulation of narcotics (Article 246), illegal crossing of state border and human trafficking (Article 350), human trafficking (Article 388), trafficking in children for adoption (Article 389), containing graver forms of commission of these offences if the offences are committed by an organised criminal group, when the Code prescribes the possibility of pronouncement of stricter sanctions compared to the commission of a basic criminal offence.

The main elements of combating organised crime are defined in the Strategy for Combating Organised Crime, adopted in 2008.

The main objectives of the Strategy are:

- development of a proactive approach in combating organised crime;
- increasing the efficiency of combating organised crime by the appropriate implementation of preventive and repressive actions and the seizure of the proceeds from crime;
- harmonisation of national legislation with international standards in the field of combating organised crime;
- strengthening capacities (human resources and material-technical capacities) of all state authorities participating in combating organised crime;
- strengthening cooperation at the national, regional and international level;
- strengthening cooperation among state authorities, the private sector and civil society.

142. Does your country have a specific legal framework for financial investigations, or are they carried out in the context of normal criminal investigations?

The legal framework for financial investigations is laid down by the Law on Seizure and Confiscation of Proceeds from Crime (*Official Gazette of RS*, No. 97/2008), effective as of 1 March 2009. Article 2 prescribes criminal offences to which the provisions of the Law apply:

- 1) organised crime;
- 2) showing of pornographic material and child pornography (Article 185, paragraphs 2 and 3 of the Criminal Code (*Official Gazette of RS*, Nos. 85/2005, 88/2005 - correction, 107/2005 - correction, 72/2009 and 111/2009));
- 3) crime against economy (Article 223, paragraph 3, Article 224, paragraph 2, Article 225, paragraph 3, Article 226, paragraph 2, Article 229, paragraphs 2 and 3, Article 230, paragraph 2 and Article 231, paragraph 2 of the Criminal Code);
- 4) unlawful production, keeping and circulation of narcotics (Article 246, paragraphs 1 and 2 of the Criminal Code);
- 5) criminal offence against public peace and order (Article 348, paragraph 3 and Article 350, paragraphs 2 and 3 of the Criminal Code);

6) abuse of office (Article 359, paragraph 3, Article 363, paragraph 3, Article 364, paragraph 3, Article 366, paragraph 5, Article 367, paragraphs 1–3, 5 and 6 and Article 368, paragraphs 1–3 and 5 of the Criminal Code);

7) crime against humanity and other goods protected by international law (Article 372, paragraph 1, Article 377, Article 378, paragraph 3, Article 379, paragraph 3, Articles 388–390 and Article 393 of the Criminal Code).

The provisions of the Law apply to criminal offences provided under Article 185, paragraphs 2 and 3, Article 230, paragraph 2, Article 348, paragraph 3, Article 350, paragraphs 2 and 3, Article 366, paragraph 5, Article 367, paragraphs 1–3, 5 and 6, Article 368, paragraphs 1–3, and 5, Article 372, paragraph 1, Article 377, Article 378, paragraph 3, Articles 388–390, and Article 393 of the Criminal Code if the material gain acquired from crime, that is, the value of objects acquired from crime exceeds the amount of one million five hundred thousand dinars.

The Law defines the authorities competent to trace, seize/confiscate and manage criminal proceeds as follows: the public prosecutor, court, Financial Investigation Unit of the Ministry of Interior and the Directorate for Management of Seized and Confiscated Assets. Articles 6 and 7 cover specifically the Financial Investigation Unit of the Ministry of Interior. The Unit performs its tasks *ex officio* or at the order of the public prosecutor and the court, while state and other authorities, organisations and public services are obliged to extend assistance to the Unit.

The Law sets out the financial investigation procedure (Articles 15–20). Financial investigation is instituted against the owner when reasonable grounds exist to suspect that he/she possesses considerable assets deriving from a criminal offence. In the course of financial investigation evidence is collected on assets, lawful income and costs of living of the defendant, cooperative witness or bequeather, evidence of assets inherited by the legal successor, that is, evidence on assets and compensation transferred to the third party. It is the duty of all authorities and persons participating in financial investigation to act with particular urgency. Information relating to the financial investigation is classified as confidential and represents official secret. In addition to officials such information may not be disclosed by any other person who gets access to it. An official is required to notify other persons that this information is confidential.

Financial investigation is instituted at the order of the public prosecutor. Financial investigation is managed by the public prosecutor. The Unit collects evidence specified in Article 15, paragraph 2 of the Law at his request or *ex officio*. The public prosecutor may order banking or other financial organisation to submit to the Unit data on the status of the owner's business and private accounts, and safety deposit boxes. The public prosecutor may thereby also give permission to the Unit to undertake automatic processing of data on the status of the owner's business and private accounts, and safety deposit boxes.

Details regarding mutual assistance (international cooperation) in the area of financial investigations are also regulated. Mutual assistance aimed at seizing criminal proceeds is granted pursuant to an international agreement. If such agreement does not exist or if some issues are not regulated by an international agreement, international cooperation is granted pursuant to the provisions of the Law. Mutual assistance in terms of the provisions of the Law includes extending assistance in tracing the proceeds from crime, ban on disposal, and temporary or permanent seizure of the proceeds from crime. Jurisdiction of the domestic public prosecutor's office

and/or courts in mutual assistance is determined through analogous application of corresponding provisions on international legal assistance and enforcement of international agreements in criminal matters.

Significant results in the seizure of criminal proceeds were achieved from the effective date of the Law until October 2010. According to statistics, during that period there were 266 orders for instituting financial investigations against 416 persons in the territory of the Republic of Serbia. Of these 416 persons, 365 were the accused, 39 were third parties, 1 was legal successor and 11 were legal persons. The number of orders banning asset disposal reached 141, while the number of orders issued in accordance with Article 20 of the Law came to 217. At the same time, 34 motions for temporary seizure of assets were filed against 72 persons. Of these motions, 7 were sustained, 5 partly sustained and 7 motions were rejected as unfounded.

According to data, there were 2 motions for permanent seizure of assets relating to 3 persons in total. There were 98 cases of assets seizure, these relating to apartments, immovables, business premises, garages, plots of land, as well as to moveable property, including passenger motor vehicles, freight vehicles, valuables, pecuniary assets, shares.

The analysis conducted so far shows that the greatest number of motions filed and assets seized were those relating to the abuse of office and to criminal offences against people's health, i.e. unlawful production, keeping and circulation of narcotics, and against economy.

The Law sets out the conditions, procedure and authorities for detecting criminal proceeds, i.e. through financial investigation as well. The aim of financial investigation is to establish the assets, and then to temporarily and afterwards permanently seize the criminal proceeds. The seizure of such proceeds is part of the National Strategy for Combating Crime.

Financial investigation is carried out since the seizure of assets acquired through crime does not constitute a criminal sanction pursuant to our legislation. Being linked to the perpetration of a criminal offence and pronounced in criminal proceedings, the seizure of assets is a punitive measure. The aim of this measure is precisely to seize assets acquired through crime. It is pronounced exclusively in favour of the government and all assets seized are automatically transferred into government ownership.

The purpose of financial investigation is primarily to eliminate the damage to public interest arising from the perpetration of criminal offence and to prevent unlawful proceeds from entering legal economic flows and from being used in perpetration of new criminal offences. Financial investigation enables reaching to the very masterminds of organised crime groups and strengthens the rule of law and the equality of all before the law.

143. Indicate the use and effectiveness of financial investigations in specific crimes, e.g. trafficking in human beings, drugs trafficking; smuggling of goods (e.g. cigarettes, vehicles and counterfeited goods), etc.

The Law on Seizure and Confiscation of the Proceeds from Crime stipulates the criminal offences subject to financial investigation and we are of the view that its

implementation so far will have a significant impact on potential perpetrators of such offences in the future. Owing to the implementation of this Law so far, substantial assets have been confiscated from the perpetrators of criminal offences in the area of narcotics, human trafficking, tax evasion, etc.

Financial investigation deals the final blow to crime perpetrators, i.e. the accused, bequeathers, legal successors, third parties or cooperative witnesses. The objects of the criminal offence are seized in the pre-trial phase of criminal proceedings (automobiles, cigarettes, narcotics, etc.). Financial investigation aims to determine the mismatch between the assets and legal income of perpetrators and persons connected with them, thus creating the preconditions for the seizure of the proceeds from crime.

During a relatively short period of implementation of the Law on Seizure and Confiscation of the Proceeds from Crime, the Republic of Serbia has achieved significant results and has become the regional leader in this respect. It can be said that the seizure of assets has perhaps become the most powerful tool in the fight against crime in the territory of the Republic of Serbia, and particularly against organised crime. The examples corroborating this statement are numerous – substantial assets have been seized from perpetrators of crimes such as drug trafficking, abuse of office, human trafficking and cyber crime. Apart from detecting the assets, financial investigations also unveil information which points to new criminal offences, above all those relating to money laundering.

144. Is it possible to continue an investigation into the proceeds of crime or more generally its financial aspects, after the proper criminal investigation has been closed/after the conviction?

Pursuant to the Law on Seizure and Confiscation of the Proceeds from Crime (*Official Gazette of RS*, No. 97/2008), financial investigation may be conducted in the pre-trial and trial phases. Temporary seizure of assets is also effected during these phases of criminal proceedings, while the court may pass the final decision on permanent seizure of assets once the conviction for the criminal offence from Article 2 of the Law becomes final.

Financial investigation of illegal income generated through criminal activities is related to the criminal offence for which criminal proceedings are conducted or have been concluded. The motion for permanent seizure of assets may be filed within a year after the final conclusion of criminal proceedings.

One of the features of this Law is that the burden of proof is on the persons whose assets are seized, as well as that the seizure extends to assets that do not arise directly from the crime for which the person has been pronounced guilty or for which the charges were pressed.

Should the public prosecutor decide so, there are no impediments for the financial investigation to continue even after the institution of proceedings for temporary seizure of the proceeds from crime. Effectively, this means that the prosecutor is free from the obligation to prove causal relationship between the crime for which the accused was pronounced guilty and the assets that are being seized.

To make the implementation of the Law as effective as possible, all authorities involved should participate on an equal basis and perform their tasks efficiently. The

role of the prosecution is the most important because the public prosecutor exercises the powers of an investigating judge in this measure (which is an exemption compared to other procedures) as an authority that initiates financial investigation by an order, manages the pre-trial proceedings and monitors further the course of the proceedings. The public prosecutor is obliged to initiate financial investigation whenever there are conditions for the application of the Law.

The prosecutor is authorised to file to the court the motion for permanent seizure of assets after entry into force of the indictment and no later than one year following the final conclusion of criminal proceedings, after the court reaches a decision. This means that assets arising from a criminal offence may be seized from the perpetrator even after conviction, but only within a year, in accordance with other provisions of the Law.

145. Are there special legal powers/tools available to investigate the proceeds/financial aspects of criminal activities?

The Law on Seizure and Confiscation of the Proceeds from Crime (*Official Gazette of RS*, No. 97/2008) is divided into several sections. The first section contains the basic provisions, the second covers the authorities in charge of enforcing the Law, the third sets out the procedure, the fourth regulates the management of seized assets, and the fifth focuses on mutual assistance. The application of the Law assumes the existence of appropriate material and formal conditions laid down in the basic provisions. The key assumption for the application of the Law is the existence of criminal offences specified by the Law, while for some criminal offences the application of the Law is also conditioned by the level of acquired material gain. Assets represent the material condition as well, and this is where appropriate understanding of the concept of assets and of the owners of such assets is needed. The Law on Seizure and Confiscation of the Proceeds from Crime applies to all cases where the perpetration of a criminal offence has resulted in some material gain, manifesting as the increase in the criminal assets of the perpetrator or of a third party. These assets may include both movable and immovable property, while material gain may represent any other benefit resulting from the perpetration of a criminal offence. The persons owning such illegally acquired assets may be the accused, legal successors, third parties and legal persons.

Pursuant to the Law, the competent authorities are the public prosecutor, the court, the Financial Investigation Unit of the Ministry of Interior and the Directorate for Management of Seized and Confiscated Assets. The Law gives the public prosecutor the key role by vesting him with the power to institute financial investigation by an order. Financial investigation is conducted by the Financial Investigation Unit. It is important to note that financial investigation is initiated against the owner when reasonable grounds exist to suspect that he/she possesses considerable assets deriving from a criminal offence. The emphasis is on *considerable*, because financial investigation will not be initiated for any amount of assets.

Financial investigation aims to collect all evidence on assets, lawful income and costs of living of the defendant, cooperative witness or bequeather, as well as evidence of assets inherited by the legal successor, and/or evidence on assets and compensation for which the assets were transferred to a third party. Financial investigation is managed by the public prosecutor. In collecting evidence, authorities

of internal affairs, i.e. the Financial Investigation Unit must act with urgency, while all data gathered in the course of financial investigations are confidential and constitute official secret.

After collecting all these data and after the Financial Investigation Unit submits data on assets and other data to the prosecutor, the public prosecutor files a motion for temporary or permanent seizure of assets with the investigating or acting judge, depending on the phase of proceedings in which the motion is filed. The Law gives the prosecutor the possibility to issue orders banning asset disposal and orders on temporary seizure of movable assets in cases where there is a risk that the owner will dispose of his/her assets before the motion on temporary seizure is decided on. These orders are enforced by the Financial Investigation Unit. Upon receipt of the motion, the court schedules a hearing to which the owner, his defence counsel and/or attorney, if any, and the public prosecutor are summoned. The hearing must be held within five days from the day of filing the motion for temporary seizure of assets, and is not discontinued. The role of the prosecutor at the hearing is to present evidence on assets in possession of the owner, reasonable grounds to suspect that those assets derive from a criminal offence and circumstances indicating a risk that subsequent seizure thereof would be hindered or prevented.

On conclusion of the hearing the court passes a decision sustaining or rejecting the motion for temporary seizure of assets. The decision is delivered to the owner, his/her defence counsel and/or attorney, the prosecutor and the Directorate. It may be appealed within three days from the day of delivery. The temporary seizure of assets is in force until ruling on the motion for permanent seizure of assets. There are circumstances when the court is authorised to reconsider its decisions on temporary seizure of assets in case of death of the owner or in case of other circumstances that bring into question the justifiability of such temporary seizure.

In addition to temporary, the Law also envisages permanent seizure of assets. The motion for permanent seizure of assets is also filed by the public prosecutor after entry into force of the indictment and no later than one year following the final conclusion of criminal proceedings. The motion is decided on by the chamber holding the main hearing and/or president of such chamber. The procedure for permanent seizure of assets is urgent. It should be noted that if the motion for permanent seizure of assets is filed during the first-instance proceedings, the court will summon the owner to the main hearing to state whether he/she will challenge the motion for permanent seizure of assets. If the owner fails to appear at the main hearing or fails to give a statement on the motion or if he/she states that he/she does not challenge the motion, the decision on the motion will be passed within the judgement and such decision may be contested in the appeal against the judgement. Should the owner however state that he challenges the motion, the decision will be taken in separate proceedings, or more specifically in the main hearing. Prior to the main hearing, the court will schedule a preparatory hearing within 30 days from the day of finality of a convicting judgement or from the day of filing the motion, for the purpose of presenting evidence. After the preparatory hearing, the main hearing is held at which the court decides whether the prosecutor's motion is founded or unfounded. The court's decision on seizure of assets is delivered to the owner, his/her attorney, the public prosecutor and the Directorate. After that, the Directorate takes measures for safeguarding and maintaining the assets seized. The Directorate manages the assets seized until final conclusion of the procedure for permanent seizure of assets. Upon finality of the decision, the Directorate, as a body of the

Ministry of Justice, will manage the assets seized with due diligence and/or due and reasonable professional care.

146. Is it possible to involve private experts (accountants, financial experts) in order to investigate the proceeds/financial investigations of criminal activities? If so, please explain the legal and other parameters under which this can be done.

The public prosecutor may order specialist banking, financial, audit and other institutions to submit data on suspect's assets to the Financial Investigation Unit, and may at the same time give permission to the Unit to undertake automatic processing of data on the suspect's transactions. The role of the expert is determined according to the general rules established by the Criminal Procedure Code.

Expert analysis is prescribed by Articles 113–132a of the Criminal Procedure Code – CPC (*Official Journal of FRY*, Nos. 70/2001 and 68/2002 and *Official Gazette of RS*, Nos. 58/2004, 85/2005, 115/2005, 85/2005 – other law, 49/2007, 20/2009 – other law, 72/2009 and 76/2010). Expert analysis is ordered when the determination or assessment of an important fact calls for the findings and the opinion of a person possessing necessary professional knowledge.

Expert analysis is ordered in writing by the authority conducting the proceedings. If a particular kind of expert analysis falls within the domain of a professional institution or if the expert analysis can be performed within a particular state authority, such expert analysis, especially if it is a complex one, will as a rule be entrusted to such professional institution and/or authority. The professional institution and/or authority designates one or several experts to make the expert analysis. When the authority conducting the proceedings designates an expert witness, it as a rule designates one expert witness, and if the expert analysis is complex, it designates two or more expert witnesses. If there are expert witnesses who have been permanently designated for some kind of expert analysis at the court, other expert witnesses may only be designated if there is a danger of delay or if the permanent expert witnesses are prevented, or if other circumstances demand such action.

A person summoned as an expert witness has the duty to answer the summons and give his findings and opinion within the time period specified in the order. The time period from the order may be extended at the request of the expert witness for justified reasons. If an expert witness who has been duly summoned fails to appear and does not justify his absence or if he refuses to perform an expert analysis, or if he fails to give his findings and opinion within the time period specified in the order, he may be fined up to RSD 100,000. In the case of a professional institution, the fine may be up to RSD 500,000. If his failure to appear is unjustifiable, the expert witness may be compelled to appear.

A person who may not be examined as a witness (Article 97) or who has been exempted from the duty to testify (Article 98), or against whom a criminal offence has been committed may not be appointed an expert witness, and if he has been appointed, a judicial decision may not be based on his findings and opinion.

Another reason for the recusal of an expert witness (Article 45 of CPC) is also in the case of a person employed by the injured party or the defendant, or a person who has the same employer as one or both of them. As a rule, a person examined as a witness cannot be appointed an expert witness. Where a special appeal has been allowed against the ruling denying the request for the recusal of an expert witness (Article 43, paragraph 4), the appeal stays the execution of the expert analysis, except where there is a danger of delay.

The expert witness will be requested to take an oath before the expert analysis. A permanent expert witness will before the expert analysis only be reminded of the oath already taken. Prior to the main hearing, an expert witness may take the oath only before the court and only if there is fear that he might fail to appear at the main hearing because of illness or some other reason. The reason for taking the oath at that time will be entered in the record.

The authority in charge of the proceedings will direct the expert analysis, indicate to the expert witness the objects he is to inspect, ask him questions and, if necessary, request explanations regarding his findings and opinion. The expert witness may be provided with clarifications and may be allowed to inspect the case file. The expert witness may propose that evidence be presented or that objects and data material to his analysis and opinion be secured. If he attends a site inspection, reconstruction or some other investigative action, the expert witness may propose that specific circumstances be clarified or that the person being examined be asked specific questions.

The expert witness examines the objects of the expert analysis in the presence of the authority in charge of the proceedings and the recording clerk, except where an extensive examination is necessary, or where the examination is conducted in institutions, and/or state authorities, or if required by ethical considerations.

Expert's findings and opinion are immediately entered in the record. The expert witness may be allowed to submit his findings and opinion in writing within a period of time determined by the authority in charge of the proceedings. If an expert analysis is entrusted to a professional institution or a state authority, the authority in charge of the proceedings will issue a warning that the person referred to in Article 116 of the CPC or a person who is for some other reason provided for in the CPC exempt from being an expert witness may not participate in giving findings and opinions, as well as warning them of the consequences of presenting a false finding and opinion.

The record of the expert analysis or the written findings and opinion must indicate the name, occupation, professional training and field of expertise of the expert witness who performed the analysis. If the expert analysis is completed in their absence, the parties will be notified that the expert analysis was completed and that they may inspect the record of the expert analysis, or the written findings and opinion.

If the data presented in the experts' findings are contradictory or if the findings are unclear, incomplete or contrary to the circumstances inspected, and all those deficiencies cannot be eliminated by another examination of expert witnesses, the expert analysis will be repeated by other expert witnesses.

If the opinion of an expert witness contains contradictions or deficiencies, or if a reasonable suspicion arises about the accuracy of the presented opinion, and if those deficiencies or suspicion cannot be removed by new examination of the expert witness, the opinion of other expert witnesses will be sought.

When an expert audit of business books is necessary, the authority in charge of the proceedings instructs the expert witness as to the aim and scope of the audit and the facts and circumstances which have to be ascertained.

If an expert audit of business books of an enterprise, other legal person or entrepreneur requires that the accounts be first regularised, the costs of such task are borne by the person who owns the business books.

The ruling on regularising accounts is rendered by the authority in charge of the proceedings, upon a written and substantiated report by the expert witness appointed to examine the business books. The ruling also specifies the amount to be deposited with the court by the enterprise, other legal person or entrepreneur as an advance for the costs entailed in regularising the accounts. No appeal is permitted against this ruling.

After the accounts have been regularised, the authority in charge of the criminal proceedings renders, on the basis of the report of the expert witness, a decision by which it determines the amount of the costs incurred through regularisation of accounts and orders the person whose accounts were the subject of regularisation to pay that amount. This person may appeal against the decision on refunding and amount of the costs. The appeal is decided on by the chamber of the first instance court (Article 24, paragraph 6 of the CPC).

Pursuant to the Criminal Procedure Code, it is possible to involve financial experts, accountants, etc. in financial investigation, during the examination of the defendant or during some other investigative action so as to clarify certain technical financial matters, as prescribed by Article 251, paragraph 6 of the Criminal Procedure Code, or by ordering expert analysis, prescribed by Articles 113–132a of the Criminal Procedure Code, as well as by Article 4 of the Law on Seizure and Confiscation of the Proceeds from Crime (*Official Gazette of RS*, No. 97/08).

147. Are there specialised units / persons / authorities that deal exclusively/mainly with financial crime and/or financial investigations within or among:

a) Investigative authorities (police, customs...)

Pursuant to the Law on Seizure and Confiscation of the Proceeds from Crime (*Official Gazette of RS*, No. 97/2008), the authorities competent to trace, seize/confiscate and manage criminal proceeds are the public prosecutor, the court, the Financial Investigation Unit of the Ministry of Interior, and the Directorate for Management of Seized and Confiscated Assets. The jurisdiction of the public prosecutor and the court is determined pursuant to the jurisdiction of the court for the criminal offence that the assets arise from. The organisational unit in charge of financial investigation is the

specialised Financial Investigation Unit within the Criminal Police Directorate of the General Police Directorate of the Ministry of Interior of the Republic of Serbia, which detects the proceeds from crime and performs other tasks in accordance with the Law. The Unit performs those tasks *ex officio* or at the order of the public prosecutor and the court. State and other authorities, organisations and public services are obliged to extend assistance to the Unit. The Minister of Interior passes a separate act on the internal organisation and job classification in the Unit. The Head of the Unit is assigned by the Minister of Interior upon acquiring an opinion from the Republic Public Prosecutor.

Financial investigation is managed by the public prosecutor. The internal affairs authorities, i.e. the organisational unit for financial investigation and seizure/confiscation of assets, collect evidence. Other authorities are required to act in accordance with general provisions of the Criminal Procedure Code (*Official Journal of FRY*, Nos. 70/2001 and 68/2002 and *Official Gazette of RS*, Nos. 58/2004, 85/2005, 115/2005, 85/2005 – other law, 49/2007, 20/2009 – other law, 72/2009 and 76/2010) and the Law on Seizure and Confiscation of the Proceeds from Crime.

b) Prosecuting authorities

The Financial Investigation Unit submits to the prosecutor data on assets, as well as other data. The public prosecutor files a motion for temporary or permanent seizure of assets with the investigating judge or trial judge.

In addition to the Law on Seizure and Confiscation of the Proceeds from Crime, the legal framework for operations of the Prosecutor's Office for Organised Crime includes the Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime, Corruption and Other Exceptionally Serious Criminal Offences (*Official Gazette of RS*, Nos. 42/2002, 27/2003, 39/2003, 67/2003, 29/2004, 58/2004 – other law, 45/2005, 61/2005 and 72/2009), the Criminal Procedure Code and the Law on Public Prosecution (*Official Gazette of RS*, Nos. 116/2008, 104/2009 and 101/10). The Prosecutor's Office for Organised Crime is defined as a prosecutor's office of special jurisdiction. The competences of this Office are set out in detail in answer to question 103.

c) Judges involved in the pre-trial phase

Basic and higher courts have no specialised divisions for financial investigation, within which their judges would be involved in the pre-trial phase. Depending on the phase of proceedings, the investigating judge or the chamber of judges decide autonomously and independently on the motions filed by the public prosecutor and the defence council, in the context of the control function in the pre-trial phase.

d) Any other authorities involved (please describe)

In accordance with Article 8 of the Law on Seizure and Confiscation of the Proceeds from Crime, the Directorate for Management of Seized and Confiscated Assets is established as a body of the Ministry of Justice. The Directorate has the capacity of a legal person. In accordance with Article 11 of the Law, its Director is accountable for his own and the work of the Directorate to the Minister of Justice. The Directorate takes measures aimed at safeguarding and maintaining the assets seized and manages them until final conclusion of the procedure for permanent seizure of assets. Until the decision on temporary seizure of assets is revoked and/or until proceedings for

permanent seizure of assets become final, the Directorate manages the seized assets with due diligence and/or due and reasonable professional care.

Describe for each type of specialised unit / authority:

- a) Composition**
- b) Location in the internal structure**
- c) Level of expertise (type of training, diplomas required)**
- d) Mission**
- e) Powers**

The Financial Investigation Unit is located within the Service for Combating Organised Crime of the Criminal Police Directorate, General Police Directorate of the Ministry of Interior of the Republic of Serbia. The Financial Investigation Unit consists of two departments: the Department for Financial Investigations of Organised Crime and Department for Planning and Coordination of Financial Investigations. The Department for Planning and Coordination of Financial Investigations is composed of 10 sections: in Belgrade, Novi Sad, Zrenjanin, Sabac, Kragujevac, Bor, Nis, Uzice and Kraljevo, and the Section for Planning and Coordination in Serbia. The job classification envisages 105 police officers working in the Financial Investigation Unit compared to the currently employed 35.

Employees of the **Financial Investigation Unit** are police officers in the status of authorised officers, analysts, documentalists and administrative staff. Most of them hold university degrees in law and economics (graduated from the Faculty of Law or from the Faculty of Economics), while others completed secondary education (usually in the field of economics).

All authorities vested in authorised officers of the Ministry of Interior of the Republic of Serbia are prescribed by the Law on Police and by the Criminal Procedure Code. They, inter alia, include the authority:

- to seek necessary information from citizens,
- to carry out the necessary inspection of vehicles, passengers and luggage;
- to restrict movement in a certain territory for a specific period of time;
- to undertake measures regarding the establishment of identity of persons and objects;
- to issue a wanted notice for a person or warrant for objects searched for;
- to carry out, in the presence of a responsible person, inspection of objects and premises of state authorities, enterprises, firms and other legal persons, to review their documentation and temporarily seize it if necessary.
- Pursuant to Article 226 of the Criminal Procedure Code, law enforcement authorities may also summon citizens for the purposes of gathering information.
- A person who fails to answer the summons may be brought in by force, but only if the person has been warned of it in the summons.
- Pursuant to Article 227 of the Criminal Procedure Code, authorised police officers may deprive a person of liberty if any of the grounds for ordering detention referred to in Article 142 of the Criminal Procedure Code exist. A person deprived of liberty pursuant to Article 227, paragraph 1 of the Criminal Procedure Code, as well as the suspect from Article 226, paragraphs 7 and 8, may exceptionally be detained by a law enforcement authority for the purposes of gathering information or examination, but

for no longer than 48 hours from the moment of deprivation of liberty and/or answering the summons.

- In accordance with Articles 77, 78 and 79 of the Criminal Procedure Code, a law enforcement authority may search apartments and persons based on a written court order, while pursuant to Article 81, authorised officers may enter the apartment and other premises and conduct the search even without a warrant if appropriate conditions are met.

- In accordance with Article 82 of the Criminal Procedure Code, authorised officers may temporarily seize objects and documentation.

- Article 504 of the Criminal Procedure Code contains special provisions on the procedure for criminal offences of organised crime, corruption and other exceptionally serious criminal offences where the prosecuting authorities may undertake the following evidence collection procedures:– supervision and recording of telephone and other conversations and communications,

- rendering simulated business services,

- rendering simulated legal services,

- controlled delivery,

- automated computer search of personal and other data and related information,

- engagement of an undercover agent.

Pursuant to the **Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime, Corruption and Other Exceptionally Serious Criminal Offences**, at the request of the Service for Combating Organised Crime or the prosecutor, all state authorities and organisations are obliged:

- to enable without delay the use of any technical means at their disposal;

- to ensure timely response of each of their members and/or employees, including superiors of state authorities or organisations, for the purpose of giving information and questioning as a suspect or witness;

- to hand over to the Service without delay every document or other evidence in their possession, or otherwise deliver information that may assist in uncovering criminal offences specified in paragraph 2 of the Law.

The Rulebook on Internal Organisation and Job Classification envisages no specialised units dealing exclusively with financial crime and/or financial investigations within the Customs Administration, Department for Supervision of Implementation of Customs Regulations – Division for Customs Investigations. In accordance with their legal powers, authorised customs officers perform control of commercial and accounting documentation and, when needed, cooperate with other state institutions – the Ministry of Interior (Department for Combating Organised Financial Crime and Division for Financial Investigations), the Ministry of Finance (Administration for the Prevention of Money Laundering, Tax Police Department of the Customs Administration and the Foreign Exchange Inspectorate) and banks.

All **public prosecutors** and deputy public prosecutors of **material and territorial jurisdiction** are entitled to act pursuant to the Law on Seizure and Confiscation of the Proceeds from Crime and the Criminal Procedure Code (*Official Journal of FRY*, Nos. 70/2001 and 68/2002 and *Official Gazette of RS*, Nos. 58/2004, 85/2005, 115/2005, 85/2005 – other law, 49/2007, 20/2009 – other law, 72/2009 and 76/2010). Their position in the internal structure of the public prosecution is established by the Constitution of the Republic of Serbia (*Official Gazette of RS*, No. 98/2006) and the

Law on Public Prosecution (*Official Gazette of RS*, Nos. 116/2008, 104/2009 and 101/2010), as well as the level of expertise, which may be advanced through additional periodic training. The above regulations also define their powers and tasks.

The operations of the Prosecutor's Office for Organised Crime are managed by the prosecutor for organised crime, while the prosecutorial office is also performed by 14 deputy prosecutors (compared to 25 deputy prosecutors envisaged by the job classification). The prosecutor for organised crime is elected by the National Assembly for a six-year term and deputy prosecutors are elected by the State Prosecutorial Council.

The Prosecutor's Office for Organised Crime currently employs 17 persons compared to 43 envisaged by the job classification (20 prosecutorial assistants, 1 Secretary of the Prosecutor's Office, 8 administrative staff members, 6 typists, 1 IT clerk, 4 technical staff members, 1 Cabinet Chief, 1 translator and 1 financial expert).

Based on the type, volume and complexity of operations and in view of the need to perform those operations in compliance with law, on time and as efficiently as possible, the following organisational units have been established within the Prosecutor's Office: the Public Prosecutor's Cabinet, Divisions and the Secretariat. Three divisions are envisaged within the Prosecutor's Office: the Criminal Division, Division for International Cooperation and Analytics & IT Division. Internal organisation units within the Secretariat are as follows: the Reception Desk, Typing Room and Accounting.

The Prosecutor's Office for Organised Crime is financed from the budget of the Republic of Serbia. In 2010, the Office was approved a budget of RSD 223,426,000.00. Of this amount, 62% is earmarked for compensation of costs to employees and employee salaries, and the remainder for fixed costs, travel expenses, contracted services, maintenance and repairs, office supplies, machinery and equipment, taxes and fees, etc.

The Prosecutor's Office for Organised Crime is established for the whole territory of the Republic of Serbia. The Office is seated in Belgrade, but may have separate divisions outside its seat.

As provided by the Law on Seizure and Confiscation of the Proceeds from Crime, the Directorate for Management of Seized and Confiscated Assets is established as an administration body within the Ministry of Justice. The Directorate started to operate on 1 March 2009. The Directorate performs the tasks within its scope of competence *ex officio* or at the order of the public prosecutor and the court. State and other authorities, organisations and public services are obliged to extend assistance to the Directorate.

The Directorate manages seized/confiscated proceeds from crime, objects of a criminal offence, material gain arising from a criminal offence and assets given as pledge in criminal proceedings and performs activities relating to material gain arising from an economic offence and/or misdemeanour; conducts professional assessment of seized proceeds from crime; stores, safeguards and sells temporarily seized proceeds from crime and administers the resulting funds in accordance with law; maintains

records of the assets managed and records of court proceedings in which decisions on such assets are made; participates in extending international legal assistance; participates in training of civil servants and judicial office holders on seizure of the proceeds from crime; and performs other tasks in accordance with the Law.

Regulations on state administration apply to the functioning, internal organisation and job classification in the Directorate, while regulations on general administrative procedure apply to decision making in administrative matters.

The Directorate is managed by the Director, who is appointed and discharged from office by the Government, at the motion of the Minister of Justice. Funds for the Directorate's operations are provided from the budget of the Republic of Serbia and other revenues, in accordance with law. The Rulebook on Job Classification, adopted by the Government's Conclusion 05 No. 110-5297/2010 on 22 July 2010, envisages 30 employees in the Directorate. The Directorate currently employs 20 persons. Its budget amounts to RSD 60,000,000.00.

More detailed information on organised training is provided in answers to questions 148 and 187.

148. For units / persons / authorities other than those mentioned under the previous question: describe training measures (practical, legal, language, etc...) specifically dedicated to financial investigation, including the international aspects thereof.

Around 40 seminars, courses and workshops organised in the country and abroad for officers of the Financial Investigation Unit, from June 2009 to December 2010, were mostly of practical nature. Namely, the practical implementation of financial investigations was examined at such training (techniques, methodology of collecting evidence on assets, applied in line with international standards).

Special measures of enhancing operations in the field of financial investigations were taken through a number of study visits of managers of the Financial Investigation Unit to Holland, Belgium, the United Kingdom and FR Germany. The aim was to learn about the work methodology of specialised police structures for financial investigations in these countries and to consider the appropriate application of such methodology in the work of the Serbian police.

The Judicial Training Centre, i.e. the Judicial Academy after the adoption of the Law on Judicial Academy (*Official Gazette of RS*, No. 104/09), organised a number of seminars for participants in financial investigations, members of the Financial Investigation Unit, public prosecutors and judges in regional centres. The focus was placed on practical training of participants with the aim of implementation of the Law on Seizure and Confiscation of the Proceeds from Crime, and on the presentation of experiences in implementation of the Law. These seminars were assessed by attendants as highly successful and useful for implementation of the Law, particularly in regard to financial investigations.

During 2005, seminars were organised for judges of the Special Department of the District Court for Combating Organised Crime and for prosecutors of the Special Prosecutor's Office. The topics covered were:

1. **Special investigation procedures and the use of evidence.** Four one-day seminars were organised. Each seminar was attended by the same group of 34 participants. Covered were individual instruments of investigation procedures, foreign experiences (Italy, the USA, Germany) and international standards. When examining the topic of the use of evidence, special attention was dedicated to domestic legislation and practice and standards of the European Court of Human Rights.
2. **Measures for combating corruption.** A total of 18 seminars was organised for 476 judges and prosecutors of district and municipal courts. The measures for combating corruption, international standards and Serbia's obligations in combating corruption were covered.

During 2006, numerous seminars were organised, covering the following topics:

1. **Measures for combating money laundering.** A total of 18 seminars was organised for 543 judges and prosecutors of district and municipal courts. The measures for combating money laundering, international standards and Serbia's obligations in combating money laundering were covered.
2. **Organised crime, money laundering and corruption.** The seminars were organised for judges of district courts, prosecutors, the Service for Combating Organised Crime, the Administration for the Prevention of Money Laundering. Three two-day seminars were organised for 97 participants. **During 2007, the Judicial Centre** included in its regular programme the training of judges and prosecutors in combating corruption, money laundering and organised crime.

Within the Judicial Centre's programme, the working group for criminal law and the working group for prosecutors, developed a special training programme for judges and prosecutors in the field of combating money laundering.

During 2007, the following seminars were organised:

1. **Investigation and investigation procedures in combating money laundering.** The seminar was organised for judges and prosecutors. During 2007, 11 two-day seminars were held on this topic, attended by 292 persons. Lecturers were judges of the Supreme Court of Serbia and prosecutors of the Republic Prosecutor's Office.
2. **Special investigation procedures and the use of evidence collected through special investigation procedures.** The seminars focused on the collection of evidence on corruption through special investigation procedures. Attendants included judges (mainly investigation judges) and prosecutors. In 2007, eight two-day seminars were held on this topic. Lecturers were judges of the Supreme Court of Serbia, the Special Department of the District Court for Combating Organised Crime and prosecutors of the Special Prosecutor's Office. Seminars were attended by 278 persons.
3. **Investigation and investigation procedures in combating money laundering – Relations between the prosecution and the police.** The seminars covered the relations between the prosecution and the police during investigations and implementation of investigation procedures. Attendants were prosecutors and police officers. Lecturers came from the Republic Public Prosecutor's Office and the police. Eight two-day seminars were held, gathering 281 participants. Special attention was devoted to prosecutorial investigation envisaged by the new Criminal Procedure Code.

4. **Challenges and successful examples in combating money laundering in Serbia.** Five three-day seminars were held for investigative judges, prosecutors and police officers. Lecturers included prosecutors, police officers from Serbia, and prosecutors and police officers from the USA. A total of 172 participants took part in the seminars.
5. **Criminal offence of money laundering.** At twelve seminars organised on this topic, lecturers included judges of the Supreme Court of Serbia, judges of district courts, prosecutors of the Republic Prosecutor's Office and district prosecutor's offices. The seminars gathered 351 participants.
6. **Organised crime, money laundering and corruption.** A special educational programme for judges and prosecutors. Working groups of the Judicial Centre for judges of criminal divisions and prosecutors determined the participants of the programme. The first group of 6 participants attended a train-the-trainer course. A five-day seminar was organised for them, on the topic of 'Organised crime, money laundering and corruption'. The second group, of 132 participants, attended 5 two-day seminars on the topic of 'Combating organised crime, corruption and money laundering'. Lecturers included judges and prosecutors who had completed the train-the-trainer course.

During 2008, the following seminars were organised for judges of district courts, prosecutors and deputy district prosecutors:

1. **Special investigation procedures and the use of evidence.** Fifteen one-day seminars were organised for 524 attendants – 370 judges and 154 prosecutors and deputy prosecutors. When examining the topic of the use of evidence, special attention was devoted to domestic legislation and practice and standards of the European Court of Human Rights.
2. **Seminar 'MONEY LAUNDERING AND FINANCING OF TERRORISM'** was held in cooperation with the US Department of Justice, Resident Legal Advisor's Office. Nine two-day seminars were held for judges and prosecutors of district courts and prosecutor's offices. They gathered 297 attendants. Topics related to the implementation of domestic legislation and international standards. Foreign lecturers were present, as well as those from the Supreme Court of Serbia, Republic Public Prosecutor's Office and Prosecutor's Office for Organised Crime.
3. **Seminar 'FINANCIAL INVESTIGATIONS'** was held in cooperation with the OSCE Mission to Serbia and the US Department of Justice, Resident Legal Advisor's Office. Seven two-day seminars were held for representatives of district courts and prosecutor's offices with their local courts and prosecutor's offices. The topics related to the implementation of domestic legislation and international standards. Participants numbered 231. Foreign lecturers were present, as well as those from the Supreme Court of Serbia, Republic Public Prosecutor's Office and Prosecutor's Office for Organised Crime.
4. **Measures for combating money laundering.** Eleven seminars were held for 345 judges and prosecutors of district and municipal courts. The topics covered were

measures for combating money laundering, domestic legislation, international standards and Serbia's obligations in combating money laundering.

5. **Organised crime, money laundering and corruption.** Seminars were organised for judges of district courts, prosecutors, Service for Combating Organised Crime, Administration for the Prevention of Money Laundering. Four two-day seminars were organised for 111 attendants.

During 2009, the Judicial Centre included in its regular programme the training of judges and prosecutors in combating corruption, money laundering and organised crime. These issues are thus covered by regular training as well, in relation to amendments to the Criminal Code and the Criminal Procedure Code.

Further, within the Judicial Centre's programme, the working group for criminal law and the working group for prosecutors, developed a special training programme for judges and prosecutors in the field of combating money laundering.

Within this special programme, the following seminars were held:

1. **Investigation and investigation procedures in combating money laundering.** Twelve two-day seminars were organised for judges and prosecutors, gathering 315 participants. Lecturers included judges of the Supreme Court of Serbia and prosecutors of the Republic Prosecutor's Office.
2. **Special investigation procedures and the use of evidence collected through special investigation procedures.** The seminars focused on the collection of evidence through special investigation procedures. Attendants included judges (mainly investigative judges), prosecutors (district and municipal) and police officers. In 2009, 22 two-day seminars were held on this topic. Lecturers were judges of the Supreme Court of Serbia, the Special Department of the District Court for Combating Organised Crime and prosecutors of the Special Prosecutor's Office. Seminars were attended by 712 persons.
3. **Investigation and investigation procedures in combating money laundering – Relations between the prosecution and the police.** Seminars covered the relations between the prosecution and the police during investigations and implementation of investigation procedures. Attendants were prosecutors and police officers. Lecturers came from the Republic Public Prosecutor's Office and the police. Five two-day seminars were held, gathering 128 participants. Special attention was devoted to prosecutorial investigation and the position of prosecutors in line with amendments to the Criminal Procedure Code.
4. **Challenges and successful examples in combating money laundering in Serbia.** Three three-day seminars were held for investigative judges, prosecutors and police officers. Lecturers included prosecutors, police officers from Serbia, and prosecutors and police officers from the USA. Total 96 participants took part in the seminars.
5. **Criminal offence of money laundering.** At 10 seminars organised on this topic, lecturers included judges of the Supreme Court of Serbia, judges of district courts, prosecutors of the Republic Prosecutor's Office and district prosecutor's offices. The seminars gathered 278 judges and prosecutors.

6. **Organised crime, money laundering and corruption.** A special educational programme for judges and prosecutors. Working groups of the Judicial Centre for judges of criminal divisions and prosecutors determined the participants of the programme. The first group of 6 participants attended a train-the-trainer course. A five-day seminar was organised for them, on the topic of 'Organised crime, money laundering and corruption'. The second group, of 132 participants, attended 5 two-day seminars on the topic of 'Combating organised crime, corruption and money laundering'. Lecturers included judges and prosecutors who had completed the train-the-trainer course.
7. **Special investigation procedures and the use of evidence.** Ten one-day seminars were organised for 317 attendants – judges, prosecutors and deputy prosecutors. When examining the topic of the use of evidence, special attention was devoted to domestic legislation and practice and standards of the European Court of Human Rights.
8. **Special investigation procedures and the use of evidence – Article 8 of the European Convention on Human Rights.** Ten one-day seminars were organised for 317 attendants – judges, prosecutors and deputy prosecutors. When examining the topic of the use of evidence, focus was placed on practice and standards of the European Court of Human Rights, in relation to the use of special investigation procedures, evaluation of evidence collected in such way vis-à-vis standards of the European Court of Human Right and the domestic practice.

During 2010, within the Regular Annual Training Programme, the following seminars were organised on the topic of combating organised crime, money laundering and seizure and confiscation of the proceeds from crime:

1. **Measures for combating corruption and money laundering.** Twenty one seminars were held for 522 judges and prosecutors of district and municipal courts. The topics covered were measures for combating corruption, international standards and Serbia's obligations in combating corruption.
2. **Money laundering and terrorism.** Seminars were organised for judges of district courts, prosecutors, the Service for Combating Organised Crime, the Administration for the Prevention of Money Laundering. Seven seminars were organised for 134 participants.
3. **Challenges and successful examples in combating money laundering and corruption in Serbia and the world.** Six three-day seminars were held for investigative judges, prosecutors and police officers. Lecturers included prosecutors, police officers from Serbia, and prosecutors and police officers from the USA. Total 184 participants took part in the seminars.
4. **Seizure and confiscation of the proceeds from crime.** Twenty two one-day seminars were held for judges and prosecutors on the topic 'Implementation of the

Law on Seizure and Confiscation of the Proceeds from Crime’, attended by 720 judges and prosecutors.

Since March 2010, two-day seminars have been held for judges and prosecutors of district courts, including the police. The focus is placed on examples from practice and practical implementation of the Law. Six two-day seminars were organised for 163 participants. The organisation of 3 more seminars is planned until end-2010. These seminars are organised in cooperation with the US Embassy in Belgrade and the OSCE Mission to Serbia.

Further, a series of seminars was organised on the topic of ‘**Plea bargaining**’, in cooperation with the Resident Legal Advisor’s Office of the US Department of Justice, within the US Embassy in Belgrade.

During 2006, 16 seminars were held; in 2007, 10 seminars were held; in 2009, 15 seminars were held; in 2010, 15 seminars were held. Total 2240 participants took part in the training – mostly prosecutors (70%), as well as judges (30%).

The Republic Public Prosecutor’s Office organised a series of seminars aimed at educating the members of law enforcement agencies. During 2009, in organisation of the Republic Public Prosecutor’s Office – Division for Combating Corruption and Money Laundering and the Resident Legal Advisor’s Office of the US Department of Justice, the following seminars were held: ‘Collection and analysis of evidence in cases of financial and economic crime and corruption’ in Belgrade, Novi Sad, Nis, Kragujevac, with representatives of competent state authorities for the purpose of promoting team work and professional capacities of other state authorities required to cooperate with the prosecution (the Tax Administration, Customs Administration, National Bank of Serbia, Administration for the Prevention of Money Laundering, Privatisation Agency, Public Procurement Directorate, Budget Inspection and Audit, Anti-Corruption Agency and Commission for the Protection of Competition). A cycle of seminars in Zlatibor and Belgrade was held on the topic of combating corruption, money laundering, terrorism and financing of terrorism.

149. Databases and registers, related to financial investigation capacity:

a) Please indicate whether you have a data base for the following categories: bank accounts, real estate, companies, vehicles, boats.

Authorised police officers have a direct access to the Unified Information System (JIS) database of the Ministry of the Interior and the database held the Business Registers Agency. Based on a written request, they have indirect access to the databases kept by the following authorities: Tax Administration, State Geodetic Institute, Privatisation Agency, State Pension and Disability Insurance Fund, Administration for the Prevention of Money Laundering, National Bank of Serbia, Central Securities Register, and Public Revenue Administration.

b) Please provide for each register or database:

- The content of the database/register (type of data contained, number of entries).**
- The Ministry of the Interior’s UIS database: personal data, vehicle data, data on legal persons, data on weapons;

- Business Registers Agency database: data on registration, status, and status changes of legal persons;
- Tax Administration: data on income revenue and non-income revenue, data on the transfer of absolute rights, data on the property owned by legal and natural persons up until the end of 2006, etc;
- Privatisation Agency: data on the participation of legal or natural persons in the privatisation process;
- State Geodetic Institute: data from the real estate cadastre on the ownership and changes in ownership on certain cadastre plots;
- Pension and Disability Insurance (PIO) Fund: data on employment periods and personal income from employment;
- Administration for the Prevention of Money Laundering: data from the its databases under the condition that there is suspicion on money laundering in a specific case;
- National Bank of Serbia: data on bank accounts of legal persons;
- Central Securities Registers: data on the owners, manner of acquisition and trade of securities;
- Public Revenue Administration: data on the registers of payers of property tax in the local self-government as of 2007;

- Which authorities have access to the database/register at national level?

Police officers of the Ministry of the Interior have access to the MOI's UIS database. As the other databases are accessible only to the state authorities maintaining the databases, police officers can be provided access to the data contained in their databases based on a written request.

- The type of access to the database/register (direct/indirect, need for a judicial authorisation, etc.).

Authorised police officers have a direct access to the MOI's UIS database, whilst the databases of the other state authorities are accessed to at a written request or directly by visiting the specific authority, as electronic networks and connections are still not in place.

150. Is there a system allowing for confiscation/seizure of proceeds from crime? Who is competent for the confiscation/seizure? Please describe the procedure and the bodies involved.

There is a system in place allowing for confiscation/seizure of proceeds from crime. The Law on Seizure and Confiscation of Proceeds from Crime (*Official Gazette of RS*, No 97/2008), regulates the conditions, procedure and authorities responsible for detecting, seizing/confiscating, and managing proceeds from crime. The authorities responsible for detecting, seizing/confiscating and managing assets originating from crime are the public prosecutor, court, organisational unit of the Ministry of the Interior responsible for financial investigation, and the Assets Management Directorate.

The procedure starts, based on Article 17, Para 3, of the Law on Seizure and Confiscation of Proceeds from Crime, by a public prosecutor's motion for collecting necessary information concerning the property of the prosecuted persons. The request

is sent to the Financial Investigation Unit of the Ministry of the Interior. If the public prosecutor has reason to suspect that the owner possesses considerable property that is in manifest disproportion to his legitimate income, or that he possesses proceeds from crime, the public prosecutor will order, based on Article 15, Para 1, and Article 17, Para 1, of the Law, a financial investigation under which evidence should be collected on the property, legitimate proceeds, and costs of living of the accused, cooperative witness, or bequether, evidence on the property inherited by the legal successor, or evidence on the property and the consideration for which the property was transferred to a third party.

According to Article 18 of the Law on Seizure and Confiscation of Proceeds from Crime, search of the apartment and other premises of the owner or other persons may be undertaken if evidence on property is likely to be found, whilst the objects that may serve as evidence will be, according to Article 19, temporarily impounded. A financial investigation should be conducted with particular urgency, while the investigation-related data are confidential and their disclosure constitutes criminal offence according to Article 16 of the Law.

Collection of financial information is ensured through the application of Article 20 of the Law on Seizure and Confiscation of Proceeds from Crime, and thus the public prosecutor can order banking or any other financial institution to send to the Unit data on the status of the business and personal accounts and safe deposit boxes of their holders. Article 19, Para 3, of this Law further specifies that provision of such data may not be denied by invoking the requirement to keep a professional, official, state, or military secret.

The procedure in which the public prosecutor can demand that a responsible authority, banking or other financial organization conduct a check of the business operations of a person reasonably suspected to have committed a criminal offence, or that he be sent data or information on suspicious transactions of these persons is regulated in Article 234 of the Criminal Procedure Code (*Official Gazette of FRY*, No 70/2001, 68/2002, *Official Gazette of RS*, No 58/2004, 85/2005, 115/2005, 46/2006, 49/2007, 122/2008, 20/2009, 72/2009). The notion of suspicious transactions, as defined in the Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime and the Financing of Terrorism, is directly incorporated in Article 234

According to Article 21 of the Law on Seizure and Confiscation of Proceeds from Crime, whenever there is risk that a subsequent seizure of crime proceeds would be hindered or precluded, the public prosecutor may file a motion for seizure. Should there be a risk that the owner will make use of the proceeds from crime before the court decides on the motion referred to in Article 21, paragraph 1 of this Law, the public prosecutor may issue an order banning the use of the assets, and on seizure of movable assets. This measure lasts up until the court passes a decision on the public prosecutor's motion.

Before it passes the decision on the motion for seizure, the court will schedule a hearing session to which the owner, his defence counsel and/or attorney, if any, and the public prosecutor will be summoned. The hearing will be held within five days of

the date of filing the seizure motion. The hearing, once commenced, will be concluded without being discontinued.

After the hearing, the court passes a decision either to uphold or reject the motion for seizure. The decision on seizure must contain information on the owner, description and legal title of the criminal offence, information on the assets being seized, circumstances giving rise to reasonable grounds to suspect that the assets derive from a criminal offence, reasons justifying the need for seizure of assets and the duration of seizure. The court may pass a decision to leave the owner a part of the assets if sustenance of the owner or persons he/she is obliged to support is endangered, in accordance with the relevant provisions of the Law on Enforcement Procedure. The court delivers the decision to the owner, his/her defence counsel and/or attorney, the public prosecutor and the Directorate.

Immediately after receiving the decision on seizure or confiscation of property, the Directorate will without delay act upon it according to the Law. The Directorate will manage the seized/confiscated property with due diligence and/or due and reasonable professional care, until the decision on seizure is cancelled, or until a final decision is reached in confiscation proceedings.

Seizure is implemented through analogous application of provisions of the Law on Enforcement Procedure, unless otherwise provided for in the Law on Seizure and Confiscation of Proceeds. The Directorate bears the costs incurred in keeping and maintenance of the seized assets. The director may decide to leave the seized assets with the owner imposing on him an obligation to keep it with due diligence. The owner bears the costs incurred in keeping and maintenance of such assets. In justified cases, the director may entrust the management of the seized assets to another natural or legal person based on a contract. Seized objects of historical, artistic and scientific value are handed over by the Directorate to institutions competent for safeguarding of such objects for maintenance until the ruling on the motion for confiscation of assets. Seized foreign currency and foreign cash holdings, objects of precious metals, precious or semi-precious stones and pearls are handed over by the Directorate to the National Bank of Serbia for safekeeping until ruling on the decision for confiscation. In order to safeguard the value of seized assets the Directorate may upon approval of the competent court and without delay sell movables and/or entrust a particular natural or legal person with selling it. The movable property is sold at the same or higher price than evaluated by the Directorate. If the assets were not sold after two oral public biddings the sale may be effected through direct agreement.

In order to avoid depreciation of the value of the seized property, i.e. in order not to cause any damage to the defendant, the Assets Management Directorate has sold a part of the seized movable assets, based on Article 41 of the Law on Seizure and Confiscation of Proceeds from Crime, only in two cases. The sale was approved by the court, the valuation of the property was carried out by an expert (expert witness), whilst the sale itself was conducted by strictly adhering to the applicable legislation governing the selling procedure. The funds acquired through the sale are kept in a special account of the Directorate, and in case of acquittal they will be refunded to the person acquitted.

The application of the Law on Seizure and Confiscation of Proceeds from Crime constitutes a very important aspect of work of the Prosecutor's Office for Organised Crime, given that this is a new piece of legislation which has a considerable effect on suppressing the economic power of organised crime. Its application is a huge step forward towards preventing proceeds of crime from being further used as instrumentalities for committing crimes again. In addition, the aim is to prevent corruption of the holders of judicial, public, and other offices, and exerting influence on witnesses by using illegal proceeds. Considerable results were achieved in the first year of application of this Law. In the period March 2009 - March 2010, the Prosecutor's Office for Organised Crime initiated financial investigations against 232 persons, filed motions for seizure of property of 54 persons, filed motions for confiscation of property against 4 persons, and passed an order to ban the disposition of movable assets with respect to 7 persons.

151. Describe the specific institutions/bodies/departments/court chambers set up to fight organised crime (including data on staff, budgetary allocations and equipment in this area). How do you ensure special training of law enforcement officers including prosecutors and judges in this area?

The Law on Seizure and Confiscation of Proceeds from Crime (*Official Gazette of RS*, No 97/2008), regulates the conditions, procedure and authorities competent for detecting, seizing/confiscating, and managing the proceeds from crime. The provisions of the Law apply to the following criminal offences: organised crime; showing of pornographic material and abuse of children for pornography; crimes against economy; illicit production, keeping and circulation of narcotic drugs; crimes against public order and peace; against official duty; against humanity and other values protected by international law.

The authorities responsible for detecting, seizing/confiscating and managing assets originating from crime are the public prosecutor, court, organisational unit of the Ministry of the Interior responsible for financial investigation, and the Directorate for Management of Seized and Confiscated Assets under the Ministry of Justice. The Directorate: 1) manages the seized and confiscated proceeds from crime, items related to the commission of criminal offences (Article 87 of the Criminal Code (*Official Gazette of RS*, No 85/2005, 88/2005 - *corr.*, 107/2005 - *corr.*, 72/2009 and 111/2009)), proceeds acquired through the commission of a criminal offence (Articles 91 and 92 of the Criminal Code) and property given as guarantees in criminal proceedings; 2) gives expert opinion on the value of the seized/confiscated proceeds from crime; 3) stores, keeps, and sells seized proceeds from crime and makes use of such funds according to the law; 4) keeps records of property managed as stipulated in Para 1, Item 1, of this Article and of the court proceedings at which decisions were made about such property; 5) participates in the provision of mutual legal assistance; 6) participates in the training of civil servants and holders of judicial offices vis-à-vis seizure/confiscation of proceeds from crime; 7) performs other tasks based on this law. The Directorate performs the above tasks also with respect to proceeds originating from economic offences and/or minor offences.

Regulations governing public administration apply to the operation, internal organisation and job classification in the Directorate, whilst the regulations governing the general administrative procedure are applied to administrative matters dealt with at the Directorate. Funds that the Directorate requires for operation are allocated in the

budget of Republic of Serbia and from other sources in accordance with the law. The Rulebook on Job Classification, adopted by Government's decision 05 No 110-5297/2010 of 22 July 2010, provides for 30 work posts at the Directorate. At this moment, the Directorate has 20 employees. The Directorate's budget is RSD 60,000,000.00.

In 2010, the Directorate was allocated office space on the third floor of the building at 22-26 Nemanjina Street in Belgrade. The premises have been completely refurbished and technically equipped.

The Directorate has two service vehicles at its disposal.

In addition, RSD 2,453,627.56 worth of equipment has been purchased for use by Directorate's employees, including 15 new computers, 3 laptops, 6 printers, 2 scanners, 1 copy machine, as well as 20 mobile phones.

The Prosecutor's Office for Organised Crime is one of the authorities responsible for combating organised crime. The legal framework for its operation and jurisdiction has been described in reply to question 103.

The Prosecutor's Office for Organised Crime is established for the entire territory of Serbia and it has its headquarters in Belgrade. The Prosecutor's Office for Organised Crime may have departments located out of its headquarters.

The Rulebook provides that the administration of the Prosecutor's Office for Organised Crime should employ 43 persons (20 prosecutors' assistants, a Prosecutor's Office secretary, 8 administrative clerks, 6 clerks at the typing bureau, one IT staff member, 4 general service employees, a head of office, translator/interpreter, and a financial operations expert), but at this moment there are 17 employees.

The funding for the work of the Organised Crime Prosecutor's Office is provided in the budget of the Republic of Serbia, and the planned budget for 2010 is RSD 223,426,000.00. Of this amount, 62% is allocated for the costs of employees and their salaries, whereas the remaining part covers the operating costs, costs of travel, contracted services, repair and maintenance services, stationery, machines and equipment, taxes and dues, etc.

The Prosecutor's Office for Organised Crime is equipped with computers (each employee has a computer) and accompanying devices and machines required for work.

The Law on Organisation and Jurisdiction of State Authorities in the Suppression of Organised Crime, Corruption and Other Particularly Serious Criminal Offences (*Official Gazette of RS*, No 42/02, 27/03, 39/03, 67/03, 29/04, 58/04, 45/05, 61/05 and 72/09) defines the jurisdiction of the Higher Court in Belgrade, as the first instance court, and the Appellate Court in Belgrade, for the second instance decisions, in cases of organised crime. Thus, Special Departments run by Heads of Departments, have been established in these courts. There are at the moment 15 judges assigned to the Special (Organised Crime) Department of the Higher Court in Belgrade, where 12 judges and the acting President of the Court compose four panels, whilst two judges act on cases at investigation stages. According to Article 504d of the Criminal Procedure Code (*Official Journal of FRY*, No 70/01, 68/02, *Official Gazette of RS*, No 58/04, 85/05, 115/05, 46/06, 49/07, 122/08, 20/09, 72/09 and 76/10), organized crime

cases are tried by panels composed of three professional judges. In addition to the assigned judges, there are, in total, 125 operative staff, including 23 judicial assistants. It should be underlined that the judges are seconded to this Department from all courts on the territory of the Republic of Serbia and that special care is taken that the judges should be noted for their expertise and competence. As for the other personnel at the Department, they need to have considerable working experience and they should have previously demonstrated a high level of expertise and competence, as a requirement. Considerable funds are allocated for this Department and if shown in percentages, salaries of employees at the Special Department constitute 47% of the total salaries paid at the level of the Higher Court in Belgrade, utility costs for maintenance of the building where the Special Department is located constitute 48% of the total utility costs of the Higher Court in Belgrade, whilst costs for professional services provided to the Special Department make 42% of the total costs of the Higher Court in Belgrade. In addition, this Department has been provided with the state-of-the-art computers, voice modulation equipment for testimonies of protected witnesses or other persons in the proceedings, technical support for video conference links, and the best quality equipment for trial monitoring and recording, with a view to facilitating a smooth trial. As this Department handles a large number of cases, trials are organised in two daily shifts so that the assigned judges may complete the proceedings in rather complex cases handled by this Department as efficiently as possible. As already stated, the most competent judges and personnel are assigned to this Department, and they are provided with ongoing training within the Special Department itself. In addition to the above, judges and other personnel holding Law School degrees participate regularly in numerous seminars on these issues both in the country and abroad, irrespective of whether the seminars are organised by state authorities (Ministry of Justice, MoI, etc.) or other organisations such as the OSCE and similar organisations.

Special law enforcement training, including the prosecutors, in the area is delivered through the Judicial Academy which is responsible for training and professional improvement of the judiciary staff. Specialist training on organised crime has been constantly organised since the establishment of this specialised unit. Police officers of the Service for Combating Organised Crime (SBPOK) have attended joint trainings together with the members of the judiciary. Trainings have been organised mainly in cooperation with foreign experts, but the sector-wide Action Plan for the Implementation of the National Strategy for the Fight Against Organised Crime envisages that a permanent system of internal training of police officers about all forms of organised crime, and about organised crime investigation methodology, should be established. The topics and number of specialist training are listed in the reply to question 148 of this Chapter.

In addition, the employees of the Prosecutor's Office for Organised Crime attend conferences, seminars, and trainings organised by the representatives of specialised national and international institutions in Serbia and abroad. The prosecutor for organised crime and deputy prosecutors have participated in a great number of seminars and trainings as lecturers as well.

For a more detailed reply regarding the trainings organised following the adoption of the Law on Seizure and Confiscation of Proceeds from Crime please see the reply to question 187.

152. How do you co-operate internationally in fighting organised and serious crime and how do you ensure national coordination in this combat? How do you cooperate with Europol and SECI/SELEC Centre in fighting organised and serious crime? How do you co-operate with the private sector, notably the banking sector?

International cooperation is conducted through the existing cooperation channels, namely via the Interpol, Europol, SECI Centre, as well as through police liaison officers seconded to or in charge of Serbia. The cooperation is the most intensive with the police liaison officers of the United Kingdom, the Netherlands, Belgium, Norway, Sweden, Germany, Spain, Italy, Hungary, Bulgaria, Czech Republic, etc. The cooperation is mostly realised through the exchange of data and information but also through implementing joint activities, such as coordinated investigations, controlled deliveries, etc. The exchange of information is done in writing, but also at working meetings that are organised as required.

National coordination is ensured through the establishment of joint teams / task forces composed of the representatives of various state authorities (e.g. Prosecutor's Office, MoI, Security Information Agency, Customs Administration, etc), as well as through direct communication between the state authorities.

Cooperation with the private sector has been established in certain areas, especially with the banking sector, and electronic and telecommunication services providers. However, the Action Plan for the implementation of the Strategy for the Fight against Organised Crime envisages a much more intensive engagement of the private sector in anti-organised crime activities through the enhancement of cooperation.

Cooperation under the SECI Centre

The cooperation between the Ministry of the Interior and the SECI Centre dates as far back as Serbia's accession to the Agreement on Cooperation for the Prevention and Fight against Trans-Border Crime along with the Charter on Organisation and Functioning of the South East Europe Cooperation Initiative (SECI) in June 2003. It is maintained through the Serbian MoI's liaison officers at the SECI Centre whose seat is in Bucharest.

During this long-standing cooperation, Serbia has participated in a number of Task Forces that have been established and functioning under the SECI Centre in various anti-organised crime lines of work, and that have implemented strategic activities in South East European region. In addition, they have conducted a considerable number of police operations together with the SECI Centre member states.

Suppression of drug smuggling

The police officers of the Service for Combating Organised Crime have actively participated in the joint Anti-Drug Task Force (ADTF) since 2006. Apart from

regularly participating in meetings of this task force, the police officers have also participated in a number of operations and joint exercises of the member countries, by simulating certain situations, for the purpose of harmonising the actions of various operative units of a number of countries and thus improving the efficiency and cooperation in concrete real situations (e.g. “Controlled Delivery 2007” exercise - a scenario of drug smuggling from Turkey, across Bulgaria, Serbia, Croatia, Slovenia towards other EU countries).

In addition, coordinated police actions have been conducted concerning suppression of heroin smuggling across the border crossings between the countries bordering Serbia, heroin smuggling from South-East Asia to the Central and Western Europe using road vehicles along the Balkan Route and its accessory branches, and stimulants such as amphetamine smuggled in the opposite direction, mostly from the Western Europe and South-East Europe, the destination being SECI Centre’s member states or Near East and Middle East countries.

Suppression of illegal migration and human trafficking

The Service for Combating Organised Crime has an exceptionally good cooperation in combating trafficking in human beings and illegal migration. In addition to the regular participation in the work of the “Mirage” joint unit for human trafficking issues, a particularly efficient cooperation mechanism among the member states has been in place as of 2005 for concrete operations directed towards the detection and interception of channels for illegal migration and human trafficking. Such operations have been mainly conducted in cooperation between Serbia and Slovenia, Hungary, Croatia, Bosnia and Herzegovina, Montenegro and Macedonia. Regarding this segment cooperation, a good practice should be highlighted, namely that the prosecutors' offices in charge of specific cases join in the operations, which considerably improves the efficiency of the law enforcement in this area.

Computer and financial crime

Since 2009, the police officers of the Service for Combating Organised Crime have been involved in the activities of the SECI Centre’s Financial and Computer Crime Task Force by participating at its meetings.

Smuggling of stolen cultural assets

Also since 2009, preliminary contacts have been made under the SECI Centre regarding the smuggling of stolen cultural assets.

In addition to cooperation at operational level, the SECI Centre and the Service for Combating Organised Crime communicate at senior management level. In this context, we should underline the participation of the Service’s management at the Conference on “Fight against Organised Crime through Specialised Structures: increasing cooperation, capacities, and competences” held in Bucharest, Romania, on 22-23 September 2009. The other member of the Serbian delegation, in addition to the head of the Service, was the prosecutor for organised crime. The aim of the Conference was sharing respective solutions and experiences between high-level representatives of the prosecutors’ offices and police forces of the SECI Centre’s member countries working in specialised anti-organised crime structures. The

conference also discussed the issues of the future strategic orientation of cooperation under SECI Centre, and future specialised training programme.

It is very important to note that the Service's police officers have by now received the SECI Centre's Award on three occasions, which is awarded to the country that has given the greatest contribution under individual lines of work in executing certain operations and achieving SECI Centre's results in general (two times for operations in the area of illegal migration and human trafficking, and once in the area of drug smuggling).

Apart from the above, the Criminal Police Directorate's International Police Cooperation Department exchanges data with the competent Serbian and foreign authorities regarding organised crime activities and organised crime groups, while remaining within its scope of competence (coordination and intelligence). Depending on the specific case, this Department coordinates the work of domestic competent authorities in suppressing organised crime activities (e.g. conducting a controlled delivery). This Department identifies new forms of crime in the world, crime trends and new and emerging *modi operandi*; new routes of movement and operation of organised crime groups at international level; new knowledge gained by other criminal police services; new techniques used by foreign forensic units; new experience of foreign law enforcement authorities, etc. By participating in INTERPOL's working groups and in the implementation of INTERPOL's projects aimed at fighting organised crime, the officers in this Department coordinate the work of the competent bodies in Serbia, so as to fulfil the obligations undertaken by Serbia as a member state of the INTERPOL, and reports back to the domestic competent bodies about the structure, *modus operandi*, scope of operation, as well as activities and results of a concrete organised crime group. National coordination is achieved by respecting the competences, establishing joint teams, regular information and providing access to information in databases held by this Section. Cooperation with EUROPOL is at strategic level and personal data can not be exchanged, whilst the cooperation with the SECI/SELEC centre includes conducting operative actions wherein this Department has the role to coordinate and communicate. This Department does not have direct cooperation with the private (banking) sector, but this is achieved through competent Serbian authorities, within their respective competence.

Serbian Customs Administration has a liaison officer at the SECI Centre. Based on the needs of the Intelligence Department and Customs Investigations Department of the Enforcement Division under the Serbian Customs Administration, information is mostly exchanged regarding the following:

- Cases of attempted cross-border smuggling of narcotics, tobacco, and foreign currency;
- Announced attempted smuggling;
- Joint participation in international actions whose aim is suppression of smuggling, identification of new methods of smuggling and movement routes;
- Receiving and sending requests to check documentation or conduct investigative actions.

The Intelligence Department of the Customs Administration cooperates with the EUROPOL by exchanging the following:

- Information on strategic and technical data for the purpose of preventing, detecting, suppressing and investigating serious forms of international crime, which does not include exchange of personal data;
- Brochures and working material related to specific methods of smuggling.

Cooperation between the Customs Administration and the private sector entails:

- Reporting of abuses;
- Cooperation in order to remedy irregularities which may, depending on the size of the specific market and scope of cooperation, evolve into a memorandum of understanding.

In fighting organised crime, the Customs Administration has not had any concrete or direct cooperation with the banking sector. The Customs Administration receives the necessary banking sector data from the Administration for the Prevention of Money Laundering.

Further, the Security Information Agency is organisationally and professionally equipped to exchange information with the services of other countries in the fight against international organised crime.

The Agency is a member of a number of international organisations of European security services which have fight against terrorism and organised crime among their top priorities.

At the national level, coordination of anti-organised crime efforts is ensured through the National Security Council and the Coordination Bureau (please see the reply to question 125).

153. How do you cooperate with EULEX in fighting organised crime?

Concerning the exchange of operative data for anti-organised crime purposes, the data is exchanged in individual cases through the Coordinating Directorate for Kosovo and Metohija or the Ministry of the Interior's Headquarters for the Autonomous Province of Kosovo and Metohija, which transfer the requests for information received from EULEX to the responsible organisational units of the Serbian MoI, whereas in most cases, given the nature of the data and information exchanged, contacts are established directly between the responsible organisational units of MoI and the EULEX.

154. Do you have a system of witness protection in place? If so, please provide details. How many people were concerned since 2005 (yearly statistics)?

The Criminal Procedure Code (*Official Gazette of the RS*, No. 70/2001 and 68/2002 and *O. Gazette of RS*, No. 58/2004, 85/2005, 115/2005, 85/2005- other law, 49/2007, 20/2009- other law and 72/2009) envisages that the court shall protect witness and aggrieved party from insult, threat and any other assault. The court shall warn or fine the party in a proceeding or other person that insults the witness of aggrieved party, threats or jeopardizes his security before the court. In the case of violence of serious threat, the court shall inform the public prosecutor to initiate prosecution. In respect to the fine, provisions of the Article 108 of the Code will be applied accordingly. On the proposal of the investigating judge or president of the board, the president of the court or public prosecutor can request from the interior bodies to take special measures for protection of the witness and aggravated party.

When there are circumstances indicating that the public testimony would jeopardize the life, body, health, freedom or property of considerable value of the witness or persons related to him, especially in regard to criminal offences of organized crime, corruption and other particularly serious crimes, the court may issue a decision approving special measures for protection of the witness (protected witness). Measures of special witness protection include examination of witnesses under the conditions and in a manner providing confidentiality of his identity and measures of physical protection of the witness during the procedure.

Decision on measures of special witness protection can be issued by the court *ex officio* or on the request of parties or witness. The request contains: data on criminal offence the witness is examined about, witness personal information, facts and evidences indicating that, in the case of public testimony, there is serious and real danger for life, body, health, freedom of property of significant value of the witness and people related to him and description of the circumstances the testimony refers to. The request is submitted in a sealed envelope with the note “witness protection-official secret” and is submitted during investigation to the investigating judge, and after the indictment comes into force, to the board president.

If a witness, during examination before the investigating judge, does not provide its personal information, answer to certain questions or entire testimony, with explanation that there are circumstances indicating that the public testimony will jeopardize life, body, health, freedom of property of significant value of the witness or people related to him, especially in regard to criminal offences of organized crime, corruption and other particularly serious crimes, it will be considered that he has requested the special protection measures, and if the investigating judge subsequently estimates that the suspicious is justifiable, he will call the witness to act, within three days, in accordance with the provisions of this law related to the contents of the request and manner of submitting. If the investigating judge estimates that the lack to provide information, answers or testimony is not justifiable, or the witness does not act pursuant to the provisions related to the contents of request and manner of submitting within the prescribed time limits, he will be fined by 100,000 dinars, and if he again declines the testimony, he can be sanctioned again with the same fine.

The decision on special witness protection measures is issued by the investigating judge during the investigation, and after the indictment comes into force by the inquest board if it is convened, or the first instance court board consisted of three

judges if the board of the investigating court is not convened. The inquest board shall exclude public during making decision about measures for special witness protection, without any exceptions prescribed by this law. If the investigating judge does not approve of the request, he will request the first instance court board, consisting of three judges, to decide on the request. The board shall issue the decision within three days of the day of reception of the documentation.

If the investigating judge or the inquest board approve the request, he shall issue a decision containing: a code to substitute the name of the witness, order erasure of name and other information that might be used for disclosure of identity of the witness from the records, method of examination and measures to be taken to prevent disclosure of the identity, domicile and residence of the witness and persons related to him. The parties and witness may appeal against the decision. The first instance court consisted of three judges decide about the appeal, and after the indictment comes into force, the second instance court. The board shall decide about the appeal within three days, and the second instance court within eight days of the day of reception of documents.

After the decision about the measures for special witness protection comes into force, the court will, by special order that is an official secret, in a confidential manner inform the parties and witness about the day, hour and place of witness examination. Before the start of examination the witness will be informed that he will be examined in line with measures of special protection, what are the measures and that his identity will not be disclosed to anybody but the judges that decide about the case, a month before the start of the main trial to the parties and defence counsel. The examination of the protected witness can be performed in one or more of the following ways: excluding the public from the main trial, concealing appearance of the witness and testifying from a separate room through technical voice and image distortion devices for transmission of sound and images.

The investigating judge, or inquest board if it is convened, or the first instance board consisted of three judges, if the inquest board is not convened, shall close the information about identity of the witness and persons related to him and about other circumstances that may lead to disclosure of their identities to separate envelope, seal it and give to the Witness Protection Unit to keep it. The sealed envelope can be opened only by the second instance board that rules on the appeal against the verdict. Day and hour of opening and names of the board members who are introduced with the contents of data, will be inscribed at the envelope, after which the envelope will be sealed again and return to the Witness Protection Unit.

The verdict can not be based solely on the testimony of the protected witness. The court shall warn all persons present at the examinations of the protected witness to keep information about the witness or persons related to him, their domicile, residence, moving, bringing, place and manner of examinations of the protected witness as a secret and that their disclosure is a criminal offence.

The Unit for Protection of Participants of Criminal Proceeding (hereinafter Unit) was founded in November 2005 as independent organizational unit of the Ministry of Interior (hereinafter MOI) competent for implementation of the witness protection

program. Within the scope of its engagement, the Unit exercises protection of the participants in criminal proceedings, particularly: suspect, defendant, cooperating witness, witness, aggrieved party, expert and professional, and protection of persons related to the witness which the witness requests to be included in the protection program.

Act on Witness Protection Program in Criminal Proceeding (*Official Gazette of RS* No. 85/2005, 06/10/2005, hereinafter the Law) which entered into force on 1 January 2006 regulates conditions and procedure for provision of protection and assistance to a participant in criminal proceeding and persons close to him/her. The protection under this Law is provided only to the persons whose personal safety or safety of their families is exposed to risk due to giving of testimony in pre-criminal or criminal proceeding and is secured through implementation of various measures prescribed by the Law.

The status of protected entity pursuant to the Law can be granted to the person who through its testimony can provide information, without which, it would be impossible or hard to prove the criminal offences: against constitutional order and security, against humanity and other goods protected by international law and offences containing elements of organized crime.

Pursuant to this law, the protection relates practically to all participants of criminal proceeding who are exposed to actual danger due to testifying or providing significant information. More precisely, the witness protection is applied to witness, aggrieved party and cooperating witness, but also to suspect and defendant, expert and professional, but can also be applied to the persons related to the mentioned proceeding subjects. The close person is a nuclear family member (spouse, child, parent, brother, sister) and other person designated as close by the witness.

The protection can be provided to the protected entity before, during and after the final closure of the criminal proceeding, and all participating bodies and persons shall act with special urgency.

Information related to the Protection Program is official secret and must not be disclosed by anybody who has it at disposal.

The issue of protection of witnesses, defendants and other participants of the criminal proceeding and persons close to them against dangers they might be exposed to due to testifying or providing of information, have two basic aspects. The first one relates to the methods of protection of concerned persons out of the proceeding, while the other includes measures of their protection in the proceeding. Within the protection of participants and persons close to them in criminal proceedings it is possible to differentiate measures of protection out of proceeding within the meaning of the word on one hand, and protection program, on the other hand.

The protection program is set of measures envisaged by this Law implemented with the aim of protection of life, health, physical integrity, freedoms or property of the protected person.

Measures of protection out of the proceeding within the meaning of the word are basically protection provided by the state through exercising basic freedoms and human rights in its territory.

It is important to note that the provisions of the Article 1 of the Law envisages possibility to provide to criminal proceeding participants and persons close to them not only protection, but also assistance. It concerns different terms, whereas the protection is provided by implementation of one or more protection measures

prescribed in the Article 14, paragraph 1 point 1 to 4 of the Law. On the other hand, the assistance can be of economical, psychological, social and legal character (Article 12 paragraph 2 of the Law).

Provision of economical assistance includes provision of financial support to protected person up to the amount required for covering of his/her regular living expenses during the period defined by the Agreement on inclusion to Protection Program.

Provision of psychological assistance means making conditions for provision of professional psychological support to protected person.

Provision of social assistance means provision of support to protected person, until he/she becomes independent, in finding employment or other working engagement, exercising and protection of rights arising from the employment or other working engagement, right to pension, disability and health insurance, and creation of conditions for provisions of assistance to protected person by the bodies competent for social protection and provision of social security of the citizens.

Provision of legal assistance means professional support to protected person in performance of legal affairs, exercising and protection of rights and fulfilment of obligations towards the state and other bodies, organizations and services, enterprises, institutions and third natural persons.

The special attention, in the framework of Protection Program, is paid to psychological support to witnesses. Namely, the witnesses talk to psychologists, psychiatrists, and members of Protection Unit they are directed to, as they spent the majority of time before and after the testimony with them. Therefore, education of the Unit members aimed at making a contact and support to the witnesses is also worked on.

The Protection Program is implemented, according to the rule, only if the measures of general and process protection can not provide satisfactory protection of the participants in the proceeding.

The body competent for inclusion into the Protection Program is three member Commission, while the Unit implements the Protection Program) Article 7 and 10 of the Law).

The Commission consists of the judge of the Supreme Court of Serbia, Deputy Republic Public Prosecutor and head of the Protection Unit. They have one deputy each. The head of the Protection Unit and his deputy are appointed as Commission members, while the other members and their deputies are appointed and released by the head of appropriate state body.

The Article 14 of the Law envisages the following measures within the framework of the Protection Program: physical protection of person and property, change of domicile or moving to other institution, hiding of identity and data on ownership and change of identity.

It is also envisaged to apply one or more measures during the implementation of the protection program, and in terms of the measure of change of identity, it can be applied only if the objective of the protection program can not be achieved by implementation of other measures.

All these measures mentioned within the protection program the Unit implements independently, and in terms of person deprived of liberty, the Protection Unit implements these measures in cooperation with the Ministry of Justice.

Request for inclusion in the protection program can be submitted to the Commission by the competent Public prosecutor, investigating judge and the president of the board, and this request should contain: information on the person for whom the protection is requested, description and legal title of the criminal offence on the ground of which the protection is requested, assessment of the significance of testimony of information for the proceeding, circumstances indicating that there is a danger for the person the protection is required for. Before issuing the decision about the request, the Commission shall request from the Protection Unit to submit estimation of danger the person for whom the protection is requested is exposed to, danger the community would be exposed to in the case of inclusion into the Protection Program, health status of the person for whom the protection is requested for, necessary protection measures. If the request for inclusion into the protection program is approved, the Protection Unit concludes an agreement on inclusion into the program with the person for whom the protection is approved. The protection program is implemented from the day of conclusion of the agreement.

The agreement on inclusion into the protection program, among other, contains statement of the protected person about voluntary inclusion into the program, obligations of the protected person, obligations of the Protection Unit, duration of the protection program, conditions for termination of the agreement and other important elements.

The protection program can be also prolonged for certain person. The Protection Program can also be terminated if there is no need for further protection, if the protected person does not meet its obligations under the agreement, if the person is moved to the territory of other country and that country requests termination of the program and if the criminal proceeding for criminal offence questioning justifiability of implementation of this program is initiated against this person.

International cooperation in implementation of the Protection Program is achieved on the grounds of international agreement or reciprocity (Article 39 of the Law).

Having regard to the fact that the R. of Serbia does not have big territory, from the very beginning of coming into force of the Law and forming of the Unit, the initiative of good international cooperation with partner units from Europe and other parts of the world was made, where we received significant assistance and support from international organizations such as OEBS and ICITAT (International Criminal Investigate Training Assistance Program) and embassies of foreign countries in Serbia.

In addition, cooperation with the members of EUROPOL and US MARSHAL SERVICE, ICTY- Witness Protection Unit significantly contributed to functioning of the Unit and implementation of the Protection Program.

The unit has very good cooperation with the Units of the countries of the region providing protection to the witnesses participating in proceedings for war crimes that come to Serbia, and also to those who testify before the courts in former republics of Yugoslavia (Croatia, Bosnia and Herzegovina, Montenegro).

Having regard to the high degree of risk for the persons included into the Protection Program and the fact that everything related to the Protection Program is an official secret, the Ministry of interior, Police Directorate and Protection Unit can not answer the question regarding the number of people included.

155. How do you tackle cyber crime?

Cyber crime in the Republic of Serbia is defined as the set of criminal offences where the object of the commission of a crime or the means of the commission of a crime are computers, computer networks, computer data, and their products in printed and electronic form. Thus, in our country we differentiate between crimes where the computers are means of the commission (Computer Related Crime) and object of the commission (Computer Crime), and criminal offences where the *modus operandi* includes elements of unlawful use of the Internet.

The Law on Amendments and Supplements to the Criminal Code (*Official Gazette of the R. of Serbia* No. 72/09, 111/09) has amended certain criminal offences in the field of cyber crime with a view to approximation with international conventions on cyber crime in the part related to penalising acts of racist and xenophobic nature committed through computer systems and approximation of certain criminal offences with the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

The Criminal Code of the Republic of Serbia, in the Chapter XXVII “Criminal Offences against Safety of Computer Data”, prescribes the following criminal offences: damaging of computer data and programs, computer sabotage, creation and input of computer viruses, computer fraud, unauthorized access to protected computer, computer network and electronic data processing, prevention and limiting of access to public computer network and unauthorized use of computers or computer network.

The Law on Organization and Competencies of State Authorities in Combating Cyber Crime (*Official Gazette RS* No. 72/09, 104/09) provided additional conditions for a more efficient fight against cyber crime.

The Department for Combating Cyber Crime has been formed within the Ministry of the Interior - Criminal Police Directorate - Service for Combating Organized Crime. The Department consists of two sections: The Section for the Suppression of Crime in the Field of Intellectual Property and the Section for the Suppression of Electronic Crime.

In 2008 and 2009, the Department for Combating Cyber Crime brought several dozens of charges for criminal offences in the field of cyber crime to the Department for Combating Cyber Crime of the Higher Public Prosecutor’s Office in Belgrade. At the same time, other organizational units of the MoI of the Republic of Serbia brought criminal charges for the criminal offences committed by the means of computers, computer systems and computer networks to the competent prosecutor’s offices at the territory of the Republic of Serbia. During 2010, intensive activities aimed at detection of organized forms of cyber crime were performed the result of which was the arrest of an organized criminal group that used computer equipment to influence results of SMS bidding thus misleading the organizers of the games of chance.

In addition to bringing numerous charges for criminal offences prosecuted ex officio, the police officers of MoI of the Republic of Serbia noted a number of criminal offences prosecuted on a private action, that were reported by citizens. Some of these criminal offences are related to stealing of identity on the Internet, stealing of user

name at social networks (for example, Facebook), defamation, threats, etc. The Department for Combating Cyber Crime provides professional assistance in investigations related to the criminal offences committed with the use of the Internet, such as illicit narcotic trafficking, illicit trade, terrorism, homicides, security threats by sports fans or other extremist groups, illicit trade in rare and endangered animal and plant species, etc.

Having in mind the significance and possibilities of computers for the commission of criminal offences, it has been noted that there is a need for the establishment of prosecutor's offices and courts of specific competence, so pursuant to the Law on Public Prosecution (*O. Gazette of RS*, No.116/2008, 104/2009 and 101/10), the Law on Organization of Courts (*O. Gazette of RS*, No.116/2008, 104/2009 and 101/10) and Law on Organization and Competencies of State Authorities in Combating Cyber Crime (*Official Gazette RS* No. 61/2005 and 104/2009), a special Department for Combating Cyber Crime has been established within the Higher Prosecutor's Office in Belgrade, and with respect to courts, a Special Department for Combating Organized Crime, Corruption and Other Very Serious Criminal Offences and a Special Department for Combating Cyber Crime have been established, pursuant to law, within the Higher Court in Belgrade.

Cyber crime has created the need for engagement of specially trained professionals and for reorganization of the state bodies. The Law on Organization and Competencies of State Authorities in Combating Cyber Crime (*Official Gazette RS* No. 61.2005 and 104/2009) envisages organizing and equipping of special state bodies that will deal with this issue. A special service has been organized within the Ministry of the Interior (MoI), as well as a Special Prosecutor's Office and Special Investigating and Pre-Trial Departments of the Higher Court in Belgrade. The crimes in the field of cyber crime are in exclusive competence of these bodies.

The Special Prosecution is a part of the Higher Public Prosecutor's Office in Belgrade. The work is managed by the special prosecutor appointed for the period of four years. The special prosecutor is in all rights and obligations equal to public prosecutors.

Building of institutional capacities for combating cyber crime is reflected in specialization in this field of criminal prosecution.

The total number of cases entered into the records of the Special Prosecutor's Office for Cyber Crime in 2008 was 210 cases, namely:

- to KT records (criminal charges)-117 cases, to KTR records (recording events and indications)- 86 cases, to KTN records (unknown perpetrators) – 17 cases, which is far more than in 2006.

The total number of cases entered into the records of the Special Prosecutor's Office for Cyber Crime in 2009 was 537 cases, namely: - to KT records-88 cases, to KTR records - 109 cases, to KM (criminal-minors) records – 40 cases, which is far more than in 2008. The criminal charges were brought against 115 persons. The criminal charges against 15 persons were waived, for 74 charged persons the investigation is requested, and the investigation against 10 persons was terminated. Indictment was issued against 79 persons, and indictment proposal was issued against 8 persons.

The structure of prosecuted crimes is such that the majority of them relate to protection of the intellectual property in the field of which 95 persons were prosecuted, while 32 persons were prosecuted for the crimes against safety of computer data and only 6 persons for the crimes against property. The majority of crimes were related to illicit coping and circulation of copyright works

The Higher Court in Belgrade is competent for acting in cases of criminal offences for the entire territory of the Republic of Serbia. The Chamber for Combating Cyber Crime is established in the Higher Court in Belgrade to act in the cases of criminal offences related to this Law. For the needs of work of bodies established by the Law, the Ministry of Justice will provide necessary financial means.

The State Public Prosecutor appointed the special prosecutor for combating cyber crime on 20 February 2007. New prosecutor's offices network came into force in the Republic of Serbia on 1 January 2010. 129 persons were pronounced final judgements since the establishment of the special prosecutor's office for combating cyber crime until the end of 2009. By implementation of the same procedure, the gained assets in the amount of 1,100,000.00 dinars and 80 computers were confiscated.

The activities aimed at improvement of the efficiency of work of special prosecutor's office for cyber crime are implemented in several areas.

Immediately after establishment of the Special Prosecutor's office for Cyber Crime, the efforts were made to build and increase institutional and legislative capacities in the following manner:

- contacts made and cooperation initiated with municipal and regional public prosecutor's offices in the Republic of Serbia,
- contacts made and cooperation initiated with heads of police directorates in the territory of the Republic of Serbia that also received detailed instructions for acting in pre-criminal proceedings,
- created computer program *Application for recording and searching copyright works and holders of copyrights* that significantly accelerates the work on the cases related to the field of criminal offences against intellectual property,
- created Project for equipping special prosecutor's office with computer equipment and software and implementation of business application software,
- launched Initiative for amendment of the Law on Organization and Competencies of State Authorities in Combating Cyber Crime aimed at amending provisions on actual competences of the special prosecutor's office that has been adopted by the National Assembly,
- created internet presentation of the Prosecutor's Office for Cyber Crime.

The following problems were resolved:

- in the field of raising public awareness on cyber crime hazards, the change of inadequate perception of the threat to society caused by criminal offences in

the field of cyber crime has been introduced by public address and presentation of cases.

- improved coordination and cooperation with bodies in charge of detection and eliminated inefficiency of other bodies in implementation of **existing** legislative solutions regulating criminal legal protection in the field of cyber crime,
- appropriate legislation created,
- action initiated for the provision of appropriate administrative, accommodation and technical conditions for unobstructed and efficient work of state bodies in combating cyber crime.

Building of legislative capacities is reflected in amendments of the Criminal Code-CC (*O. Gazette of RS*, No. 85/2005, 88/2005-amended, 107/2005-amended, 72/2009 and 111/2009) as follows: The general section of CC of RS contains definitions of terms “computer data”, “computer network”, “computer program” and “computer virus”, whereas in the special section of CC of RS, in the definitions of specific criminal offences, besides above mentioned terms, the following terms enabling identification of perpetrators are also used:

- “data”, Article 301,
- “computer”, Article 302,
- “electronic data processing”, Article 302,
- “electronic data processing and transfer”, Article 301,
- “equipment for electronic data processing and transfer”, Article 299,
- “public computer network”, Article 303,
- “computer services”, Article 304.
-

Thus defined basic terms in CC meet requirements of the Convention on Cyber Crime, because even one of the terms, or more of them cumulatively applied, can help to identify a perpetrator, although some of the terms are not more closely defined by special regulations.

The domestic legal framework in the field of criminal law mainly covers the following criminal offences:

- Article 298 Damaging of computer data and programs

The profile for the state of Serbia identifies Article 298 of CC of RS as provision matching Article 3 of the Convention on Cyber Crime as it criminalises illicit obstruction of computer data and software by deletion, changing, damaging, disclosing or in any other way making the computer data useless.

- Article 299 Computer sabotage

The profile for the state of Serbia identifies Article 299 and 300 of CC of RS as provisions matching Article 5 of the Convention, as the Article 299 criminalises obstruction of computer data and hardware performed with the aim of prevention or

termination of data electronic processing and transfer procedure, and which can be performed by creation and entering of a computer virus.

- Article 300 Creation and entering of computer viruses

The profile for the state of Serbia identifies Article 300 of CC of RS as provision matching Article 4 of the Convention on Cyber Crime as it criminalises creation and entering of computer virus.

- Article 301 Computer fraud

The profile for the state of Serbia identifies Article 301 of CC of RS as provision matching Article 7 and Article 8 of the Convention on Cyber Crime as it criminalises certain interaction with data aimed at illicit gaining of profit and thus inducing material damage to other person.

All other aspects of protection against identity forgery and fraud pursuant to the article 7 of the Convention are also covered by Articles 223, 224, 225, 226 and 375 of CC of RS as they proved, in legal practice, to be applicable to computer data.

- Article 302 Unauthorized access to protected computer, computer network and electronic data processing

The profile for the state of Serbia identifies Article 302 of CC of RS as provision matching Article 3 of the Convention on Cyber Crime. The provision related to illicit access referred to in the Article 302 of CC of RS is in line with laid down Article 2 of the Convention.

The provisions of the Article 300 and Article 302 of CC are also provisions matching Article 6 of the Convention on Cyber Crime.

- Article 303. Prevention and limiting of access to public computer network,
- Article 304. Unauthorized use of computers and computer network,
- Article 208. Fraud
- Article 185. Presentation of pornographic material and exploitation of children for pornography.

The profile for the state of Serbia identifies Article 185 of CC of RS as provision matching Article 9 of the Convention on Cyber Crime as it criminalises offences related to distribution of child pornography and production of such material.

The sanctions for all criminal offences referred to in mentioned provisions of CC of RS in relation to cyber crime fully meet requirements of the Article 13 of the Convention.

- Article 199. Unauthorized use of copyright and related right works.
- Article 200 Unauthorized removal or changing of electronic information on copyright and related rights.

The profile for the state of Serbia identifies Article 199 and Article 200 as provisions matching Article 10 of the Convention as they criminalise certain breaching of copyrights.

- Article 225 Forgery and misuse of credit cards
- Article 317 Instigating national, racial and religious hatred and intolerance

In terms of identification of identity, the profile for the state of Serbia identifies Article 85, 146, 155 and 255 of Criminal Procedure Code- CPC (O. Journal of SRY, no 70/2001 and 68/2002 and *O. Gazette of RS*, No. 58/2004, 85/2005, 115/2005, 85/2005 – other law, 49/2007, 20/2009 – other law, 72/2009 and 76/2010) as provisions matching Article 16 of the Convention as: Article 85 refers to confiscation of letters, telegrams and other mail, Article 146 enables obtaining of evidence by secret audio and video surveillance of the suspect, Article 155 enables obtaining of evidence by automated computer search of personal and other data, while the Article 255 relates to special measures aimed at identification, finding and arresting of criminal offence perpetrators.

The legal framework is also approximated in terms of confiscation of evidence that might be used for identification, as the Articles 84, 85 and 147 of CPC are identified as provisions matching the Article 17 of the Convention because they deal with formal aspects related to confiscated files; the provisions matching Article 18 are those of Article 85 of CPC that regulate confiscation of letters, telegrams and all other mail. The solutions also match Article 19 of the Convention, in relation to confiscation and surveillance, as Article 146 regulates the proceeding with secret audio and video surveillance of the suspect.

The profile for the state of Serbia identifies Articles 146 and 155 of CC as provisions matching Article 21 the Convention, because the Article 146 regulates proceeding with surveillance and recording of communication, while the Article 155 relates to automated computer search of personal and other data.

The provisions on legal assistance of the Criminal Procedure Code are transposed and amended particularly in the Law on Provision of Legal Assistance in Criminal Matters and as such they match Article 31 of the Convention because they envisage general principles and meaning of international legal assistance and define formal requests and process of provision of direct informal legal assistance without the letter rogatory which facilitates and accelerates the procedure.

The Expert Report on approximation of CC and CPC of the Republic of Serbia to the Council of Europe Convention on Cyber Crime from October 2007 was made. The report has been drawn up by international experts at the request of the Council of Europe. The scope of this analysis is limited to comparison of CPC of RS and CC of RS and Article 15 of the Rulebook on Conditions with international standards of the Council of Europe Convention on Cyber Crime, EU Framework Decision on Attacks against Information Systems and EU Directive on Retention of Data for the purposes of identification of possible collisions between Serbian laws and requirements of international standards.

Having regard to courts, the competence for acting in these cases is under the special jurisdiction of the Higher Court in Belgrade. This legal solution enables more efficient and more professional dealing with such cases and gives appropriate priority. Since 1 January 2010, 92 criminal proceedings in the field of computer crime were initiated before this Court, 12 of which are closed by final decisions. Moreover, as this is a specific matter and these criminal offences have appeared only in recent period, appropriate seminars and trainings of all employees are regularly organized, at the level of the court but also in cooperation with other state and non-state institutions.

156. What are – in order of importance - the main forms of trafficking (human beings, drugs, cigarettes, firearms, stolen vehicles, counterfeited goods, counterfeited Euros etc.) and smuggling and which specific strategies – if any – do you have in place to tackle them?

This question is partly answered within the answers to the questions No. 139 and 158.

The main forms of trafficking are: trafficking and smuggling of drugs, human beings trafficking and smuggling of migrants, trafficking and smuggling of firearms, trafficking and smuggling of stolen vehicles, smuggled goods, counterfeited Euros, etc. Out of the total number of identified criminal groups in the Republic of Serbia, around 60% of criminal groups are engaged in drug trafficking so this problem is given priority, but also to all other forms of trafficking referred to in previous answers.

With regards to trafficking in excise goods and other goods, 197 crimes related to trafficking were detected in 2009 (Article 243 of CCRS (The Criminal Code of the Republic of Serbia)), and 217 such crimes in the first ten months of 2010.

In addition to excise goods- cigarettes, oil and oil derivates, coffee, alcoholic beverages- the following items are also subject to trafficking: textile goods, electrical appliances, agricultural machinery, etc. The previous period has been characterized by crimes of trafficking of considerable quantity of raw meat originating from abroad (from Brazil, Canada and other countries) transported through the territory of AP Kosovo and Metohija. Particularly good results have been achieved in the previous period regarding seizure of oil and oil derivates- the quantity of oil and oil derivates seized in 2009 is more than 50% higher compared to 2008. In addition, considerably better results in suppression of trafficking and smuggling were achieved in 2010, particularly of cigarettes- by more than 50%; coffee- by 60 %, and several times higher quantity of alcohol and alcoholic beverages was seized.

The representatives of Criminal Police Directorate of the Ministry of the Interior have actively participated in creation of strategic documents relevant for combating organized crime, namely the National Strategy for the Fight against Organized Crime of 26 March 2009 (*Official Gazette of the R. of Serbia*, No. 23/09), Action Plan for the Implementation of the National Strategy for the Fight against Organized Crime of 24 September 2009 (*Official Gazette of R. of Serbia*, No. 81/09) and Sectoral Action Plan of MoI for the Fight against Organized Crime; Action Plan for the Implementation of the National Strategy for the Fight against Money Laundering and Financing of Terrorism (*Official Gazette of RS*, No. 65/08) and Sectoral Action Plan of MoI for the Fight against Money Laundering and Financing of Terrorism; National Strategy for the Fight against Corruption (*Official Gazette of the R. of Serbia*, No.

109/05), National Action Plan for its Implementation and Sectoral Anti-corruption Action Plan of MoI of 25 December 2009; Strategy for the Fight against Human Trafficking in the Republic of Serbia (111/06); National Strategy for the Prevention and Protection of Children against Abuse (adopted in 2008); Strategy for the Fight against Drugs in the Republic of Serbia for the period 2009 - 2013 adopted in March 2009, with the Action Plan for its Implementation; Strategy for Countering Illegal Migration in the Republic of Serbia 2009-2014, (*Official Gazette of the R. of Serbia*, No.25/09).

In December 2006 the Government of the Republic of Serbia adopted the Strategy for the Fight against Human Trafficking (*Official Gazette of RS*, No. 111/06) and in that way showed its readiness and political will to join world efforts to fight human trafficking. This document has been created in accordance with the Stability Pact Guidelines for National Action Plans and in compliance with the Regional Best Practice Guidelines for the Development and Implementation of a Comprehensive National Anti-trafficking Response, prepared by the International Centre for Migration Policy Development (ICMPD).

In the meeting held on 30 April 2009, the Government adopted the Conclusion on the adoption of the National Plan of Action for the Fight against Human Trafficking for the period 2009-2011. The Republic of Serbia thus met one of the requirements for liberalization of the visa regime with EU and contributed to successful combating human trafficking in the Republic of Serbia, which combat will be implemented through the activities envisaged by the National Action Plan (NAP). NAP was published in the *Official Gazette*, No.35/09 of 12 May 2009.

It is important to mention that such NAP is a unique solution in the region and that it has been approved by the representatives of governmental, non-governmental and international organizations. Due to that fact, this comprehensive plan is an example of good practice and unique cooperation in the region.

With a view to organizing joint actions and other activities, reducing risk factors and susceptibility to the problem, increasing public awareness of human trafficking as a form of contemporary slavery, improving statistical monitoring of the phenomenon and enhancing national response to human trafficking, assistance and protection, improving legal framework for the fight against human trafficking, preventing secondary victimization of victims/witnesses by state bodies and timely recognition of the problem, on 12 November 2009, **the Agreement on Cooperation between the Ministry of the Interior, Ministry of Finance, Ministry of Labour and Social Policy, Ministry of Health, Ministry of Justice and Ministry of Education in the field of the fight against human trafficking** was signed. The signatories undertook to have specific and direct cooperation in the development of the National Mechanism for Identification, Assistance and Protection of Human Trafficking Victims, in line with the Strategy for the Fight against Human Trafficking in the Republic of Serbia.

With a view to improving efficiency and coordination in suppression of illegal migration on the territory of the Republic of Serbia, the Road Map has envisaged **completion of legal framework**, and related to this, the **Strategy for Countering Illegal Migration** has been adopted at the strategic level, and **Mandatory Instructions for Treatment of Victims of Smuggling** has been adopted at the operative level by the Minister of the Interior. In addition, the **amendment to the**

Criminal Code clearly envisages criminal liability for smuggling Serbian nationals. Namely, before this, due to the opinion of the Supreme Court of Serbia, criminal prosecution of persons who smuggled Serbian nationals was not possible.

On the basis of the Conclusion of the Government 05 number 110-530/2009-1 dated 26 March 2009, **the Strategy for Countering Illegal Migration in the Republic of Serbia 2009-2014** was adopted and published in the *Official Gazette*, No. 25/09 dated 10 April 2009.

By this Strategy, the Republic of Serbia lays down its policy in the field of establishment of efficient system of countering illegal migration, sets up frameworks for creation of implementing plans, defines roles and responsibilities of state stakeholders, identifies strategic aims and lays down basic directions of the action in the process of establishing and achieving long-term sustainability and efficiency of illegal migration countering system.

The Strategy for Countering Illegal Migration in the Republic of Serbia 2009-2014 envisages the establishment of the Government **Council** for illegal migration countering as an inter-departmental body consisting of the experts of competent state stakeholders responsible for the implementation of this Strategy, and the appointment of **Coordinator** for illegal migration countering by the Government of the Republic of Serbia.

For this purpose, in November 2009, the Agreement on the establishment of Government **Council** for Illegal Migration Countering was signed between the Ministry of the Interior, Ministry of Foreign Affairs, Ministry of Finance, Ministry of Labour and Social Policy, Ministry of Defence, Ministry of Justice, Ministry of Economy and Regional Development and Commissariat for Refugees; the Government of the Republic of Serbia appointed Milos Zatezalo, the head of the Department for Foreigners of the Border Police Directorate, the National Coordinator for illegal migration countering.

The task of the Government Council for illegal migration countering is to create an **Action Plan** that will more precisely regulate all issues relevant for the implementation of this Strategy, in particular the establishment of an efficient organizational structure, strategic surveillance, control, monitoring, evaluation and review of the Strategy, and to coordinate stakeholders that implement the Strategy, to provide expert assistance, to have an insight into and monitor the implementation of the Strategy, to report to the Government on the implementation of the Strategy and possible problems related to it and to propose measures to modify the Strategy. The Working Group of the MoI of the Republic of Serbia has created a draft Action Plan, that is expected to be adopted in the near future.

Within the Customs Administration, all forms of trafficking are equally present and equally significant and are in the scope of work of the Enforcement Division of the Customs Administration.

There are separate highly specialised departments within the Division dealing with this issue.

Other strategies are also adopted having in mind that other state bodies are also engaged in suppression and prevention of these phenomena at national level.

157. Do your authorities make use of risk assessments? If so, related to which crime areas?

The risk assessment related to illegal migrations and people smuggling, as well as other forms of trans-border crime, particularly in terms of the forged travel and other documents and prevention in smuggling of stolen vehicles, is conducted in the Border Police Directorate of the Ministry of the Interior.

The police officers of the Criminal Police Directorate of the Ministry of the Interior perform risk assessment in their procedures, above all the human resources related risks (both civil servant law enforcement personnel and the collaborators), followed by the assessment of operational risks and risks related to the partners in law enforcement. However, such practice has not yet received any formal approval, through the system of rules and procedures.

The practice of threat risk assessment and/or organized crime risk assessment has not yet been established as regular practice within the state authorities, the police in the first place, although there are intensive activities in terms of the adoption of the basis for standards and mechanisms of preparation of the organized crime related risk assessment reports according to the so called "OCTA" procedure. Therefore, using threat risk assessments has not been permanently established in the process of setting the priorities of the Criminal Police Directorate activity.

Regular and occasional information, reports and analysis prepared by the customs services contain elements of risk assessment, extracted from the official and available data, created analytical assessments on identified tendencies and events, and the assessment of their effect on application of customs and other regulations, financial interests of the Republic of Serbia, security and protection of human health, environment etc. The elements referred to above have not yet been codified, classified and applied in the operation as a standard risk assessment.

Although the general risks have been identified in various areas of customs service operations, they have still not been separately and methodologically elaborated, time-determined or followed by an extraction of the risk calculation (high, medium or low), resulted from the application of an adequate probability calculation with the assessment of possible consequences. Regardless of that fact, the Division for Analysis and Risk Assessment of the Customs Administration created and currently uses specific risk assessments concerning: passenger risk, classification of certain goods in tariff numbers, value of used goods, value of goods of Euroasian origin, illegal trade in oil derivatives on the Danube etc. When preparing these assessments, we use statistical data on selectivity overview parameters from the Customs Service Information System – CSIS (percentage overview, discrepancies overview, percentage of risk analysis orders' successfulness...). We use special databases on ships (photos, layouts of structure tanks, patents and certificates, violation records, records of entries / entries with fuel consumption calculation in the domestic customs region and supply with fuel), and databases on initiated violations in passenger traffic (first and last name, nationality...type of violation of the regulations, ruling of the competent court), which can be found on the Customs Administration Portal. Division for Suppression of Smuggling is using special risk assessments referring to the following fields: illicit trade in narcotic drugs, excise goods, trans-border crime and customs frauds.

158. What are the estimated volumes and value of different categories of illegal trafficking?

In 2009, 197 crimes related to illegal trafficking were detected (Article 243 of CCRS) and 217 such crimes during ten months of 2010. In addition to excise goods- cigarettes, oil and oil derivatives, coffee, alcoholic beverages, the following items are also subject to trafficking: textile goods, electrical appliances, agricultural machinery, etc. The previous period has been characterized by crimes of trafficking of considerable quantity of raw meat originating from abroad (from Brazil, Canada and other countries) transported through the territory of AP Kosovo and Metohija. Particularly good results have been achieved in the previous period regarding seizure of oil and oil derivatives- the quantity of oil and oil derivatives seized in 2009 is more than 50% higher compared to 2008. In addition, considerably better results in suppression of trafficking and smuggling were achieved in 2010, particularly of cigarettes- by more than 50%; coffee- by 60 %, and several times higher quantity of alcohol and alcoholic beverages was seized.

Out of the total number of identified criminal groups in the Republic of Serbia, around 60% of criminal groups are engaged in drug trafficking. In addition, there are organized smuggling of human beings, trafficking and smuggling of firearms and ammunitions, organized theft and trafficking of stolen motor vehicles, organized counterfeiting of money, etc. The geographical position of our country, as an intersection of roads between the Western Europe and Near and Far East, is certainly one of very important factors contributing to occurrence and development of international forms of organized crime, but in recent years, the role and influence of AP Kosovo and Metohija, which is an important international point primarily in trafficking and smuggling of narcotic drugs and human beings, has been growing.

Smuggling and trafficking of heroin is a traditional form of organized crime in our country. The heroin smuggling is present due to the fact that the shortest land and other routes between the countries of heroin production and storage (Turkey, Afghanistan, Pakistan and Iran) and the countries of Western Europe, where heroin is sold, go through our country. This transit line of heroin smuggling from the East to the West is known as the "Balkan Route of Heroin". Marihuana is the most common narcotic drug at the illegal market of the country. It is mostly grown in our country and smuggled from Albania through Montenegro. Besides smuggling from Albania, marihuana is sporadically smuggled from other neighbouring countries. Cocaine is mainly transited through Serbia towards Europe. Routes of cocaine smuggling have been changed in recent years. The ships from South America (Argentina, Venezuela, Brazil, Dominican Republic, Peru, Columbia, etc.) more and more often arrive to the ports of Spain, Greece, Italy, Albania and Montenegro, from where the cocaine is transported by trucks towards Serbia and then smuggled further through the known paths of the Balkan Route of Heroin. Synthetic drugs come to Serbia from the direction opposite to the heroin smuggling channels. There are segments of criminal groups in the countries where these drugs are produced which distribute this drug from Holland, Belgium and Hungary to Serbia.

Regarding suppression of human smuggling, in the period from 2009 to October 2010, 148 criminal charges were brought against 288 persons involved in this criminal activity. More than 90% of perpetrators are Serbian nationals, while the rest

are mainly nationals of China, Macedonia and Bosnia and Herzegovina. The so-called inner trafficking predominates in the field of human trafficking, as out of 136 victims, 127 were domestic nationals. The matter of concern is the fact that a growing number of children and minors fall victim (about 60%). Out of 169 persons against whom charges were brought 163 are from Serbia, two from Macedonia and Turkey each, and one from Bosnia and Herzegovina and Croatia each.

The development of organized distribution of counterfeit money is predominantly influenced by the development and availability of high information technologies (which make the quality of counterfeit money better and better), but also by entering counterfeit money (especially Euro) from the Republic of Bulgaria where this organized criminal activity is dominant.

Organized smuggling, trafficking and illegal possession of firearms and ammunition is in direct connection with armed conflicts on the territory of former Yugoslavia which has a negative impact on security in the Republic of Serbia in general. The firearms smuggling channels that have been cut indicate that firearms are smuggled to our country mainly from Bosnia and Herzegovina. During previous years, channels used for smuggling of firearms to Sweden and France were also detected, although smuggling of firearms from our country and Bosnia and Herzegovina to France still takes place.

Estimates of the volume and type of illegal trafficking are not made yet in the Ministry of the Interior of the Republic of Serbia; there are only statistical data kept by the Analytics Directorate.

159. Please describe your national legislation on trafficking in human beings (see also questions under Political Criteria).

Provision 26, of the Constitution of the RS prohibits any form of slavery. Since January 2006, with the enforcement of the Criminal Code of the Republic of Serbia, trafficking in human beings in its main forms has been penalised, through provisions: Article 388 Trafficking in Human Beings, Article 389 Trafficking in Children for Adoption, Article 390 Holding in Slavery and Transportation of Enslaved Persons.

As of 31 August 2009, the National Assembly adopted amendments and supplements to Article 388 Trafficking in Human Beings, of the Criminal Code of the Republic of Serbia, thus **increasing the—minimum and maximum sentence prescribed by law for basic form of this criminal offence**, whereas the foreseen imprisonment penalty for basic form is “**from three to twelve years**”, **without an option to impose a penalty below the legal minimum**. It also foresees that **consumers of human trafficking services** shall be penalized by imprisonment, as complying with the Council of Europe Convention on Action against Trafficking in Human Beings, as ratified by the Republic of Serbia on 18 March 2009. Adopted amendments and supplements of Article 389, of the Criminal Code of the Republic of Serbia, which now reads “Trafficking in underage persons for adoption”, has extended the age limit, thus protecting the underage persons from all forms of exploitation and trade.

The adopted amendments and supplements to Article 389, of the Criminal Code of the RS, which now reads “Presentation, acquisition and possession of pornographic material and abuse of children pornography”, as well as to Article 389, of the Criminal Code of the RS, which now reads “Trafficking in underage persons for adoption”, have extended the age limit, thus protecting the underage persons from all forms of exploitation and trade. More severe penalty has been introduced for criminal offences under Article 184 – “Mediation in Prostitution”.

The Law on Amendments and Addenda to the Criminal Code of the RS was announced in the Official Gazette of the RS no. 72/09, of 03/09/2009, and became valid as of 11/09/2009.

In December 2006, the Government of the RS adopted the “Strategy for Combating Trafficking in Human Beings” (“Official Gazette of the RS” no. 111/06), thus showing its readiness and political will to join international efforts in combating trafficking in human beings. This document was prepared according to the Guidelines for National Action Plans of the Stability Pact, and according to the Program for the Development and Implementation of a Comprehensive National Anti-Trafficking Response and Best Regional Practices, prepared by the International Centre for Migration Policy Development (ICMPD).

On 30 April 2009, Government of the RS adopted the National Plan of Action to Combat Trafficking in Human Beings for the Period 2009 – 2011, thus largely contributing to a more successful combating trafficking in human beings in Serbia through implementation of activities contemplated under the NPA. NPA was announced in the Official Gazette of the RS no. 35/09, as of 12/05/2009.

It should be noted that the prepared NPA represents a unique response in the region mutually consented by the governmental representatives, non-governmental and international organizations. That is why this comprehensive plan represents an example of good practice and unique regional cooperation.

The Law on Prohibition of Discrimination characterises slavery, trafficking in human beings, apartheid, genocide and ethnic cleansing as serious forms of discrimination (Article 13, paragraph 4). The following is forbidden: physical and other forms of violence, exploitation, expressing hatred, disparagement, blackmail and harassment pertaining to gender, as well as to publicly advocate, support and practice conduct in line with prejudices, customs and other social models of behaviour based on the idea of gender inferiority or superiority, or the stereotyped gender roles (Article 20, paragraph 2).

Efforts have been made as to extend cooperation on international, regional and national levels aimed at effective implementation of the judiciary and the programs referring to trafficking in human beings. As to improve cooperation between the judiciary and the police, by the end of 2008, Government of the Republic of Serbia established the “Commission for Coordination of Actions and Improvement of Cooperation in the fields of judiciary and internal affairs on the issues of public interest, and particularly in combating corruption, organized crime, terrorism, drugs, **trafficking in human beings**, property confiscation, money laundering and other related issues”.

The Commission was established to give opinion, expert explanations and proposals for measures aimed at harmonizing of the actions and further improvement of the cooperation and information exchange in the field of justice and home affairs, in the context of liberalized visa regime of the European Union as regards Serbia, and the process of European Integrations, primarily relating to combating corruption,

organized crime, terrorism, drugs, trafficking in human beings, property confiscation, money laundering and other related issues.

The goal of the amended Criminal Procedure Code, as of August 2009, was to introduce special investigative techniques and authorisations to the prosecution and the police. Preparations are underway for the training program on implementation of the Law on Seizure and Confiscation of the Proceeds from Crime, financial investigation, confiscation of immovable property as assets of the criminal offence. Regional cooperation is the key to combating trafficking in human beings, including the utilization of evidence collected abroad. In 2006 Serbia ratified the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, which took effect in August 2007, as well as the extremely important international agreement in the field of international legal aid. International and European standards in the field of criminal and legal assistance were included in the Law on International Legal Aid in Criminal Matters, which took effect in March 2009.

On 18 March 2009, the National Assembly of the Republic of Serbia adopted the Law on the **Confirmation of the Council of Europe Convention on Combating Trafficking in Human Beings** (“Official Gazette of the RS” – International Agreements, no: 19/2009).

The Law on Foreigners, which took effect as of 1 April 2009, stipulates that a foreigner who is victim of trafficking in human beings shall be given permission to temporary residence in the Republic of Serbia, and such foreigner who does not have sufficient financial means to sustain himself/herself, shall be provided with appropriate accommodation, meals and elementary living conditions (Article 28).

On 12 November 2009, **the Ministry of Interior, the Ministry of Finance, the Ministry of Labour and Social Policy, the Ministry of Health, the Ministry of Justice and the Ministry of Education** signed an **Agreement on Cooperation** in the field of anti-trafficking as to organize joint actions and other activities, reduce risk factor and susceptibility to the problem, to raise public awareness of the problem of trafficking in human beings as a modern form of slavery, to improve statistical monitoring of the phenomenon and national responsiveness to trafficking in human beings, assistance and protection, to improve legal framework for combating trafficking in human beings, prevent secondary victimization of victims/witnesses by government authorities and timely problem recognition.

Signatory parties undertook to accomplish special and direct cooperation in developing the National Mechanism for Identification, Assistance and Protection of the Victims of Trafficking in Human Beings, in compliance with the Strategy for Combating Trafficking in Human Beings of the Republic of Serbia. We also underline that Transnational mechanisms for referral of victims of trafficking in human beings in South Eastern Europe (TRM Guidelines for standard operational procedures in dealing with victims of trafficking in human beings) are an integral part of the Annex to this Agreement.

160. Does a National Programme on Combating Trafficking in Human Beings exist in your country? If so, please describe the main elements.

The National Programme on Combating Trafficking in Human Beings exists in the Republic of Serbia, as contemplated under the Strategy for Combating Trafficking in Human Beings (it includes a number of measures and activities by

public institutions, non-governmental and international organizations, to be implemented as to accomplish timely and comprehensive response to the problem of trafficking in human beings in the country, particularly stressing the protection of victim's human rights) and under the National Plan of Action for Combating Trafficking in Human Beings for the Period 2009-2011(which foresees preparation of prioritized activities and planning of the means needed for the implementation of the activities).

161. What are the competent authorities for combating trafficking in human beings? What are their human and financial resources?

National mechanism for coordination of activities and creation of the policy for combating trafficking in human beings has been established on the level of the Republic, including two layers: central (strategic) and operational.

Central implementation layer includes:

the Council for Combating Trafficking in Human Beings

the Coordinator for Combating Trafficking in Human Beings

the Republic Team for Combating Trafficking in Human Beings.

Operational layer includes:

Judiciary authorities and the police

the Service for Coordination of Protection of Victims of Trafficking in Human Beings.

The Republic Team to Combat Trafficking in Human Beings was formed for more efficient cooperation between public authorities, non-governmental sector and international organizations, adhering to international standards, obligations and responsibilities. As to improve its efficiency, the Republic Team was split into 4 Task Forces specialized to deal with specific problems. Among the groups there is one is for combating trafficking in children, whose Coordinator is NGO "Be support" and one for prevention and education, whose coordinator is NGO "Astra".

All activities undertaken for prevention and combating trafficking in human beings are implemented in coordination and cooperation with NGO sector representatives.

It should be noted that constructive inclusion of NGO sector as equal partner in the combating allows the government measures taken in these fields to be appropriately supplemented by NGO activities, experience and expertise.

162. How are victims protected from their trafficker and what rights do they enjoy?

The Service for the Coordination of Protection of Victims of Trafficking in Human Beings in Serbia, being an important segment of the National Mechanism for Combating Trafficking in Human Beings, whose main goal is identification of victims of trafficking in human beings, represents the coordination centre in the

process of providing and organizing of all types of assistance and protection of victims. The Service acts on the basis of victim's voluntary consent in line with his/her best interests, endeavouring to avoid secondary victimization of victims, which means that the Service advocates that the victim should give only one official, formal statement, later to be used by public officials complying with the rules on identity protection and confidentiality. The Service also endeavours to prevent any contacts between the victim and the accused in all phases of the criminal and pre-criminal procedure, especially at the main hearing.

Key roles of the Service are as follows:

- Referral to the shelter for victims of trafficking in human beings, or finding accommodation for them,
- Collecting necessary documents on the legal status of the victim (regulating the residence status and personal documents),
- Finding the model of assistance needed for the victims, including reintegration programs,
- Informing the victims on their rights, status and options for recovery in the country,
- Monitoring of the reintegration process of victims of trafficking in human beings in the country,
- Final identification in cooperation with institutions/organizations offering direct assistance to victims.

The issue of informing the victim is very important, since the victims are mostly uninformed on their status, rights, or options for assistance and protection in the country. The Service endeavours to duly inform the victim at all times on all relevant facts which could be of importance for him/her in the recovery and protection process. It also endeavours to acquaint the victim with his/her situation, as well as with available options. The service resolves the issues of residence registration and initiates the request for remuneration of the material and non-material damages suffered by the victim.

The Service is the only body responsible for submitting requests for temporary residence of victims who are foreign citizens. Permission for temporary/humanitarian residence provides legal status for the victim in the country, which is issued for the period of one year, and is regulated by Article 28, of the Law on Foreigners.

For victims who are Serbian citizens, the Service resolves the issue of residence registration and/or personal documents, as a precondition to exercise the right to health care, subsidies (social assistance) and similar.

The Service monitors every case from its identification until the process of reintegration is finalized in the country and abroad. The monitoring of cases means cooperation with local, regional and international players in the field of combating trafficking in human beings, especially with the ones assisting the victims. This segment of activities is focused on regional NGO network.

163. Do your law enforcement agencies receive specific training in combating trafficking in human beings? Please describe.

The Ministry of Interior has been implementing a three-level training in combating trafficking in human beings as a separate topic in the area of human rights, as follows:

Program of basic police training,

Program of professional development for police officers and

Program of specialised training for police officers appointed for these tasks on the basis of job classification.

This type of planning, organizing and delivering of training and professional development for police officers allows dealing with the problem in a systematic way as well as sustainable development of continuous training as defined under the National Plan of Action on Combating Trafficking in Human Beings for 2009-2011.

Working group was established to plan, organize and implement these activities, and to prepare the core training for trainers, as well as specialized training for police officers working in the field of combating trafficking in human beings, thus putting into operation the segment of the National Plan of Action on Combating Trafficking in Human Beings 2009-2011, which relates to training and professional development of police officers of the Ministry of Interior of the RS.

The shooting of the TV film "Sisters" started in October 2010, representing a huge pilot episode of the TV series "Modern Slavery" the aim of which is informing the public about trafficking in human beings, raising awareness among vulnerable groups, raising awareness among clients and potential exploiters of victims of trafficking in human beings, and raising awareness of the experts who may come in contact with the victims of trafficking in human beings. The project "Sisters" was one of the winners at the EU competition "Media coverage in the field of the European Integrations".

While the Republic of Serbia was chairing the Committee of Ministers of the Council of Europe, from May until November 2007, the Council for Combating Trafficking in Human Beings, the Ministry of Interior and the Council of Europe Office, organized many panels and work shops in schools and faculties on trafficking in human beings, with about 12,000 young participants, as well as public art competition on the topic "Modern Slavery", where elementary and secondary school students participated with around 1,195 works during the month of October, which was announced as the month of the fight against trafficking in human beings.

The best work was printed as a charity stamp, and saved in memory of this significant preventive activity attended by the students, teachers, police officers, social workers, activists of the Red Cross and NGOs.

By the Conclusion of the Government of the Republic of Serbia the stamps were sold from 21 - 26 January 2008, thus raising the fund of RSD 4,600,000,00 (about EUR 50,000), which were referred as direct assistance to victims of trafficking in human beings through the Service for the Coordination of Protection of Victims of Trafficking. So far, fifty victims of trafficking in human beings have been assisted from this fund.

164. Please provide statistics on the number of cases of trafficking for each year since 2005.

Year	Filed criminal charges	Number of suspects	Number of victims	Number of committed criminal offences
2000	41	57	-	52
2001	72	49	-	75
2002	31	47	-	62
2003	14	46	30	18
2004	24	51	35	24
2005	20	43	26	20
2006	37	84	56	37
2007	34	74	96	34
2008	32	81	55	35
2009	51	94	85	51
2010 (11 months)	37	81	59	37
Total	393	707	442	445

165. Does your legislation make a distinction between trafficking in human beings and smuggling of migrants?

Criminal offence of trafficking in human beings was introduced in 2003, by provision under Article 1116, of the Criminal Code of the Republic of Serbia, which at that time included cases of people smuggling, thus creating problems from the aspect of the protection of victims of trafficking in human beings.

Since 2006, with the new Criminal Code, these criminal offences have been split into **trafficking in human beings** (Article 388), and **illegal state border crossing and people smuggling** (Article 350).

166. Do your law enforcement agencies include specific units for combating trafficking (human beings, drugs, cigarettes, firearms, stolen vehicles etc.)?

Crimes related to trafficking in human beings, drugs, cigarettes, firearms, stolen vehicles, etc. are in the competence of the Organized Crime Prosecutor's Office if they are committed by organized criminal groups, but there is no specialized unit in the Prosecutor's Office to deal separately with each of these crimes.

The Law on Organization and Jurisdiction of State Authorities in the Suppression of Organized Crime, Corruption and Other Particularly Serious Criminal Offences (*O. Gazette of RS*, No. 42/2002, 27/2003, 39/2003, 67/2003, 29/2004, 58/2004- other law, 45/2005, 61/2005 and 72/2009) lays down the competence of the Higher Court in Belgrade to act at first instance for these types of criminal offences. A special department for handling these cases is established in the Higher Court in Belgrade. The special department consists of judges appointed by the President of the Higher Court in Belgrade, with their written consent, for the period of six years. The special department judge must have at least eight years of work experience in the field of criminal law.

According to the same Law, the Appellate Court in Belgrade is competent for acting at the second instance, on appeal, where special department for handling these cases is also established. The special department of the Appellate Court in Belgrade consists of judges appointed by the President of the Appellate Court in Belgrade, with their written consent, for the period of six years. The special department judge must have at least ten years of work experience in the field of criminal law.

167. Is there - based on a multi-disciplinary approach - any form of cooperation between the competent law enforcement bodies and other agencies, which are involved in the prevention of and the fight against trafficking in human beings?

National mechanism for coordination of activities and creation of the policy for combating trafficking in human beings has been established on the level of the Republic, including two layers: central (strategic) and operational.

Central implementation layer includes:

the Council for combating trafficking in human beings

the Coordinator for combating trafficking in human beings

the Republican Team for Combating Trafficking in Human Beings.

Operational layer includes:

Judiciary authorities and police

Service for the Coordination of Protection of Victims of Trafficking.

Council of the Government of the Republic of Serbia for Combating Trafficking in Human Beings, was established as Government expert and advisory body. The Council was established to coordinate national and regional activities for combating trafficking in human beings, as well as to give opinions and propose measures for the implementation of the recommendations by international bodies in combating trafficking in human beings. Council members are as follows: Minister of Interior, Minister of Education, Minister of Finance, Minister of Labour and Social Policy, Minister of Health and Minister of Justice.

Coordinator for combating trafficking in human beings coordinates all activities of the ministries, non-governmental and international organizations, cooperates internationally and regionally and reports to the Council for Combating Trafficking in Human Beings.

Members of the **Republic Team to Combat Trafficking in Human Beings** are representatives of governmental institutions, non-governmental and international organizations. As to improve its efficiency, the Republic Team was divided into 4 Task Forces, specialized to deal with specific problems.

Task Force for prevention and education, whose coordinator is NGO “Astra”.

Task Force for assistance and protection of victims,

Task Force for combating trafficking in children, whose coordinator is NGO “Be support”.

Task Force for judiciary and police.

The Republic Team to Combat Trafficking in Human Beings was formed for more efficient cooperation between government authorities, non-governmental sector and international organizations, adhering to international standards, obligations and responsibilities.

On 12 November 2009, **the Ministry of Interior, the Ministry of Finance, the Ministry of Labour and Social Policy, the Ministry of Health, the Ministry of Justice and the Ministry of Education** signed an **Agreement on Cooperation** in the field of anti-trafficking as to organize joint actions and other activities, reduce risk factor and susceptibility to the problem, to raise public awareness of the problem of trafficking in human beings as a modern form of slavery, to improve statistical monitoring of the phenomenon and national responsiveness to trafficking in human beings, assistance and protection, to improve legal framework for combating trafficking in human beings, prevent secondary victimization of victims/witnesses by state authorities and timely problem recognition. Signatory parties undertook to accomplish special and direct cooperation in developing the National Mechanism for Identification, Assistance and Protection of the Victims of Trafficking in Human Beings, in compliance with the Strategy for Combating Trafficking in Human Beings in the Republic of Serbia. We also underline that **Transnational mechanisms for referral of victims of trafficking in human beings in South Eastern Europe** (TRM Guidelines for standard operational procedures in dealing with victims of trafficking in human beings) are an integral part of the Annex to this Agreement.

The **Service for the Coordination of Protection of Victims of Trafficking in Human Beings**, as important segment of the established national mechanism for combating trafficking in human beings, is charged with protection of victims of trafficking in human beings, including children, through identification and referral of victims to appropriate assistance programs.

It should be noted that constructive inclusion of NGO sector as equal partner in the combating enables the government measures taken in these fields to be appropriately supplemented by NGO activities, experience and expertise.

168. Does your legislation cover credit card fraud? Please provide a short description. How many cases did you report each year since 2005?

The Criminal Code (*Official Gazette of RS*, No 85/05, 88/05, 107/05, 72/09 and 111/09) criminalizes forgery and misuse of payment cards and stipulates that the whoever fabricates a forged payment card or alters a genuine payment card with the intent to use it as a genuine or whoever uses such false payment card as genuine, will be sentenced from six months to five years in prison and fined. If the perpetrator acquired illicit proceeds by using a payment card, he or she will be sentenced from one to eight years in prison and fined. If the amount of illegal proceeds acquired by the perpetrator exceeds RSD 1.5 million, he or she will be sentenced from two to twelve years in prison and fined. The same punishments will be imposed in case of a perpetrator committing this crime through unauthorized use of another's payment card or of the confidential unique identifier data of such payment card in payment operations. Whoever obtains a false payment card with the intention to use it as genuine or whoever obtains information with the intention to use it for the fabrication of a false payment card, will be fined or sentenced to up to three years in prison. False payment cards will be seized.

From 1 January 2006 to 31 December 2010, there were a total of 668 crime reports in relation to the crime of forgery and misuse of payment cards, whilst within the jurisdiction of individual appellate public prosecutors' offices, the statistics is as follows:

Jurisdiction of the Appellate Public Prosecutor's Office in Belgrade – a total of 281 crime reports;

Jurisdiction of the Appellate Public Prosecutor's Office in Novi Sad – a total of 200 crime reports;

Jurisdiction of the Appellate Public Prosecutor's Office in Niš – a total of 90 crime reports;

Jurisdiction of the Appellate Public Prosecutor's Office in Kragujevac – a total of 97 crime reports;

169. Do you have a strategy in place in fighting against money laundering? Please describe your national legislation on money laundering in this regard.

Serbian Government adopted the National Strategy for the Fight against Money Laundering and Terrorism Financing (*Official Gazette of the Republic of Serbia*, No 89/08) whose purpose is to recommend action for addressing the problems and to improve the current system of the fight against money laundering and terrorism financing (AML/CFT) regime. The main objectives of the Strategy include reducing crime related to money laundering and terrorism financing; implementation of the international standards; development of the system of cooperation and responsibilities of all stakeholders in the fight against money laundering and terrorism financing; improvement of cooperation between the public and private sectors; and ensuring the transparency of the financial system. The Strategy is divided into 4 parts, covering the legislative, institutional, and operative areas, and the area of professional education

and training. An analysis of the current state of play for each of these levels was made, and recommendations for improvement of the entire system for the fight against money laundering and terrorism financing were given.

In October 2009, Serbian Government passed the Action Plan for the Implementation of the Recommendations of the National Strategy for the Fight against Money Laundering and Terrorism Financing covering a five-year period (from 2009 to 2013). The Action Plan lists specific activities and the responsible institutions, in order to implement the recommendations of the Strategy and improve the system for the fight against money laundering and terrorism financing.

The following recommendations have been implemented at the legislative level:

- The Law on the Prevention of Money Laundering and Terrorism Financing implementing the 2005 Directive of the European Parliament and Council on the Prevention of the Use of the Financial System for the Purpose of Money Laundering and Terrorist Financing (*Official Gazette of RS*, No 20/09, 72/09);
- The Law amending the Law on Criminal Procedure (*Official Gazette of RS*, No 72/09) amended the provisions of the Law on Criminal Procedure regarding the obtaining of data from banks or other financial organisations, and suspension of transactions or seizure of funds;
- The Law amending the Criminal Code (*Official Gazette of RS*, No 72/09) harmonises the CC articles that govern the confiscation of proceeds with Article 2 of the Strasbourg Convention and Article 5 of the Warsaw Convention regarding the confiscation of the property the value of which corresponds to the proceeds and indirectly acquired proceeds. In addition, the definition of the money laundering criminal offence was harmonised with Article 6 of the Strasbourg Convention and Article 9 of the Warsaw Convention.
- The Law on Seizure/Confiscation of Proceeds from Crime (*Official Gazette of RS*, No 97/08);
- The Law on the Liability of Legal Entities for Criminal Offences which also covers liability for the criminal offences of money laundering and terrorism financing.
- The recommendation of the National Strategy for the Fight against Money Laundering and Terrorism Financing referring to the harmonisation of the Law on Payment Transactions with FATF Special Recommendation 7 (on wire transfers) and the EU Regulation on the Documents Accompanying Wire Transfers has been implemented by incorporating additional provisions into the Law amending the Law on the Prevention of Money Laundering and Terrorism Financing implementing the relevant provisions of the above EU Regulation.

In 2009, the entire system for the fight against money laundering and terrorism financing was evaluated by the Council of Europe's MoneyVal Committee. MoneyVal evaluates the system against the FATF's 40+9 Recommendations. As a result of the evaluation, a Detailed Assessment Report on the actions and measures taken by the Republic of Serbia against money laundering and terrorism financing was adopted in Strasbourg, on 9 December 2009. The Report gives a description of the current system in Serbia and binding recommendations about what needs to be done in order to enhance the entire system of the fight against money laundering and terrorism financing in Serbia. In order to implement the recommendations, the Law amending the Law on the Fight against Money Laundering and Terrorism Financing was drafted, and then adopted on 30 November 2010. The main novelty in this law is the introduction of a system of control of wire transfers, which reduces the money laundering and terrorism financing risks posed by such transfers. The relevant

provisions of the Regulation (EC) No 1781/2006 of the European Parliament and Council of 15 November 2006 on information on the payer accompanying transfers of funds have thus been fully implemented, as well as the Special FATF Recommendation VII.

170. Is the financial crisis having an impact on money laundering trends? Is your Anti-Money Laundering Policy taking these new trends into accounts? If so, how?

The financial crisis has caused extremely high illiquidity of business entities and in seeking solutions to address the illiquidity a way opens for placement of suspicious capital. Such capital arrives in the form loans, whilst the creditors are financial institutions and companies with disputable credibility and solvency. On the other hand, natural persons whose bank accounts are credited mostly from off shore areas, including as loans, dividends, sale of share, and inheritance, appear as creditors to companies. The origins of funds arriving in this way are very difficult to trace. In addition, a growing trend has been noted that companies are being established mostly for no other purposes but to conduct a business activity for a short time in an illegitimate manner, and then they quickly dissolve. A trend is also noted of natural persons appearing as creditors and investors using money with obscure origins.

171. Please explain the main difficulties that you face in combating money laundering.

The main difficulties faced when analysing the transactions and persons suspected to be involved in money laundering or terrorism financing are as follows:

It is virtually impossible to ascertain the final beneficiaries of the funds transferred from off-shore areas;

It is very difficult to ascertain the ownership structure, i.e. the true owners of legal entities established in certain countries who appear as investors or founders of legal entities in Serbia;

It is very difficult to obtain data on the owners of capital or about transactions from countries that have the option not to respond to information requests, e.g. because their regulations provide for a "highly confidential banking secret" Some of them are EU member states.

172. Please describe the specialized bodies dealing with money laundering, Financial Intelligence Unit (FIU), as well as the structures within the police and other relevant departments. Describe any co-operation with the banking system and other financial actors (casinos, etc.).

The Administration for the Prevention of Money Laundering is an administrative body within the Ministry of Finance. Based on the powers vested to it by the Law on the Prevention of Money Laundering and Terrorism Financing, the Administration for the Prevention of Money Laundering, as the financial intelligence unit of the Republic of Serbia, collects data from the obliged entities (banks, insurance companies,

brokers, etc), analyses it and, if it suspects money laundering or terrorist financing, disseminates it to the competent state authorities. The Administration for the Prevention of Money Laundering is a member of the Egmont Group, an international entity gathering financial-intelligence units of a large number of countries. The membership to the Egmont Group provides the Administration for the Prevention of Money Laundering (hereinafter: APML) with the possibility to obtain financial intelligence from other countries very quickly, if money laundering or terrorism financing is suspected in a specific case.

The Prosecutor's Office for Organized Crime is also responsible for prosecuting the money laundering offence if the laundered property originates from criminal offences of organized crime, crimes against official duty where the accused or the person who was offered bribe is an official or a person in charge in a public office who has been elected, nominated or appointed by the National Assembly, Government, High Judicial Council or State Prosecutorial Council, abuse of office when the amount of acquired proceeds exceeds RSD 200 million, and the crimes of international terrorism and financing of terrorism.

The Law on the Public Prosecutor's Office (*Official Gazette of RS*, No 116/2008, 104/2009 and 101/10), applied as of 1 January 2010, improved to a great extent the status of the Prosecutor's Office for Organized Crime as it was defined as a prosecutor's office of special jurisdiction. This Law and the Law Amending the Law on the Organization and Jurisdiction of State Authorities in the Suppression of Organized Crime, as well as of the Law on the State Prosecutorial Council (*Official Gazette of RS*, No 116/2008 and 101/10) considerably improved the autonomy, responsibility, and effectiveness of public prosecutors, and their independence in discharging their offices.

The Prosecutor's Office for Organized Crime receives data from the responsible services of the Ministry of the Interior, Administration for the Prevention of Money Laundering, Ministry of Finance, and other competent authorities.

In its procedures related to the money laundering offence, the Prosecutor's Office for Organized Crime, may request, pursuant to Article 234 of the Criminal Procedure Code (*Official Gazette of FRY*, No 70/2001 and 68/2002 and *Official Gazette of RS*, No 58/2004, 85/2005, 115/2005, 85/2005 – other law, 49/2007, 20/2009 – other law, 72/2009 and 76/2010), from a competent body, banking, or other financial institution to check the operations of a person for whom there is reason to believe that he/she committed a crime punishable by at least four years' imprisonment and to send it documentation and data that can be used as evidence of the crime or of the proceeds from crime, as well as to report to it any suspicious money transactions, in terms of the Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime and the Financing of Terrorism.

The Service for Combating Organized Crime under the Ministry of the Interior's Criminal Police Directorate has a Department for Suppressing Organized Financial Crime an integral part of which is a specialized Anti-Money Laundering Section. On 1 June 2009, a Financial Investigations Unit was created under the Service. A Sectoral Plan is being developed for the implementation of the Strategy. The Plan will envisage specialized training for police officers, within all police directorates or sections for the suppression of economic crime, on detecting money laundering and terrorism financing.

Other state authorities whose responsibilities include fight against money laundering are the Security-Information Agency, Ministry of Defence (Military

Security Agency, Military Intelligence Agency), Public Prosecutor's Office, courts (please note that, under the Action Plan for the implementation of the National Anti-Money Laundering and Counter Terrorist Financing (AML/CFT) Strategy, public prosecutors, and higher and basic courts are required to designate deputy public prosecutors, i.e. investigative and other judges, who will handle money laundering and terrorist financing cases), the bodies supervising the implementation of the Law on the Prevention of Money Laundering and Terrorism Financing (National Bank of Serbia, Securities Commission).

Apart from the above authorities, a very important role in the fight against money laundering and terrorism financing is played by the Standing Coordination Group for Supervising the Implementation of the National AML/CFT Strategy, established by the Government of the Republic of Serbia in April 2009 and composed of representatives of a large number of state authorities. The Standing Coordination Group monitors the implementation of the National AML/CFT Strategy and recommends measures to the competent bodies to improve the anti-money laundering and counter-terrorist financing (AML/CFT) system and improve cooperation and exchange of information amongst the authorities. A new National AML/CFT Strategy is to be adopted next year, given that a large majority of the recommendations has already been implemented.

According to Article 4 of the Law on the Prevention of Money Laundering and Terrorism Financing (*Official Gazette of RS*, No 20/09, 72/09), the obliged entities that are required to apply the actions and measures stipulated in this Law are as follows:

- 1) banks;
- 2) licensed *bureaux de change*;
- 3) investment fund management companies;
- 4) voluntary pension fund management companies;
- 5) financial leasing providers;
- 6) insurance companies, insurance brokerage companies, insurance agency companies and insurance agents with a license to perform life insurance business;
- 7) persons dealing with postal communications;
- 8) broker-dealer companies;
- 9) providers of special games of chance in casinos;
- 10) providers of games of chance operated on the Internet, by telephone, or in any other manner using telecommunication networks;
- 11) auditing companies;
- 12) licensed auditors.

Obliged entities include both entrepreneurs and legal persons exercising the following professional activities:

- 1) real estate sale;
- 2) provision of accounting services;
- 3) tax advising;
- 4) intermediation in credit transactions and provision of loans;
- 5) factoring and forfeiting;
- 6) provision of guarantees;
- 7) provision of money transfer services.

The Administration for the Prevention of Money Laundering has a two-way cooperation with banks. The banks report to the Administration for the Prevention of

Money Laundering data on cash transactions and on transactions and persons, if money laundering or terrorism financing are suspected with respect to such transactions or persons. On the other hand, the Administration for the Prevention of Money Laundering, pursuant to Article 53 of the Law on the Prevention of Money Laundering and Terrorism Financing is authorized, in case there are reasons to suspect money laundering or terrorist financing, to request from the obliged entity data on clients or transactions, on money or property, turnover of money or property, as well as any other data and information required to detect and prove money laundering or terrorism financing.

In addition to the above outlined cooperation that mainly involve the collecting of data related to the detection of money laundering or terrorism financing, the Administration for the Prevention of Money Laundering has a very successful cooperation with the representatives of banks, when training of compliance officers is concerned. The APML's representatives deliver presentations at seminars organized by the Serbian Bankers' Association so as to contribute to the improvement of the AML/CFT system that every bank has in place. In addition, the Administration for the Prevention of Money Laundering organizes meetings with the banking sector representatives several times a year where it presents an analysis of the reported transactions and discusses money laundering typologies and trends. The Administration for the Prevention of Money Laundering provides answers on a daily basis to the questions of compliance officers regarding the interpretation of the Law on the Prevention of Money Laundering and Terrorism Financing and the by-laws passed on the basis of this Law.

Also, when guidelines, indicators and other acts are drafted for the needs of compliance officers in banks, expert working groups are often set up and these working groups include banking sector representatives. An example of a joint action between the state authorities and obliged entities is the recently passed Guidelines for Suspicious Transaction Reporting, Customer Due Diligence, and No-Tipping-Off. The guidelines were a result of the work of the representatives of the Administration for the Prevention of Money Laundering, National Bank of Serbia, and the banking sector representatives.

173. Please describe the cooperation between your FIU and other national police, prosecution office, the judiciary and other relevant bodies (e.g. customs) in the field of money laundering.

The Administration for the Prevention of Money Laundering has excellent cooperation with the Prosecutor's Office for Organized Crime, Public Prosecutor's Office, Ministry of the Interior, Financial Investigation Unit, courts, and other competent anti-money laundering and counter-terrorist financing authorities. Only in 2009, the APML opened, analyzed and transferred to other state authorities more than 60 organized crime related cases. Based on Article 58 of the Law on the Prevention of Money Laundering and Terrorism Financing, the APML may start obtaining data, information and documentation based on a written and justified initiative by the court, public prosecutor, police, Security Information Agency, Military Intelligence Agency, Tax Administration, Customs Administration, National Bank of Serbia, Securities Commission, Privatization Agency, competent inspectorates and the state authorities competent for state audit and fight against corruption. The initiative by the above

authorities should contain justified reasons to suspect money laundering or terrorism financing in a specific case.

Based on Article 70 of the Law on the Prevention of Money Laundering and Terrorism Financing, the Customs Administration is required to report to the APML the data on each declared and non-declared transportation of bearer negotiable instruments across the state border within 3 days of such transportation, as well as in all cases when there are reasons to suspect money laundering or terrorism financing.

The Customs Administration does not have a separate financial organizational unit to deal with money laundering only, but it processes such cases in cooperation with the Administration for the Prevention of Money Laundering. In 2009, customs authorities sent a total of 875 reports concerning the transportation of cash, securities, and other bearer negotiable instruments across the state border.

At the initiative of the Prosecutor's Office for Organized Crime, the Administration for the Prevention of Money Laundering can check all transactions and persons suspected for money laundering. If, based on the obtained data, information, and documentation, the APML assesses that there are reasons for suspicion on money laundering or terrorism financing with respect to a certain transaction or person, it must inform the competent authorities thereof, including the Prosecutor's Office for Organized Crime, so that they take measures under their competence. Based on a request of the Prosecutor, the investigative judge may decide that the competent authority or organization should suspend a specific financial transaction, outgoing transfer, or withdrawal of suspicious funds, securities, or objects, where there are reasons to suspect that they originate from crime or from criminal proceeds, or if they are intended for the commission or concealing a criminal offence.

All authorities involved in pre-trial proceedings for crimes under the jurisdiction of the Prosecutor's Office for Organized Crime, including the money laundering crime, must inform the Prosecutor on any action taken. The Ministry of the Interior and other state authorities competent to detect criminal offences are required to act upon any request of the Prosecutor.

The Law on Seizure and Confiscation of Proceeds from Crime (*Official Gazette of RS*, No 97/08 of 27 October 2008) has established, among other things, an organizational unit at the Ministry of the Interior to be responsible for financial investigation, detection of proceeds originating from the commission of criminal offences, with a special focus on the ascertaining the true origin of the funds laundered by criminal groups through various financial transactions. Based on the report of this unit, the prosecutor's office files to the court an appropriate request for seizure or confiscation of the property which the court will, according to the relevant provisions of the Law, decide upon in a summary procedure.

Since this law entered into force on 1 March 2009, a total of 73 seizure proceedings have been instituted before the Higher Court in Belgrade, 53 of which were completed in a final judgment, and a total of 4 confiscation proceedings, 1 of which was completed with a final court decision. We should highlight that this is an area where no relevant practice has existed up to now so the police authorities and the

prosecutor's office cooperate with courts in addressing emerging issues and develop a consistent practice in the implementation of this law that was adopted fairly recently.

A very important form of cooperation between all state authorities involved in the fight against money laundering and terrorism financing takes part through the Standing Coordination Group for the Supervision of the Implementation of the National AML/CFT Strategy. The Standing Coordination Group consists of the representatives of a large number of state authorities who, apart from supervising the implementation of the National Strategy, also do the monitoring, recommending, and coordinating of activities in the area of money laundering and terrorism financing. Efficient cooperation among the state authorities involved in the fight against money laundering and terrorism financing takes place through the designation of liaison officers who directly communicate on a daily basis with strictly designated employees of the Administration for the Prevention of Money Laundering. Some state authorities involved in the fight against money laundering, more specifically the Security Information Agency, Tax Administration and the Public Prosecutor's Office, have designated their liaison officers.

174. Please describe your FIU cooperation with EU FIUs. Please provide figures on the number of exchanges of information with EU FIUs. What is your view on international cooperation with EU FIUs? How could it be improved?

The Administration for the Prevention of Money Laundering (APML), as the financial-intelligence unit (FIU) of the Republic of Serbia, is a member of the Egmont Group, an intergovernmental organisation of financial-intelligence units. The APML exchanges information with financial-intelligence units of foreign countries via the Egmont Secure Website (ESW). In 2009, the APML received a total of 102 requests for information from foreign FIUs and sent 80. The APML actively participates in the operation of Egmont Group working groups whose meetings are held three times a year. The APML is particularly active in the Operational Working Group that discusses specific operative challenges faced by FIUs, and the Legal Working Group where legal experts from all over the world work on improving legal standards in this area.

To date, the Administration for the Prevention of Money Laundering has signed 26 agreements on cooperation (memorandums of understanding) with the financial-intelligence units of other countries. In 2010 alone, MOUs were signed with Israel, The Netherlands, Lithuania, and other countries.

The APML's main priority is the signing of MOUs with the countries that require such an agreement in order to exchange financial intelligence, and then with the European Union member states.

The APML's cooperation with the financial-intelligence units of European Union member states varies from one country to another. The cooperation with the FIUs of EU countries is characterised by an evident disbalance reflected in the provision of requested information. Certain EU countries send data of good quality, and other send data that is general and useless for the analytical process, whilst certain countries fail to send any data at all referring to the *highly confidential banking secret* requirement or the applicable legislation of their countries; or justifying it by having no access to the requested data instructing the APML at the same time to resort to mutual legal assistance, which entails a very long and slow data collection process.

The quality of the data sent by some EU member states is very good, whilst others provide only scanty information. The Republic of Serbia is more than open for cooperation in information exchange and there are no restrictions concerning the exchange. The quality of data sent by the APML to foreign FIUs is extremely high given that the Law authorises the APML to provide the data, whenever there are reasons for suspicion on money laundering or terrorism financing with respect to a transaction or person, to the authorities of foreign countries that are competent for the prevention and detection of money laundering or terrorism financing at their written and justified request or at its own initiative, under the condition of reciprocity.

The APML has signed MOUs with foreign-intelligence units of almost all European Union member states that require such an agreement in order to exchange information. The APML has initiated the signing procedures for an MOU with the financial-intelligence unit of Finland which is on the list of countries requiring a signed MOU for information exchange.

The statistics of requests for information sent and received between the APML and the FIUs of the EU member states in the period 2007-2010, is as follows:

	2007	2008	2009	2010
Number of requests received	37	27	37	49
Number of requests sent	27	35	50	93

The Administration for the Prevention of Money Laundering has a very successful cooperation with the financial-intelligence units of the countries in the region. Namely, a Regional Protocol for the Fight against Money Laundering and Terrorism Financing was signed in Podgorica on 24 April 2008. The Protocol was signed by the following regional countries: the Republic of Slovenia, Republic of Croatia, Montenegro, Macedonia, Albania and the Republic of Serbia. One of the aims of the protocol is to strengthen the cooperation and application of best practices and experiences. From 8-10 September 2010, the APML organised the Fourth Regional Conference of the Heads of Regional FIUs in Kragujevac. One of the conclusions of the Conference was a greater focus on the prevention of the financing of terrorism in the future. Even though the terrorism financing risks in the region are lower than those of money laundering, financing of terrorism is certainly a topic that must be given greater attention because of its possible detrimental consequences, and there is a possibility for regional cooperation in respect of establishing and strengthening of these systems. All members of the conference undertook to develop an analysis of situation in the area of terrorism financing which they would share with other members.

175. What is done to provide the staff concerned with specialised training?

The staff of the Administration for the Prevention of Money Laundering is continuously educated through seminars and workshops. Over the last year, the APML's staff participated at the following seminars:

- 2-4 November 2009, study visit to the financial-intelligence unit of Slovakia; topic: transposition and translation of the EU *acquis communautaire*;
- 9-12 November 2009, seminar for analysts;

- 16-20 November 2009, seminar on money laundering typologies in the insurance sector, held in Cyprus;
- 11-14 January 2010, study visit to the financial-intelligence unit of the Netherlands; topic: prevention of the financing of terrorism;
- 23-25 February 2010, workshop on “customs integrity”, organised by the Customs Administration;
- 15 March 2010, seminar organised by the Games of Chance Administration;
- 28-30 April 2010, seminar on illegal migrations;
- 16-17 June 2010, seminar organised by the Council of Europe on the Warsaw Convention;
- 28-29 June, seminar on the role of auditors in the fight against money laundering and terrorist financing, organised in Zagreb;
- 12-16 July, seminar: Training for evaluators, FATF recommendations, held in Andorra;
- 27-30 September 2010, I2 analysis tool - training for analysts;
- October 2010, training on financial analysis held in Syracuse, organised by the International Monetary Fund;
- September 2010, seminar on “Money laundering and its impact on the financial system”, organised by the OSCE;
- November 2010, seminar on the prevention of terrorism financing, organised by the OSCE.

One separate part of the AML/CFT Strategy refers to the state of play in the area of professional training and education of all stakeholders in the fight against money laundering and terrorist financing, and gives recommendations for improvement in the area. One of the recommendations of the AML/CFT Strategy is to train the trainers from various State authorities that would afterwards be responsible for further training of the staff at the State authorities they are employed with.

The APML is the main beneficiary of a EUR 2.4-million-worth “Project for the strengthening of the system against money laundering and terrorism financing in the Republic of Serbia”, financed from the EU’s IPA pre-accession fund. The plan of implementation of the project activities, covering a three-year period, envisages seminars, workshops, and other forms of training for both the State authorities responsible for the fight against money laundering and terrorism financing, and all obliged entities, i.e. representatives of the financial and non-financial sectors that are responsible for the implementation of the Law for the Prevention of Money Laundering and Terrorism Financing.

With the aim to facilitate knowledge transfer from various areas the Administration for the Prevention of Money Laundering organises internal trainings on a weekly basis.

There is a plan to establish a training centre at the Administration for the Prevention of Money Laundering where planned and continuous training would be delivered for all stakeholders in the fight against money laundering and terrorism financing, including judges, prosecutors, police, employees of the APML, Tax Administration, Foreign Exchange Inspectorate, National Bank of Serbia, Securities Commission, and the obliged entities.

176. Please, provide figures on the results on your Anti-Money Laundering Policy in terms of number of cash transaction reports (CTRs) and suspicious

transactions reports (STRs) disclosed in the last 4 years, number of investigations initiated each year on the basis of CTRs and STRs, number of investigations initiated each year on other intelligence elements, number of freezing/seizing orders in the last 4 years, number of prosecutions/indictments/convictions/confiscation orders in the last 4 years. Please provide figures on the value of the assets and properties frozen/seized and confiscated in the last 4 years. Please also provide the legal requirements concerning CTRs and STRs.

The obliged entities specified in the Law on the Prevention of Money Laundering and Terrorism Financing are required, pursuant to Article 37 of the Law, to report to the Administration for the Prevention of Money Laundering, every transaction amounting to EUR 15,000 or more (cash transaction reports), and transactions or persons if they are suspected to be involved in money laundering or terrorist financing (suspicious transaction reports).

The following table shows the number of suspicious transaction reports and cash transaction reports:

2007		2008		2009		2010 (up to 1/11/10)	
CTR	STR	CTR	STR	CTR	STR	CTR	STR
234271	1432	355903	2884	280245	3957	165669	3854

The following table shows the number of cases opened by the Administration for the Prevention of Money Laundering based on a suspicion money laundering:

2007	2008	2009	2010 (up to 1/11/10)
47	96	61	51

The number of investigations, indictments, and convictions for the money laundering offence:

2007			2008			2009			2010		
Investigations	Indictments	Convictions	Investigations	Indictments	Convictions	Investigations	Indictments	Convictions	Investigations	Indictments	Convictions
28	5	1	26	12	2	14	9	4	20	2	/

177. In your opinion, what could be done to further improve your action against money laundering?

In order to improve the fight against money laundering and terrorist financing, a new national strategy for the fight against money laundering and terrorism financing should be passed, covering the next 5-year period. This plan envisages that an analysis of the current system for the fight against money laundering and terrorism financing should be made for the legislative level, but also for the institutional and operative levels, and the level of professional training and education of all stakeholders in the fight against money laundering and terrorism financing.

The new Law amending the Law on the Prevention of Money Laundering and Terrorism Financing gives new powers to the Administration for the Prevention of Money Laundering including, first of all, the supervision of implementation of this

law by certain categories of obliged entities (accountants, auditors, intermediaries in the provision of loans, tax advisers, etc). This means that in order to enhance the existing system, primarily its preventive segment, the number of the APML's employees should be increased, which is part of the plan and strategy. As a member of the Egmont Group of FIUs of many countries, the APML can obtain very important intelligence concerning cash flows from foreign countries very quickly.

In addition to the increasing administrative and office accommodation capacities of the Administration for the Prevention of Money Laundering, there is a plan to further train both the civil servants already working for the APML, but also those that have been recently recruited. The Project for the strengthening of the system against money laundering and terrorist financing in the Republic of Serbia will partly provide for this. A concept for the establishment of the planned APML's training centre has already been designed, but this idea has not been implemented yet due to the lack of adequate training premises.

178. Do you have any national bank account register in place so as to facilitate the FIU analysis?

The National Bank of Serbia maintains a database of RSD accounts held by legal persons. This database is public and it can be accessed at the website of the National Bank of Serbia. A register of bank accounts held by natural persons does not exist, but the Administration for the Prevention of Money Laundering has started an initiative to put in place such a register.

179. How have you responded to requests for mutual legal assistance related to money laundering?

There has been a number of mutual legal assistance requests under the Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime, both those sent to the foreign bodies by the national justice bodies through the Ministry of Justice, and those by the foreign justice bodies sent to domestic justice bodies. Different forms of assistance have been requested. A vast majority of the requests were acted upon. To date, the Prosecutor's Office for Organized Crime has not acted upon such mutual assistance requests.

180. Is there a system allowing for confiscation/seizure of proceeds from crime? Which body is competent for the confiscation/seizure? Number of people and their training? Is confiscation linked to a criminal conviction? Are statistics available illustrating the number and value of cases of assets confiscated over the last years?

The Law on Seizure and Confiscation of the Proceeds from Crime (*Official Gazette of RS*, No. 97/2008) governs the requirements, the procedure and the authorities responsible for tracing, seizing/confiscating and managing the proceeds from crime. Assets are goods of any kind, tangible or intangible, movable or immovable, estimable or of inestimably great value, and instruments in any form evidencing rights to or interest in such goods. Assets also denote revenue or other gain generated, directly or indirectly, from a criminal offence as well as any goods into which it is

transformed or which it is mingled with. Proceeds from crime are assets of an accused, cooperative witness or bequeather being manifestly disproportionate to his/her lawful income.

The authorities competent to trace, seize/confiscate and manage the proceeds from crime include the public prosecutor, the court, Financial Intelligence Unit of the Ministry of Internal Affairs and the Directorate for Management of Seized and Confiscated Assets within the Ministry of Justice. Under Article 21 of the Law, if there is a risk that subsequent seizure of the proceeds from crime could be hindered or precluded, the public prosecutor may file a motion for temporary seizure of assets. If there is a risk that the owner will make use of the proceeds from crime before the court decides on the motion referred to in Article 21 of the Law, the public prosecutor may issue an order banning the use of assets, and on temporary seizure of movable assets. This measure stays in force until judgment of the court on the prosecutor's motion.

On receiving the decision on temporary and/or permanent seizure of assets, the Directorate proceeds without delay in accordance with the Law. Until revoking the decision on temporary seizure of assets and/or until final conclusion of proceedings for permanent seizure of assets, the Directorate manages the seized assets with due diligence and/or due and reasonable professional care. Temporary seizure of assets is implemented through analogous application of provisions of the Law on Enforcement Procedure, unless otherwise provided by this Law. The Directorate bears the costs incurred during the safeguarding and maintenance of temporarily seized assets. The Director may decide to leave temporarily seized assets with the owner on condition that he/she practices due diligence in care of the assets. The owner bears the costs incurred during the safeguarding and maintenance of assets. In justified circumstances the Director may on the basis of contract entrust another natural person or a legal person with the managing of temporarily seized assets. Temporarily seized objects of historical, artistic and scientific value are handed over for safeguarding by the Directorate to institutions competent for safeguarding of such objects until judgment on the motion for permanent seizure of assets. Temporarily seized foreign currency and foreign cash holdings, objects of precious metals, precious and semi-precious stones and pearls are handed over by the Directorate to the National Bank of Serbia for safekeeping until adoption of the decision on the motion for permanent seizure of assets. In order to safeguard the value of temporarily seized assets, the Directorate may upon approval of the competent court and without delay sell movables and/or entrust a particular natural person or legal person to effect the sales procedure. Movables are sold at equal or higher price than evaluated by the Directorate. If the assets are not sold after two oral public biddings the sales may be effected through direct agreement.

Pecuniary funds obtained by sales of assets augmented by *a vista* average interest for the relevant period are promptly returned to the owner of temporarily seized assets that in conformity with the Law are determined not to derive from any criminal offence. The owner to whom pecuniary funds have been returned in accordance with the Law may within 30 days from the day of return of funds file a claim with the Directorate for compensation of damages resulting from temporary seizure of assets. If the damage compensation claim is not approved or the Directorate fails to pass a

decision thereupon within three months from the day of filing such claim, the owner may file a lawsuit with the competent court for compensation of damages against the Republic of Serbia. If the claim has been approved only in part, the owner may file a lawsuit in respect of the unapproved part of the claim.

Under Article 41 of the Law on Seizure and Confiscation of the Proceeds from Crime, the Directorate sold a part of temporarily seized movable assets only in two cases with the aim to avoid the deduction in value of such assets and/or to avoid damaging the defendant. The sale was effected based on the court's approval. The assessment of assets sold was made by an expert person (expert witness) and the sale was performed in full compliance with positive regulations governing the sales procedure. Pecuniary funds acquired through sale are kept in a separate account of the Directorate and will be returned to the person acquitted in case of an acquittal judgment.

Assets and pecuniary funds obtained from sales become the property of the Republic of Serbia once the decision on permanent seizure of assets becomes final. Based on decision of the ministry of science and/or culture, permanently seized objects of historical, artistic and scientific value are assigned by the Directorate without compensation to institutions competent for safekeeping such goods. Upon deduction of managing costs in respect of seized assets and the payment of damages to the injured party, pecuniary funds obtained by sales of permanently seized assets are paid into the Republic of Serbia's budget and allocated in the amount of 20% each to finance operations of courts, public prosecutor's offices, the Unit and the Directorate. The remaining pecuniary funds are used for financing social, health, educational and other institutions, in accordance with the Government act.

According to the Rulebook on Job Classification, the Directorate should have 30 employees. It currently employs 20 persons. The Directorate's budget equals RSD 60,000,000.00.

There are statistical data on permanently or temporarily seized movable and immovable assets. These data refer to the year 2009 onwards as the Directorate for Management of Seized and Confiscated Assets was established in March 2009, under the Law on Seizure and Confiscation of the Proceeds from Crime (*Official Gazette of RS*, No. 97/2008) which entered into force on 4 November 2008 and whose implementation started on 1 March 2009. The Directorate currently manages the following temporarily seized assets: 72 immovables (houses, apartments, business premises, garages), 110 cars, EUR 2,000,000.00 in the Directorate's accounts, 15 companies. Temporarily seized assets are estimated at around EUR 200,000,000.00. So far, two judgments were passed in regard to permanent seizure of assets (2 immovables: 1 land parcel of 30 m² and 1 residential facility – a house of 180 m²).

As already mentioned, the Law on Seizure and Confiscation of the Proceeds from Crime envisages that one of the factors constituting the mechanism for the seizure/confiscation of the proceeds from crime under this Law is the Financial Intelligence Unit, established on 1 June 2009 and placed within the Department for Combating Organised Crime of the Criminal Police Administration of the Ministry of Interior and is responsible for financial intelligence in the territory of the Republic of Serbia. The Financial Intelligence Unit employs economists and lawyers with university background, apart from administrative workers.

181. Please provide information on your national legislation on confiscation. Has value confiscation been introduced in Serbia? Do extended confiscation powers apply in case of serious crimes? In the affirmative, please describe the relevant provisions.

Confiscation/seizure of assets, i.e. proceeds from crime is regulated by the Criminal Code (*Official Gazette of RS*, No. 85/2005, 88/2005 – corr, 107/2005 – corr, 72/2009 and 111/2009) – Chapter VII (Articles 91 to 93) and the Law on Seizure and Confiscation of the Proceeds from Crime.

Under the Criminal Code, value confiscation is possible instead of confiscation of concrete assets obtained through a criminal offence. Under Article 92, paragraph 1 of the Criminal Code, money, items of value and all other material gain obtained by a criminal offence are seized from the offender, and if such seizure is not possible, the offender will commit to surrender in replacement another material gain commensurate with the value of assets obtained by a criminal offence or to pay a pecuniary amount commensurate with the obtained material gain.

The principle of extended confiscation in case of serious crimes is allowed in the Republic of Serbia. Under Article 3, indent 2 of the Law on Seizure and Confiscation of the Proceeds from Crime (*Official Gazette of RS*, No. 97/2008), proceeds from crime are assets of an accused that are manifestly disproportionate to his/her lawful income. Such extended confiscation applies only to the following criminal offences prescribed by Article 2 of the Law on Seizure and Confiscation of the Proceeds from Crime: organised crime; showing pornographic material and child pornography; crime against economy; unlawful production, keeping and distribution of narcotics; crime against public peace and order; abuse of office; crime against humanity and other goods protected by international law.

182. Does Serbia have provisions allowing confiscating the proceeds of crime independently from a criminal conviction? In the affirmative, please describe the relevant provisions. Can foreign freezing or confiscation orders based on non-conviction based confiscation be executed in Serbia?

The legislation of the Republic of Serbia does not recognise civil confiscation of assets, i.e. non-conviction based confiscation. Permanent or temporary seizure of assets is made under the Criminal Code (*Official Gazette of RS*, No. 85/2005, 88/2005 – corr., 107/2005 – corr, 72/2009 and 111/2009), Criminal Procedure Code (*Official Journal of FRY*, No. 70/2001 and 68/2002 and *Official Gazette of RS*, No. 58/2004, 85/2005, 115/2005, 85/2005 – other law, 49/2007, 20/2009 – other law, 72/2009 and 76/2010) and Law on Seizure and Confiscation of the Proceeds from Crime (*Official Gazette of RS*, No. 97/2008).

183. Are the provisions of the Council of Europe Strasbourg Convention of 1990 and Warsaw Convention of 2005 fully implemented in Serbia?

The Council of Europe's Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the Financing of Terrorism (the so-called Warsaw Convention) was ratified by the Law published in the Official Gazette of the RS – International Agreements, No 19/2009. The provisions of the Warsaw Convention relating to the establishment of a financial-intelligence unit as the central authority of a country which is responsible for collecting, analysing and disseminating data and information to the competent law enforcement bodies if there are reasons for suspicion on money laundering or terrorism financing have been fully implemented. The Law on the Prevention of Money Laundering and Terrorism Financing, which entered into force on 27 March 2009, introduced the requirement to apply terrorism financing preventive measures, thereby implementing Article 2 of the Warsaw Convention. This Law implements a large number of provisions of the Warsaw Convention relating to the powers of financial-intelligence units:

- money laundering prevention measures (Article 13 of the Warsaw Convention) are implemented in Chapter 2 of the Law (Articles 6-46 of the Law);

- requirement to postpone domestic suspicious transactions (Article 14 of the Warsaw Convention) is implemented in Article 56 of the Law that reads:

“(1) The APML may issue a written order to the obliged party for the suspension of a transaction if there are reasonable grounds for suspicion of money laundering or terrorism financing with respect to the transaction or person carrying out the transaction, of which it shall inform the competent bodies in order to take measures within their competence.

(2) APML director or a person that he authorises may, in urgent cases, give a verbal order suspending a transaction, which shall be confirmed in writing no later than the next business day.

(3) The suspension of transaction pursuant to paragraphs 1 and 2 of this Article may last for a maximum of 72 hours from the suspension of transaction. If the time limit referred to in this paragraph occurs during non-working days, the APML may issue an order to extend such time limit for additional 48 hours.

(4) During the suspension of transaction the obliged party shall observe APML orders concerning such transaction or person that carries out such transaction.

(5) The competent bodies referred to in paragraph 1 of this Article shall undertake without delay the measures within their competence of which they shall immediately inform the APML.

(6) If the APML determines, within the time referred to in paragraph 3 of this Article, that there are no reasonable grounds to suspect money laundering or terrorism financing, it shall inform the obliged party that it may carry out the transaction.

(7) If the APML does not inform the obliged party on the results of its actions, within the time referred to in paragraph 3 of this Article, it shall be considered that the obliged party has the permission to execute the transaction.

(8) The obliged party may suspend a transaction for a maximum of 72 hours if there are reasonable grounds to suspect money laundering or terrorism financing in relation to the transaction or person who carries out the transaction or for whom the transaction is being carried out, and if so is required for a timely execution of obligations laid down in this Law.”

Chapter 5 of the Warsaw Convention, entitled “Cooperation between financial-intelligence units” is implemented in Articles 61-64 of the Law on the Prevention of Money Laundering and Terrorism Financing.

184. Does Serbia have a national asset recovery office in charge of tracing the proceeds of crime?

In accordance with the Law on Seizure and Confiscation of Proceeds from Crime (*Official Gazette of RS*, No 97/2008), that regulates the conditions, procedure and authorities competent for detecting, seizing/confiscating, and managing the proceeds from crime, an Asset Management Directorate has been created as a body within the Ministry of Justice.

Immediately after receiving the ruling on seizure or confiscation of property, the Directorate will without delay act upon it according to the Law. The Directorate will manage the seized/confiscated property with due diligence and/or due and reasonable professional care, until the cancelling of the ruling on seizure, or until a final decision is reached in confiscation proceedings. The court will, by a judgment rejecting the indictment or acquitting of charges, refuse the motion for confiscation of assets and cancel the ruling on seizure of assets which is then returned to the owner.

185. Is there a specialised structure in charge of managing frozen assets?

The Directorate for Management of Seized and Confiscated Assets is the specialised structure in charge of managing frozen assets. Among other things, the Directorate manages seized proceeds from crime, objects of a criminal offence (Article 87) referred to in the Criminal Code (*Official Gazette of RS*, No. 85/2005, 88/2005 – corr, 107/2005 – corr, 72/2009 and 111/2009), material gain obtained by a criminal offence (Articles 91 and 92 of the Criminal Code) and assets pledged as a warranty in criminal proceedings.

Freezing and/or temporary seizure of assets lasts from the adoption of the court's decision on acceptance of the motion for temporary seizure of assets until the adoption of the decision on the motion for permanent seizure of assets. Until revoking the decision on temporary seizure of assets and/or until final conclusion of proceedings for permanent seizure of assets, the Directorate manages the seized assets with due diligence and/or due and reasonable professional care.

186. How has Serbia responded to requests of EU authorities to provide information on assets located in your country? How has Serbia responded to requests of EU judicial authorities to freeze or confiscate assets in your country?

No requests for information on seized/confiscated property located in Serbia, or managed by the Assets Management Directorate, have been received from the competent EU authorities.

To date, the Prosecutor's Office for Organised Crime has received no relevant requests from EU authorities. However, relative to the requests by the competent authorities of the EU member states, the Prosecutor's Office for Organized Crime acted upon one request sent by the State Prosecutor's Office in Vienna, Austria, seeking to detect the assets in Serbia of the persons prosecuted in Vienna for trafficking in narcotic drugs, including real estate, movable property, bank accounts,

and economic authorizations on property values. This prosecutor's office upheld and acted upon the request, and ordered that the property be ascertained.

187. Is specific training on confiscation and asset recovery provided to law enforcement officers, public prosecutors or judges?

On entry into force of the Law on Seizure and Confiscation of the Proceeds from Crime (*Official Gazette of RS*, No. 97/2008) and the start of its implementation, as well as the start of operation of the Directorate for Management of Seized and Confiscated Assets (1 March 2009), the awareness of courts and prosecutor's offices was raised as to the indispensability of applying the legal provisions on seizure of the proceeds from crime.

To raise awareness about the above Law and the need for its implementation, the Judicial Academy organised 22 one-day seminars for judges and prosecutors on the following topic: "Implementation of the Law on Seizure and Confiscation of the Proceeds from Crime". The seminars gathered 720 judges and prosecutors.

Special attention is dedicated to training of judges, prosecutors and law enforcement officers, as evidenced by seminars organised by the US Department of Justice, OSCE, European Commission, UNODC and World Bank. Since March 2010, two-day seminars have been held for judges, prosecutors and law enforcement officers, with a focus on examples from practice and practical implementation of the Law. Six two-day seminars were attended by 163 participants.

The organisation of 3 more seminars is planned until end-2010. These seminars are organised in cooperation with the US Embassy in Belgrade and OSCE Mission to Serbia. Lecturers include, among others, forensic experts, professors at the Belgrade Faculty of Law, judges of the Belgrade Appellate Court and the Constitutional Court. In addition, study travels abroad are planned for representatives of prosecutor's offices, the judiciary, and law enforcement officers of the Financial Intelligence Unit. The Directorate for Management of Seized and Confiscated Assets implements the Council of Europe "Criminal Assets Recovery Project".

Fight against terrorism

188. In view of implementing the Union's commitments and strengthening its capabilities in the fight against terrorism, it would be useful to receive information about the relevant international conventions signed and ratified by your country and its efforts in the fight against terrorism.

The Republic of Serbia has signed and ratified the following international conventions relating to the fight against terrorism: the Convention on Offences and Certain Other Acts Committed On Board Aircraft (*Official Journal of SFRY*, No. 47/1970), Convention for the Suppression of Unlawful Seizure of Aircraft (*Official Journal of SFRY*, No. 33/1972), Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (*Official Journal of SFRY*, No. 33/1972) along with the Protocol supplementing the Convention (*Official Journal of SFRY*, – *International treaties*, No. 14/1989), Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (*Official*

Journal of SFRY – International treaties, No. 54/1976), International Convention against the Taking of Hostages (*Official Journal of SFRY – International treaties*, No. 9/1984), Convention on the Physical Protection of Nuclear Material (*Official Journal of SFRY – International treaties*, No. 10/1985), Convention for the Suppression of Terrorist Bombings (*Official Journal of FRY – International treaties*, No. 12/2002), International Convention for the Suppression of the Financing of Terrorism (*Official Journal of FRY – International treaties*, No. 7/2002), Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (*Official Journal of Serbia and Montenegro – International treaties*, No. 2/04), Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (*Official Journal of Serbia and Montenegro – International treaties*, No. 6/04), European Convention on the Suppression of Terrorism (*Official Journal of FRY – International treaties*, No. 10/2001), Protocol amending the European Convention on the Suppression of Terrorism (*Official Gazette of the Republic of Serbia – International treaties*, No. 19/2009), Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (*Official Journal of FRY – International treaties*, No. 7/2002), Council of Europe Convention on the Prevention of Terrorism (*Official Gazette of the Republic of Serbia – International treaties*, No. 19/2009) and Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (*Official Gazette of the Republic of Serbia – International treaties*, No. 19/2009).

189. Is your country faced with any specific form of terrorism? If so, is it of internal or external origin? Please elaborate.

Terrorism is an actual threat to security of the Republic of Serbia. Security breaches can be motivated by ethnic or religious reasons, but the source of breaches can be also radical ideologies with a potential to inspire violence.

The constant problem is acting of Albanian terrorist organizations that have been active for decades, under different names, on the territory of the Republic of Serbia and other countries, at this moment under the name "Albanian National Army" (AKSh). Activities of this and similar organizations are a constant threat which may cause spreading of conflicts from one area to another or the execution of terrorist acts on the territory of the Republic of Serbia, especially if we take into consideration that connection of this organization with terrorist groups worldwide and adoption of radical Islamic ideologies have been registered.

ANA secures necessary preconditions for reaching its goals: political influence, instable surrounding that enables "operability", constant financing, international contacts, recruitment of new members, leadership and continued engagement in almost all forms of organized crime.

The final political objective of ANA is to unite all territories in the Balkans populated by Albanian nationals into one state. For that reason, unilateral declaration of independence of Kosovo and Metohija will not be a reason sufficient for termination of activities of ANA.

Also, there is an actual possibility of intolerance to emerge among other ethnical groups as well (including Serbian) i.e. extremism may emerge among individuals, groups and movements that might grow into terrorism.

Boosting of Islamic radical groups and movements has been detected on the territory of the Republic of Serbia, including areas where Muslims are a minority group. The emphasis is especially laid on spreading of radical Islamism among the youth and radicalization of local Muslim population. Special attention is paid to islamization of the members of other religions and radical Islamists consider it as one of their most important objectives.

Certain organized groups of radical Islamists in the Republic of Serbia are connected with other same-minded organizations from Bosnia and Herzegovina, Montenegro, Macedonia, Arabic, West Europe and Far East countries and from AP Kosovo and Metohija. They participate in the propagation of the so-called "true" Islam, increasing the membership of radical Islamic movements, in planning and preparation of terrorist acts, smuggling of weapons, explosives and other means intended for acts of terrorism. The most extreme members of these Islamic movements and groups organize and convey military-terrorist trainings, and their network in the Balkans is a resource used by international terrorist groups for illegal transfer of material, information and people.

It is very hard, in contemporary society, to define something, even terrorism, as of domestic or of foreign origin. Direct perpetrators of terrorist acts on the territory of the Republic of Serbia are, in most cases, persons of Albanian nationality and supporters of radical Islamic movements, but inspirers, facilitators, financers, etc. are often from other countries.

The Republic of Serbia can be a target of terrorist activities directly, but also through the use of its territory for the preparation and execution of terrorist acts in other countries. In terms of security risks and threats the Republic of Serbia is faced with, the connection of terrorism with all forms of organized, transnational and crossborder crime is particularly significant. The Republic of Serbia today faces primarily the threat of internal terrorism that is related to extremism of Albanian nationalistic organizations and organized criminal groups from the Autonomous Province of Kosovo and Metohija.

Members of Albanian terrorist criminal groups executed two terrorist attacks on security forces in the south of Central Serbia during 2009, namely, on 9 July the attack on the Gendarmerie patrol, and on 14 July they put the explosive into the building housing officers of the army and police. In 2010, an attack on a member of multiethnic police (MoI of the Republic of Serbia) was executed on 14 February in Bujanovac, by putting an explosive device under his vehicle. There were no casualties in these attacks, but several persons were injured and considerable material damage was caused.

190. What is the national legal framework and legal basis for anti-terrorist action? Is it in line with the relevant international conventions?

The legal framework for antiterrorist action in domestic criminal legislation is based on the Constitution of the Republic of Serbia (*Official Gazette of RS*, No. 98/2006), ratified international conventions and agreements, bilateral and multilateral agreements, but also on numerous laws relevant for this field.

As already mentioned, legal basis for anti-terrorist action is also contained in domestic criminal legislation, particularly:

The Criminal Code (*Official Gazette of RS*, No. 85/05, 88/05, 107/05, 72/09 and 111/09) and the following criminal offences: endangering of air traffic security by violence (Article 292), seizure of aircraft, ship or other means of transportation (Article 293), piracy (Article 294), attack on constitutional order (Article 308), murder of the representatives of highest state authorities (Article 310), armed rebellion (Article 311), terrorism (Article 312), diversion (Article 313), associating for anti-constitutional activity (Article 319), preparation of acts against constitutional order and security of Serbia (Article 320), serious crimes against constitutional order and security of Serbia (Article 321), endangering of persons under international legal protection (Article 390a), international terrorism (Article 391), taking of hostages (Article 392) and financing of terrorism (Article 393), but also criminal offences often related to terrorism, such as illegal obtaining of and endangering of security with nuclear matters (287), sabotage (299), abduction (134), etc.

The Law on Organization and Competence of State Authorities in Suppression of Organized Crime, Corruption and Other Very Serious Criminal Offences (*O. Gazette of RS*, No. 42/2002, 27/2003, 39/2003, 60/2003, 67/2003, 29/2004, 58/2004, 45/2005, 61/2005, 72/2009), Article 10, paragraph 4;

The Law on the Police (*O. Gazette of RS* No. 101/2005 and 63/2009- decision of CC) and Law on the Prevention of Money Laundering and Financing of Terrorism (*Official Gazette of RS*, No. 20/2009 and 72/2009) prescribes certain actions and measures for antiterrorist activities;

The Law on Defence (*Official Gazette of RS*, No. 116/2007, 88/2009, 104/2009), Law on Law on the Armed Forces of Serbia (*Official Gazette of RS*, No. 116/2007, 88/2009), Law on Fundamentals for the Regulation of Security Services of the Republic of Serbia (*Official Gazette of RS*, No. 116/2007) Law on the Use of Armed Forces of Serbia and other Defence Forces in Multinational Operations outside the Borders of the Republic of Serbia (*Official Gazette of RS*, No. 88/2009) and the Law on Military Security Agency and Military Intelligence Agency (*Official Gazette of RS*, No. 88/2009). The legal framework for measures taken by the Military Security Agency and Military Intelligence Agency in the fight against terrorism is in the provisions of the Article 6, paragraph 2, point 2) and point 3) and Article 24 of the Law on Military Security Agency and Military Intelligence Agency.

Prosecution is executed in compliance with provisions of the Criminal Procedure Code (*O. Journal of SRY*, No. 70/2001 and 68/2002 and *O. Journal of RS*, No. 58/02, 85/2004, 115/2005, 85/2005- other law, 49/2007, 20/2009- other law, 72/2009 and 76/2010) that prescribes special rules of procedure for criminal offences related to organized crime, corruption and other very serious crimes, including terrorism, and in compliance with provisions of the Law on Organization and Competence of State Authorities in Suppression of Organized Crime, Corruption and Other Very Serious Criminal Offences (*O. Gazette of RS*, No. 42/2002, 27/2003, 39/2003, 67/2003, 29/2004, 58/2004 – other law, 45/2005, 61/2005 and 72/2009).

Besides laws, the basic political and legal framework for fight against terrorism are the National Security Strategy (*Official Gazette of RS*, no. 88/2009), the Defence Strategy of the Republic of Serbia (*Official Gazette of RS*, No. 88/2009) and the Armed Forces of Serbia Doctrine.

The Republic of Serbia has ratified the following conventions and protocols related to the terrorism:

- Law on Confirmation of the European Convention for the Suppression of Terrorism (*O. Journal of SRY – International Treaties*, No. 10/01)

- Law on Confirmation of the International Convention for the Suppression of Financing of Terrorism (*O. Journal, International Treaties*, No. 7/02)
- Law on Confirmation of the International Convention for the Suppression of Terrorist Bombing (*O. Journal of SRY, International Treaties*, No. 13/02)
- Law on Confirmation of the International Convention against the taking of Hostages (*O. Journal of SFRY – International Treaties*, No. 9/84)
- Law on Confirmation of Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (*Official Gazette of RS*, 19/2009)
- The Law on Ratification of the Council of Europe Convention on the Prevention of Terrorism (*O. Gazette of RS* No. 19/09)
- The Law on Ratification of the Protocol amending the European Convention on the Suppression of Terrorism (*O. Gazette of RS* No. 19/09)
- Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed in Tokyo on 14 September 1963.
- Convention for the Suppression of Unlawful Seizure of Aircraft, signed in Hague in December 1970.
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed in Montreal on 23 September 1971.
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation Done at Montreal on 24 February 1988.
- Convention on the Prevention and Punishment of the Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.
- International Convention against the Taking of Hostages, adopted at general Assembly Meeting of the United Nations on 17 December 1979.
- Convention on the Physical Protection of Nuclear Material, signed in Vienna on 03 March 1980.
- International Convention for the Suppression of Terrorist Bombing, adopted at general Assembly Meeting of the United Nations on 15 December 1997.
- International Convention for the Suppression of Financing of Terrorism, adopted at general Assembly Meeting of the United Nations on 09 December 1999.
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, signed in Rome on 10 March 1988.
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, in Rome on 10 March 1988.
- European Convention on the Suppression of Terrorism, executed in Strasbourg on 27 January 1977.

The Ministry of Interior of the Republic of Serbia, as a signatory on behalf of the Government of the Republic of Serbia, initiates and signs international agreements with the countries of the region and with the EU Member States. The agreements are of various types and usually relate to cooperation in the fight against organized crime, terrorism, human trafficking, drug trafficking, in the field of witness protection, extraordinary situations, etc.

The Ministry of Interior of the Republic of Serbia has signed the following agreements:

- Memorandum on Cooperation in Fighting Terrorism, Organized Crime, Illicit Traffic in Drugs, Psychotropic Substances and Precursors, Illegal Migrations and Other Criminal Offences, between the Government of the Republic of Bulgaria and Government of the Republic of Serbia in 2003.
- Agreement on Cooperation in Combating International Organized Crime, International Illicit Traffic in Narcotic Drugs and International Terrorism, between the Ministry of Interior of the Republic of Serbia and Federal Ministry of Interior of the Republic of Austria in 2004.
- Police Cooperation Convention for Southeast Europe 2006 (the Republic of Albania, Bosnia and Herzegovina, the Republic of Macedonia, the Republic of Moldova, Romania and State Union of Serbia and Montenegro- the Republic of Bulgaria has entered the Convention)
- Agreement on Cooperation in Combating Organized Crime, International Illicit Drug Trafficking and International Terrorism, between the Government of Romania and the Government of the Republic of Serbia in 2007.
- Agreement on Cooperation in Combating Crime between the Government of the Slovak Republic and the Government of the Republic of Serbia in 2007.
- Agreement between the Government of the Republic of Bulgaria and the Government of the Republic of Serbia on Cooperation of Border Guard Bodies in 2007.
- Memorandum on Intentions for Cooperation in the Field of Prevention of Natural and Technological Disasters and Liquidation of their Consequences between the Government of the Republic of Serbia and the Ministry of Russian Federation.
- **Agreement** Among the Governments of the Black Sea Economic Cooperation (BSEC) Participating States on Cooperation in Combating Crime, in particular in its Organized Forms, Additional protocol to the **Agreement** Among the Governments of the BSEC Participating States on Cooperation in Combating Crime, in particular in its Organized Forms and Additional Protocol on Combating Terrorism to the **Agreement** Among the Governments of the BSEC Participating States on Cooperation in Combating Crime, in particular in its Organized Forms.
- Agreement on Cooperation in Combating Crime, in particular in its Organized Forms, between the Government of the Hellenic Republic and the Government of the Republic of Serbia in 2008.
- Agreement on Strategic Cooperation between the Government of the Republic of Serbia and European Police Office (EUROPOL) in 2008.
- Agreement for the Enhanced Trilateral Cooperation in Combating Crime, and Especially Trans-Border Crime between the Government of Romania, the Government of the Republic of Bulgaria and the Government of the Republic of Serbia in 2008.
- Agreement on Cooperation in Combating Organized Crime, Illicit Drug Trafficking and International Terrorism between the Government of the Republic of Italy and the Government of the Republic of Serbia. 2008.
- Memorandum on Understanding between the Ministry of Interior of the Republic of Serbia and the Ministry of Interior of the Republic of Croatia 2009.
- Memorandum between the Government of the Republic of Cyprus and Government of the Republic of Serbia on Cooperation in Fighting Terrorism, Organized Crime, Illicit Traffic in Narcotic Drugs, Psychotropic Substances, Illegal Migrations and Other Criminal Activities 2009.

- Agreement between the Republic of Serbia and Republic of Hungary on Cooperation of Bodies for Suppression of Cross-border Crime and in Fighting Organized Crime 2009.
- Agreement between the Government of the Republic of Croatia and the Government of the Republic of Serbia on Police Cooperation 2009.
- Memorandum of Understanding between the Government of the Kingdom of Belgium and the Government of the Republic of Serbia 2009.
- Agreement between the Government of the Republic of Serbia and Swiss Confederation on Police Cooperation in Combating Crime 2009.
- Agreement on Cooperation between the Ministry of Interior of the Russian Federation and the Ministry of Interior of the Republic of Serbia 2009.
- Agreement between the Government of Israel and Government of the Republic of Serbia on Cooperation in Fighting Illicit Traffic and Abuse of Narcotic Drugs and Psychotropic Substances, Terrorism and Other Criminal Offences 2009.
- Memorandum of Understanding between the Federal Ministry of Interior of the Republic of Austria and the Ministry of Interior of the Republic of Serbia on Improvement of Cooperation in the Field of Internal Security 2009.
- Agreement between the Republic of Serbia and the Republic of France on Cooperation in the field of Fighting against Crime 2009.

The Protocols on cooperation signed by the Ministry of Justice of the Republic of Serbia with the ministries of justice of European Union Member States and with the ministries of justice of neighbouring countries and other countries of the region since 2004 are:

- Memorandum on Cooperation between the Ministry of Justice of the Republic of Serbia and the Ministry of Justice and Law Enforcement of Hungary (September 2009)
- Memorandum on Cooperation between the Ministry of Justice of the Republic of Serbia and the Ministry of Justice of Montenegro (29 May 2009)
- Memorandum on Cooperation between the Ministry of Justice of the Republic of Serbia and the Ministry of Justice of the Slovak Republic (05 May 2009)
- Protocol on Cooperation between the Ministry of Justice of the Republic of Serbia and the Ministry of Justice of Republika Srpska (07 April 2009)
- Administrative Agreement on Cooperation between the Minister of Justice of the Republic of Serbia and the Minister of Justice of the Republic of France (27 October 2008)
- Agreement on Cooperation between the Ministry of Justice of the Republic of Serbia and the Ministry of Justice of the Russian Federation (12 February 2008)
- Agreement on Cooperation between the Ministry of Justice of the Republic of Serbia and the Ministry of Justice of the Republic of Byelorussia (5 November 2007)
- Protocol on Cooperation between the Ministry of Justice of the Republic of Serbia and the Ministry of Justice of Romania (30 January 2007)
- Protocol on Cooperation between the Ministry of Justice of the Republic of Serbia and the Ministry of Justice of Bosnia and Herzegovina (28 April 2006)
- Memorandum on Cooperation between the Ministry of Justice of the Republic of Serbia and the Ministry of Justice of the Republic of Austria (27 March 2006)

- Protocol on Administrative Cooperation between the Ministry of Justice of the Republic of Serbia and the Ministry of Justice of the Hellenic Republic (9 February 2006)
- Protocol on Cooperation between the Ministry of Justice of the Republic of Serbia and the Ministry of Justice of the Republic of Albania (8 February 2006)
- Agreement on Cooperation between the Ministry of Justice of the Republic of Serbia and the Ministry of Justice of the Republic of Croatia (5 December 2005)
- Protocol on Cooperation between the Ministry of Justice of the Republic of Serbia and the Ministry of Justice of the Republic of Bulgaria (8 November 2005)
- Protocol on Cooperation between the Ministry of Justice of the Republic of Serbia and the Ministry of Justice of the Republic of Macedonia (29 September 2004)

The agreements cover fields of approximation of regulations, modernization of judiciary, training and education of staff of the Ministries of Justice, reforms of systems for enforcement of sanctions, and cooperation in fighting organized crime, terrorism, human trafficking, money laundering, corruption and other criminal offences with increased degree of social danger.

The Ministry of the Interior participates in antiterrorist actions through detection of criminal offences of terrorism or related to terrorism. In addition, special police units are organized to contribute to the success of the fight against terrorism: the Gendarmerie, Special Antiterrorist Unit (SAU) and Counter-Terrorist Unit (ATU).

The involvement of the Ministry of the Interior in this field is also regulated by the laws on ratification of international conventions, such as the Council of Europe Convention for Suppression of Terrorism, the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime and on Financing of Terrorism according to which MoI is responsible for their enforcement.

191. Which national departments and agencies are involved in the fight against terrorism?

In terms of institutions, Serbia has a considerable number of specialized bodies and organizations that are in different ways engaged in the fight against terrorism. The integrated security and intelligence system of the state consists of: Security Information Agency, as an independent organization, Military Security Agency and Military Intelligence Agency, as bodies of administration within the Ministry of Defence.

The Ministry of the Interior, Ministry of Finance and judiciary bodies (courts and prosecutor's offices) also give their contribution, in the scope of their competences, to efforts of the state in the fight against terrorism.

Experience acquired to date show that cooperation of all security services and other state bodies in the form of timely exchange of information on possible plans of certain groups and organizations for the execution of terrorist acts is necessary for successful fight against international terrorism.

The establishment of the National Security Council and Coordination Bureau responsible for coordinate operative work of security services and other state bodies is significant in suppression of terrorism through the implementation of above mentioned tasks.

Public Prosecutor's Office

Pursuant to the Criminal Procedure Code, the basic right and basic obligation of the public prosecutor is prosecution of criminal offenders. For criminal offences prosecuted ex officio, the public prosecutor is competent: 1) to manage pre-criminal proceedings (police investigation); 2) to request investigation and to direct preliminary criminal proceeding; 3) to raise and represent the indictment and motion to indict at the competent court; 4) to appeal against non-final court decisions and to submit extraordinary legal remedies against final court decisions.

If internal affairs bodies learn of the preparation or commission of a criminal offence referred to in the Article 504a CPC, they are obligated to inform the competent public prosecutor about it.

All bodies participating in the pre-criminal procedure are obligated to inform the competent public prosecutor about any action they take.

The ministry competent for internal affairs- police (hereinafter referred to as: internal affairs body) and other state bodies responsible for the detection of criminal offences shall proceed pursuant to any request of the competent public prosecutor.

Ministry of Justice

Considering that, pursuant to the Article 7 of the Law on Ministries, the Ministry of Justice performs, inter alia, tasks of state administration related to criminal law, organization and work of judiciary bodies, execution of penalties, and collection of data on criminal offences against humanity and other values protected by international law, it is involved in the fight against terrorism, primarily by improving the relevant legal framework and through approximation of that framework with the best European acquis, taking into consideration opinions of both domestic and international experts.

Security Information Agency

SIA, in line with the Law on Security Information Agency, applies appropriate operative methods, measures and actions and appropriate operative and technical means, performing tasks related to: protection of security of the Republic of Serbia and detection and prevention of actions aimed at undermining or overthrowing constitutional order of the Republic of Serbia; investigation, collection, processing and assessment of security intelligence and findings relevant for security of the Republic of Serbia and informing the competent state bodies about these data, as well as other activities stipulated by law.

While carrying out tasks related to detection, monitoring, documenting, prevention, suppression and termination of activities of organizations and persons aimed at committing of organized crime and criminal offences with a foreign element, internal and international terrorism and the most serious crimes against humanity, international law, Constitutional order and security of the Republic of Serbia, the members of SIA organized into special organizational units apply powers laid down by law and other regulations implemented by authorised officers and personnel performing specific tasks in the ministry competent for internal affairs, pursuant to regulations on internal affairs.

Ministry of the Interior

Generally speaking, pursuant to the Law on Police, the competences of the MoI are: 1) protection of security of lives, rights, freedoms and personal integrity of people, and support to the rule of law; 2) protection of security of assets; 3) prevention, detection and resolving of crimes, misdemeanours and other offences, other forms of the fight against crime and termination of their organized and other forms; 4) detection and apprehension of perpetrators of crimes and misdemeanours and other wanted persons and bringing them before the competent bodies; 5) maintenance of public order, assistance in the case of danger and provision of security-related assistance to those in need; 6) regulation, control, assistance and monitoring of road traffic; 7) securing public gatherings, persons, authorities, facilities and premises; 8) surveillance and protection of state border, border crossing checks, implementation of the relevant regulations in the border area, detection and solving of border incidents and other violations of state border; 9) performance of tasks stipulated by regulations on foreigners.

Within the Ministry of the Interior, the following organizational units are competent for the suppression of terrorism:

- Within the Criminal Police Directorate, the Department for Monitoring and Investigation of Acts of Terrorism was established consisting of two Sections: Section for Monitoring and Investigation of Religiously-motivated Terrorism and Section for Ethnically-motivated Terrorism.

The scope of work of the Department is continual monitoring of all events in the territory of the Republic of Serbia that are of interest in terms of security and collecting operative information related to persons, groups and organizations whose activities are linked or may be linked to ethnically motivated terrorism, with the aim of prevention of terrorist acts in the Republic of Serbia or of use of the territory of the Republic of Serbia for the preparation or execution of terrorist acts in other states and collection of evidence for the prosecution of terrorists at competent courts.

- The Gendarmerie, as an organizational unit of the General Police Directorate, executes the most complex security-related tasks in cases of terrorism combating (recording, monitoring, comparing and predicting occurrences and events with elements of internal and international terrorism; detection of criminal offences of terrorism; securing material evidence and apprehension of perpetrators; preventive antiterrorist activity; direct intervention aimed at elimination of terrorist groups and destroying terrorist networks).

- Special Antiterrorist Unit performs the following tasks related to the suppression of terrorism: apprehension of members of terrorist groups and organizations and bringing them before the competent bodies, dealing with hostage situations in facilities, aircrafts and other means of transportation, securing persons and facilities under a direct risk of terrorist acts, providing assistance to other organizational units of MoI and state bodies that execute tasks related to suppression of terrorism,

- Counter-Terrorist Unit performs the most complex security-related tasks in the suppression of terrorism: detection of criminal offences of terrorism; securing

material evidence and apprehension of perpetrators; direct intervention aimed at elimination of terrorist groups and destruction of organised terrorist networks).

Military Intelligence Agency

Pursuant to the Law on Military Security Agency and Military Intelligence Agency, the Military Intelligence Agency is competent for the intelligence activities relevant for defence that are related to collection, analysis, evaluation, protection and communication of data and information on potential and actual dangers, activities, plans or intentions of foreign countries and their armed forces, international organizations, groups and individuals. The mentioned data are of military, military-political and military-economic character and other data and information related to proliferation of weapons and military equipment and terrorism threats from abroad aimed at the defence system of the Republic of Serbia.

Military Security Agency

Pursuant to the Law on Military Security Agency and Military Intelligence Agency, the Military Security Agency, as an administrative body of the Ministry of Defence, is competent to detect, monitor and prevent internal and international terrorism, extremism and other forms of organized violence aimed at the Ministry of Defence and Armed Forces of Serbia.

192. Which national bodies coordinate the fight against terrorism?

The National Security Council of the Republic of Serbia coordinates the fight against terrorism at the strategic level. The Council has the following competences and authorizations: is in charge of national security by examining issues related to security, coordinates work of the state bodies of the security sector and examines measures for improvement of national security, directs and coordinates work of security services by examining intelligence and security assessments, sets priorities and protection methods and directs the achievement of national interests implemented through execution of intelligence and security activities, directs and coordinates work of security services, delivers its opinion to the Government on budget proposals for security services, proposals on annual and medium-term plans of work of security services and on proposal for appointment and release of heads of security services, is in charge of coherent implementation of regulations and standards of personal data protection, and other regulations related to protection of human rights that might be jeopardized by exchange of information or other operative activities.

As an operative body of the Council, the Coordination Bureau operatively coordinates the work of security services and implements conclusions of the National Security Council.

The Council is not only a consultative body; its decisions are binding.

In addition, the Government of the Republic of Serbia has established a Commission for coordination of activities and improvement of cooperation in the field of justice and home affairs related to issues of common interest, especially in the fight against corruption, organized crime, terrorism, narcotic drugs, human trafficking, seizure of property, money laundering and other related issues. The Commission has also adopted the Action Plan for the implementation of its activities with the aim of coordination of activities and further improvement of cooperation of the said bodies.

Certainly, suppression of terrorism is only one of the issues the Council and Commission deal with. There is not an institution in the Republic of Serbia dealing with coordination of the fight against terrorism exclusively.

The Law on the Bases of Organisation of Security Services of the Republic of Serbia sets up the National Security Council as a central national body of the Republic of Serbia performing certain activities and tasks in the field of national security. The members of the Council are the President of the Republic of Serbia; the Prime Minister; the Minister of Defence; the Minister of the Interior; the Minister of Justice; the head of the General Staff of Armed Forces of Serbia; directors of security services.

In addition, for operative coordination of the work of security services, the mentioned law sets up the Bureau for Coordination of the work of security services that coordinates operations of security services and implements conclusions of the Council on issues under its jurisdiction. The Coordination Bureau consists of directors of security services and the Council secretary. Director of Police and heads of police directorates, director of Customs Administration and heads of other state bodies, organisations and institutions can, on request, participate in the work of the Coordination Bureau.

Fight against terrorism

193. What is the role and input of security and intelligence services?

According to the Law on Basis of Organisation of the Security Services of the Republic of Serbia (Official Gazette of the RS, No 116/2007), Serbia's security-intelligence system constitutes a functionally unified subsystem of the national security which consists of the Security Information Agency (SIA) as a special organisation of the Serbian Government, and Military-Security Agency (MSA) and the Military-Intelligence Agency (MIA), as administrative bodies within the Ministry of Defence.

Pursuant to the Law on the Security Information Agency (Official Gazette of the RS, No 42/2002 and 111/2009), the SIA is responsible, *inter alia*, to detect, monitor, document, prevent, suppress, and intercept the acts of internal and international terrorism.

Based on Article 12 of the Law on SIA, SIA employees, deployed to special organisational units responsible for the detection, monitoring, and prevention of acts of domestic and international terrorism carried out by organisations and individuals, use the powers specified in the law and other regulations implemented by authorised officials and employees charged with specific police duties, in line with the law governing the operation of the police.

In addition, SIA is responsible, according to the Law on the SIA, to apply special measures and procedures in order to prevent terrorist operation, whilst the Criminal Procedure Code, laying down certain special rules of procedure regarding the crimes of terrorism, international terrorism, and other terrorism-related crimes, gives it powers to apply special evidence gathering measures.

From the point of view of the SIA's competence, the fight against terrorism includes the detection and monitoring of individuals and groups who are proponents of radical and potential terrorist activities, particularly the groups linked to similar structures abroad; detection and interception of money flows intended to finance terrorist activities; identification of individuals that are in transit or have a temporary residence in Serbia and who are known to be members of terrorist groups.

MSA monitors and prevents the internal and international terrorism directed against the Ministry of Defence and the Serbian Army by applying adequate anti-terrorist measures in order to reduce the risks and vulnerabilities of commands of units and institutions, including their members, infrastructure, communication-information systems and other particularly vulnerable military objectives. Also, in cooperation with the competent authorities, the MSA takes measures to ensure that Serbian territory is not used for training camps, preparation or organisation of terrorist acts. Besides, preventive measures are also taken to prevent the instigation, facilitation, financing, providing of shelter, encouraging, or tolerating terrorist activities in the Serbian territory or those directed against other countries. With respect to antiterrorist measures, the MSA is authorised to apply special procedures and measures for secret collection of data for the purposes of prevention of terrorism.

In order to detect, investigate, and document crimes of terrorism within its competence, the MSA also is authorised to apply special investigative techniques for secret collection of data.

The MIA performs intelligence tasks relevant to the defence of the Republic of Serbia. They include the collection, analysis, evaluation, protection, and dissemination of data and information concerning terrorist threats from against the Serbian defence system.

The MSA's and MIA's capabilities to fight against terrorism consist of the doctrinal and strategic framework; legislative framework; organisational, human, operational, and material and financial capacities; as well as capacities resulting from cooperation with security services of other countries.

Apart from their intensive mutual cooperation, Serbian security services have internal cooperation with other State authorities and institutions, including the police, prosecutor's office, judiciary, and various civilian establishments and institutions. Security services' members participate in the Standing Coordination Group of the Serbian Government responsible to supervise the implementation of the National Strategy against Money Laundering and Terrorist Financing, as well as on the Government Committee for coordinating operations and further improvement of cooperation in the area of justice and home affairs on issues of common interest, especially in the fight against terrorism and other related issues.

In addition, security services have a successful international cooperation with security services of other countries and international organisations, thereby contributing to both regional and global security.

194. How is the financing of terrorism criminalized and which criminal activities are covered by the law? Are there any specific limitations to foreign investors? Are there specialized bodies dealing with the financing of terrorism?

The financing of terrorism is regulated in Article 393 of the Criminal Code- CC (*Official Gazette of RS*, No. 85/2005, 88/2005 - amended, 107/2005 – amended, 72/2009 and 111/2009). Whoever directly or indirectly provides or collects funds intended to fully or partially finance the commission of criminal offences referred to in the Articles 312, 391 and 392 hereof, shall be punished by imprisonment of one to ten years. Whoever encourages and helps to provide or collect funds intended to finance the commission of criminal offence referred to in the Articles 312, 391 and 392 of the Code, regardless of whether the offence was actually committed, and/or regardless of whether the funds were actually used for the commission of the crimes, shall be punished by imprisonment of six months to five years. Funds provided or collected directly or indirectly shall be seized.

The commission of the crime of financing of terrorism is broadly defined as any form of activity that financially assists in the preparation, commission or concealing of terrorism perpetrators. This activity also includes preparatory activities of financing of terrorism such as false charitable actions of collecting false donations, organizing gatherings for collection of money, public offering and requesting of donations through the media, Internet forums, etc.

Thus, not only financing of classic terrorism in the sense of the Article 312 of the CC of RS is penalised, but also financing of a separate criminal offence of international terrorism referred to in the Article 391 and financing of the criminal offence of taking of hostages referred to in the Article 392 of the CC of RS.

The priority of the Public Prosecutor's Office is monitoring of proceedings for all criminal offences incorporated from international criminal law pursuant to ratified international treaties and agreements.

The National Strategy for the Fight against Money Laundering and Financing of Terrorism, adopted by the Government of the Republic of Serbia in October 2008, prescribes bodies competent for the fight against financing of terrorism. Those are: Ministry of Finance with its Administration for the Prevention of Money Laundering, Tax Administration, Customs Administration, Foreign Exchange Directorate and Games of Chance Administration; Ministry of the Interior; Security Intelligence Agency; Ministry of Defence, including Military Security and Military Intelligence Agencies; competent public prosecutor's offices and courts. The preventive character of the fight against financing of terrorism is implemented through enforcement of the Law on the Prevention of Money Laundering and Financing of Terrorism. Namely, the obliged entities have to apply all activities and measures under the said Law to the prevention of financing of terrorism as well. The Administration for the Prevention of Money Laundering has created the List of Indicators for identifying suspicious transactions related to the financing of terrorism that facilitates the work of the obliged entities and shows the most common indicators of financing of terrorism. Besides the indicators, Guidelines for identifying suspicious transactions, customer due diligence and no tipping-off also facilitate work of the bodies. The Guidelines have been created by the Administration for the Prevention of Money Laundering in cooperation with the National Bank of Serbia and representatives of the banking sector. Typologies of financing of terrorism created by FATF are translated into Serbian and are available to all obliged entities at the web site of the Administration for the Prevention of Money Laundering

(http://www.apml.org.rs/index.php?option=com_remository&Itemid=10&func=startdown&id=146&lang=rs).

195. Does Serbia comply with the recommendations of the Financial Action Task Force on Money Laundering and Terrorist Financing (FATF) and corresponding EU legislation aimed at implementing these FATF standards (like EC Regulation No. 1781/2006, EC Regulation No. 1889/2005, Directive 2007/64/EC)? Please provide details.

The large majority of FATF recommendations have been implemented into Serbia's legal system. Being a member of the Council of Europe, Serbia is subject to the evaluations of Council of Europe's MoneyVal committee. MoneyVal is a committee specialised for anti-money laundering and counter-terrorist financing (AML/CFT) issues, and it functions based on a system of mutual evaluations of its member states, which involves an assessment of compliance of the member countries' AML/CFT systems with the FATF standards. The report on the evaluation of actions and measures taken by the Republic of Serbia in the fight against money laundering and terrorist financing was adopted on 9 December 2009 in Strasbourg, at the 31st meeting of the MoneyVal committee. In order to fulfil the recommendations from the above report and further align Serbia's legal system with the relevant international standards, a new Law amending the Law on the Prevention of Money Laundering and Terrorist Financing has been adopted. The most important novelty introduced is the requirement to collect data accompanying the wire transfers of funds exceeding EUR 1,000, thereby implementing FATF's Special Recommendation 7, and Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds.

Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community has been implemented through the Law on the Prevention of Money Laundering and Terrorism Financing, and the Rulebook on the Declaration on the Transfer of Bearer Negotiable Instruments across the State Border (Official Gazette of the RS, No 78/2009). The control of the transfer of cash is the same as in European Union member states.

Special Recommendation 2 has been complied with by the criminalisation of terrorist financing in Article 393 of the Criminal Code.

In order to comply with Special Recommendation 6 and Special Recommendation 8, the following two sub-groups have been established within the Standing Coordination Group for the Supervision of Implementation of the National Strategy against Money Laundering and Terrorism Financing:

One sub-group is composed of the representatives of the Administration for the Prevention of Money Laundering, Tax Administration, Foreign Exchange Inspectorate, and the Customs Administration, and its aim is to analyse the situation in the area of alternative money remittance systems, as well as to give recommendations in order to improve the relevant legislation.

The other sub-group is composed of the representatives of the Administration for the Prevention of Money Laundering, Foreign Exchange Inspectorate, Customs Administration, Ministry of Foreign Affairs, Ministry of the Interior and the National Bank of Serbia, and whose aim is to analyse the situation concerning the operation of non-profit organisations, and to recommend measures for improving the system in the area.

The above subgroups are currently collecting international experiences in this field.

The Project for the strengthening of the AML/CFT system, the main beneficiary of which is the Administration for the Prevention of Money Laundering, is expected to help the subgroups in achieving successful results.

The Law on Associations, which entered into force on 22 October 2009, is largely in compliance with the requirements laid down in Special Recommendation 8.

In order to implement FATF Special Recommendation 3, which falls under the competence of the Ministry of Foreign Affairs, a Draft Law on Restrictive Measures has been prepared. By the time this law has been adopted, the requirements of Special Recommendation 3 will be complied with by sending the Lists of terrorists compiled according to UN resolutions 1267, 1483, and 1581 to financial institutions.

The FATF's Special Recommendation 4 has been fully implemented in the Law on the Prevention of Money Laundering and Terrorism Financing. Pursuant to Article 37 of this law, the obliged entities are required to report transactions always when in connection with a person or transaction there is reason to believe that it may be the case of terrorism financing.

196. What measures have been taken to address the issue of an abuse of designated non-financial businesses and professions (such as lawyers, real estate dealers, casinos etc.) for terrorist financing purposes? Are there any measures to prevent abuse of non-profit organisations in this context?

The Law on the Prevention of Money Laundering and Terrorism Financing defines the following designated non-financial businesses and professions (DNFBPs) as obliged entities that are required to apply all the actions and measures stipulated by the law:

- organisers of special games of chance in casinos;
- providers of games of chance operated via the Internet, by telephone or in any other manner using telecommunication networks;
- auditing companies, licensed auditors;

As well as entrepreneurs and legal persons exercising the following professional activities:

- real estate agency;
- accounting services;
- tax advising;
- intermediation in credit transactions and provision of loans;
- factoring and forfeiting;
- provision of guarantees;
- provision of money transfer services.

In addition, pursuant to Article 5 of the Law on the Prevention of Money Laundering and Terrorism Financing, lawyers are also required to apply the actions and measures for the prevention of money laundering and terrorist financing. Like all other obliged entities, the above mentioned entities that do not belong to DNFBPs are required to identify the client, to make a money laundering and terrorist financing risk analysis for every type of customer, business relationship or product, and to classify customers and transactions, based on this analysis, into three money laundering or terrorist financing risk groups (low, medium, high risk). They are required to report to the Administration for the Prevention of Money Laundering data on cash transactions

and on any transaction suspected to be money laundering or terrorism financing. The new Law amending the Law on the Prevention of Money Laundering and Terrorism Financing provides that supervision of the implementation of the Law by certain DNFBPs will be carried out by the Administration for the Prevention of Money Laundering.

Dealers in high value goods are not specified as obliged entities in the Law, given that Article 36 of the Law on the Prevention of Money Laundering and Terrorist Financing restricts cash payments exceeding EUR 15,000. Therefore, any transaction exceeding the amount of EUR 15,000 has to be transferred through banks.

197. What is done to provide concerned staff with specialised training?

The staff of the Administration for the Prevention of Money Laundering are continuously professionally trained through seminars and workshops held both in Serbia and abroad. As of the beginning of implementation of the Law on the Prevention of Money Laundering and Terrorist Financing on 27 March 2009, when the requirement concerning the prevention of terrorist financing too was introduced, great attention has been placed on education of its staff in this area. A large number of workshops and seminars on the prevention of terrorist financing have thus been organised. The following is just an example of such seminars and workshops:

11-14 January 2010, study visit to the financial-intelligence unit of the Netherlands; topic: prevention of the financing of terrorism;

November 2010, seminar on the prevention of terrorism financing was held at the Serbian Bankers Association; lecture was given by a well-known lawyer working for U.S. Department of Justice;

There is a project to establish a training centre at the Administration for the Prevention of Money Laundering where planned and continuous training would be delivered for all stakeholders in the fight against money laundering and terrorism financing, including the APML's staff, judges, prosecutors, police, as well as the obliged entities specified in the Law on the Prevention of Money Laundering and Terrorism Financing.

In September 2010, the Administration for the Prevention of Money Laundering of the Republic of Serbia hosted the Fourth Regional Conference of the Heads of Regional FIUs in Kragujevac. Apart from the representatives of Serbia, the FIUs of the following countries were represented: Slovenia, Croatia, Bosnia and Herzegovina, Montenegro, Macedonia, and Albania. Delegation of the Bulgarian FIU participated as observer.

One of the conclusions of the conference was to give special attention to terrorist financing issues in the forthcoming period. All members of the conference agreed to develop a situation analysis in the area of terrorist financing which they will share with other participants of the conference.

198. Please provide information on existing bilateral and international co-operation (including liaison officers and magistrates).

The Ministry of the Interior of the Republic of Serbia has improved and enhanced international cooperation with the ministries of the countries in the region and EU countries.

One of the forms of improvement of cooperation with international factors is primarily reflected in a large number of accredited liaison officers in the Republic of Serbia but also in the initiative of Serbian MoI to send its liaison officers to other countries.

In addition, signing agreements on international cooperation and their implementation has significantly contributed to reduction of the red tape.

The international cooperation of the Ministry of the Interior is carried out through INTERPOL communication (protected communication system I24/7 and in accordance with INTERPOL standards of correspondence). Given the fact that the strategic level of cooperation with EUROPOL has been agreed upon and ratified, it is possible to exchange information not containing personal data.

The SECI Centre, in whose work Serbian MoI intensively participates, has contributed significantly to the development of international cooperation. Coordination of operative activities in the field of terrorism, organized crime, narcotic drugs trafficking, vehicle theft and human trafficking is performed through the SECI Centre.

Exchange of analytics and organized crime and terrorism threat assessment are done through different forms of international cooperation. Lately, this form of cooperation through the SECI Centre and EUROPOL has contributed to better police work management at strategic and tactical levels and to development of international police cooperation.

The cooperation at strategic level through MoI of the Republic of Serbia is primarily achieved on the basis of signed international bilateral and multilateral agreements; at operational level most cases are handled through the International Police Cooperation Department, while concrete investigations of, for example, organized crime are managed through the Service for Combating Organized Crime. Crossborder cooperation with neighbouring countries is achieved at the level of the Border Police Directorate pursuant to signed agreements, and examples of best EU practices. One form of cooperation in the fight against terrorism is cooperation of special units of MoI of the Republic of Serbia with other units through trainings, especially with similar units from France, countries of the Southeast Europe, and Russian Federation.

MoI of the Republic of Serbia, in cooperation with the Office of the Police Attaché in the Embassy of the Republic of France in Belgrade, has excellent cooperation regarding training of special units in the region and promoting of MoI Training Centre of Kula as a regional training centre.

In cooperation with ICITAP, the MoI of the Republic of Serbia organizes training of police officers, especially in the field of suppression of terrorism and fight against organized crime.

By decisions of the Minister of Justice and Public Prosecutor (PP), a contact prosecutor has been designated for cooperation through EUROJUST and thus the way has been paved for further institutionalisation of the relations between the Ministry of Justice and this network of prosecutors. During 2009 the talks continued on the commencement of negotiations on Agreement on cooperation with EUROJUST. The representatives of the PP were engaged in the negotiations. In operative contacts with EUROJUST, access to Analytical Work Files of EUROPOL (AWF Files) and European anti-fraud office OLAF has been contemplated, aiming to use their procedures for operative cooperation.

199. Please provide information on the creation of electronic data banks (statistics, profiling of terrorists etc.).

Data about all criminal offences that are prosecuted *ex officio* and that were reported by police officers in the entire territory of the Republic of Serbia, and about their perpetrators and victims, are contained in the “Criminal offences and perpetrators” centralised database of the Unified Information System of the Serbian Interior Ministry. This means that this database also contains data regarding the reported criminal offences of terrorism and other terrorism-related criminal offences (Chapter 28 of the RS CC – Criminal Offences against the Constitutional Order and Security of the Republic of Serbia, Article 312 - Terrorism; Chapter 34 of the RS CC – Criminal Offences against Humanity and other Values Protected under International Law, Article 391 – International Terrorism, 392 – Taking of hostages and 393 – Financing of terrorism), in the manner provided for in the Methodology for collecting, registering, processing, and use of data on crime using information technologies, and in the Mandatory Instruction on the Methodology for collecting, registering, processing, and use of data in the “Index of General Crime” automated database.

The database contains the following data:

- Criminal offence;
- Victims;
- *Modus operandi*;
- Perpetrators;
- Police activities;
- Crime report results and further developments in the proceedings;
- Requests of the public prosecutor;
- Date and place of commission of crime;
- *CR number* – the number from the Crime register book.

Data can be presented also statistically by all of the above listed parameters (number of perpetrators and victims, number of criminal offences, perpetrators by gender, age, marital status, etc, number of persons arrested and detained by police, structure of crimes, etc). The Unified Information System (JIC) database can also be searched by the above stated parameters.

In addition, certain statistics about crimes belonging to the above group of criminal offences from the Criminal Code are regularly presented in a publication

Statistical overview of the situation in the area of public security compiled according to the *Guidelines on monthly statistical reporting on the phenomena and events in the area of public security*. The overview is presented in print to the heads and competent lines of the Ministry (to the level of police directorates) whilst all other statistics regarding these crimes can be obtained at a special request from an already existing database “Crimes and perpetrators” which is part of the Unified Information System (JIS).

Besides, there are separate databases on the terrorist acts committed by and operative obtained data about terrorist groups and individuals which are maintained by the organisational units responsible for the fight against terrorism. However, these databases are not centralised and access to them is strictly defined and limited only to those who both obtain and enter this data.

Intensive international police cooperation, especially with the countries in the region and EU member states, has given a considerable contribution to the quality of these databases. One of the most important forms of this cooperation is through liaison officers seconded in Serbia. The development of all necessary legal and other preconditions is at the final stage for sending our liaison officers to other countries. A very intensive international cooperation takes part under the regional SECI Initiative, where the Ministry of the Interior gives a significant contribution through participation in all joint activities. Coordination of operative activities in the area of terrorism, organised crime, drugs trafficking, car theft, and human trafficking is performed through the SECI Centre.

Various forms of international cooperation provide for exchange of analytical information and organised crime and terrorism risk assessments. In this regard, the Europol’s OCTA process (Organised Crime Threat Assessments) contributes significantly to policing at strategic and tactical levels (Serbian Ministry of the Interior sends data for the region of South-East Europe).

Fight against drugs

200. Please provide information on legislation or other rules governing this area, and their adhesion to relevant international conventions (including on sanctions applicable to drug offences).

The Criminal Code (*Official Gazette of RS*, No. 85/05, 88/05, 107/05, 72/09 and 111/09) prescribes three criminal offences related to narcotic drugs: illicit manufacturing and trafficking of narcotic drugs (Article 246), illicit possession of narcotic drugs (Article 246a) and enabling of use of narcotic drugs (Article 247).

Pursuant to the Article 246 of the Criminal Code, whoever illegally manufactures, processes, sells or offers for sale or whoever, with the intend of selling, buys, possesses or transfers or who mediates in selling or buying or in any other way illicitly deals substances or preparations designated as narcotic drugs, shall be punished by imprisonment of three to twelve years. If the offence is committed by a group or the offender organized a network of resellers or intermediaries, the offender shall be punished with imprisonment of five to fifteen years, and if the offence was

committed by an organized criminal group, the offender shall be punished with imprisonment of not less than ten years. In addition, it is prescribed that the one that illicitly cultivates poppy or psychoactive hemp or other plants used for making of narcotic drugs or that contain narcotic drugs shall be punished with imprisonment of six months to five years. In addition, it is prescribed that the committer who illicitly produces, purchase, possesses or rents equipment, material or substances intended for manufacturing of narcotic drugs shall be punished with imprisonment of six months to five years. The committer who discloses the provider of narcotic drug can be remitted of punishment. Narcotic drugs and aids intended for their manufacturing and processing shall be seized.

Pursuant to the Article 246a of the Criminal Code, who illicitly possesses, in small quantities, for personal use, substances or preparations designated as narcotic drugs shall be fined or punished by imprisonment up to three years, and can be remitted of punishment. If committer of this offence discloses the provider of narcotic drug, he can be remitted of punishment. Narcotic drugs shall be seized.

Pursuant to the Article 247 of the Criminal Code, whoever incites others to use narcotic drugs or gives narcotic drugs to others to use it or provides facilities for use of narcotic drugs or in any other way enables use of narcotic drugs shall be punished by imprisonment of six months to five years. If the offence is committed towards a minor or more individuals or caused severe consequences, the offender shall be punished with imprisonment of two to ten years, and if it caused death of an individual, the offender shall be punished with imprisonment of three to fifteen years. Narcotic drugs shall be seized. The health worker who, within provision of health care, enables use of narcotic drugs shall be punished.

The Criminal Procedure Code (*O. Journal of SRY* No. 70/2001 and 68/2002 and *O. Journal of RS*, No. 58/02, 85/2004, 115/2005, 85/2005- other law, 49/2007, 20/2009- other law, 72/2009 and 76/2010) prescribes special prosecution of individuals engaged in illicit manufacture, smuggling or holding of narcotic drugs, and special measures that can be applied for criminal offences of organized criminal groups. The Law on Organization and Competence of State Authorities in Suppression of Organized Crime, Corruption and Other Very Serious Criminal Offences (*O. Gazette of RS*, No. 42/2002, 27/2003, 39/2003, 67/2003, 29/2004, 58/2004- other law, 45/2005, 61/2005 and 72/2009) prescribes competence of the police, prosecution and courts in regard to organized criminal groups.

The Law on Ministries (*Official Gazette of RS*, No. 65/08) prescribes that the Ministry of Health executes state administration tasks relating to: content of health care, conservation and improvement of the health of citizens and monitoring of health status and health needs of population, including manufacturing and dealing of narcotic drugs, psychotropic substances and precursors.

Binding UN conventions related to this field are;

- United Nations Single Convention on Narcotic Drugs, 1961, ratified on 26 February 1964.
- United Nations Single Convention on Psychotropic Substances, 1971, ratified on 13 July 1973.

- United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotic Substances, 1988, ratified on 15 November 1990.

The Ministry of Health is competent for surveillance over manufacturing and trafficking of narcotic drugs pursuant to:

- Law on Psychoactive Controlled Substances (*Official Gazette of the RS*, No. 99/10);
- The Law on the Substances Used in the Illegal Production of Narcotics and Psychotropic Substances (*Official Gazette of RS*, No. 107/05);
- The Health Records Law (*Official Journal of SRY*, No. 12/98, 37/02, *Official Gazette of RS*, No. 101/05);
- The Rulebook on Defining the List of Substances Used in Illegal Production of Narcotic Drugs and Psychotropic Substances (*Official Gazette of RS*, No. 101/09);
- Decision on Defining Narcotic Drugs and Psychotropic Substances (*Official Gazette of RS*, No. 24/05);
- The Strategy for Fight against Drugs in the Republic of Serbia for the period from 2009 to 2013 (*Official Gazette of RS*, No. 16/09).

The Law on Psychoactive Controlled Substances regulates manufacturing and trafficking of narcotic drugs, and surveillance over its circulation, and bodies for execution of tasks in the field of manufacturing and trafficking of narcotic drugs have been appointed.

The Law on the Substances Used in the Illegal Production of Narcotics and Psychotropic Substances regulates conditions for manufacturing and wholesale of substances used in illicit manufacturing of narcotic drugs and psychotropic substances, and surveillance in this field aimed at prevention of its abuse or use for illegal purposes.

The Health Records Law prescribes types, contents and method of keeping of records in the field of health care, and method of collecting, processing, use and protection of data of those records.

The Rulebook on Defining the List of Substances Used in Illegal Production of Narcotic Drugs and Psychotropic Substances defines substances used in illicit manufacturing of narcotic drugs and psychotropic substances.

Decisions on Defining Narcotic Drugs and Psychotropic Substances defines narcotic drugs and psychotropic substances.

201. What is your control system for drug precursors? Can you please describe the overall aspects in detail? In particular:

- **Legislation**

The field is regulated by the Law on Substances Used in Illicit Production of Narcotic Drugs and Psychotropic Substances (*Official Gazette of RS*, No. 107/05) whose implementation is in the competence of the Ministry of Health that issues authorizations for import, export and manufacturing.

- **Number of scheduled substances**

The Rulebook on Defining the List of Substances Used in Illegal Production of Narcotic Drugs and Psychotropic Substances (*Official Gazette of RS*, No.101/09) has defined 23 substances used in illicit manufacturing of narcotic drugs and psychotropic substances, and precursors, divided in 3 categories: first, second and third category.

- **Provisions on export controls, including as regards the pre-export notification (PEN) and deadlines for its response and export authorizations.**

The export is controlled through issuing of export authorization. To receive an authorization for export, the legal person exporting precursors must, together with the application, submit the following information:

- name of the precursor, its tariff number from the Customs Tariff nomenclature and CAS number,
- quantity and contents of the precursors, and in case of a mixture of substances or a natural product - weight or mass percentage of the precursor in the mixture or natural product,
- statement on the purpose of use of the precursor,
- name of the precursor manufacturer,
- name of the importer and exporter, or the name of the legal person performing transit of the precursor over the territory of the Republic of Serbia,
- information on the means of transportation, carrier, transport destination and customs office of the consignment clearance, and in the case of transit, information on customs offices where the precursors enter or exit the Republic of Serbia.
- other information on the request of the Ministry of Health.

To receive the authorization for export of precursors of the first category, the legal person who exports the precursor shall, besides mentioned information envisaged by law, submit to the Ministry appropriate import authorization issued by the competent body of the state to which the precursor is exported. The authorization for export is issued after the authorization for import and statement on the purpose of use of the precursor that must be attached to the request are verified by the competent body of the country to which the precursor is exported. The Ministry rejects the request for issuing the authorization for export of precursors of the first category if it is, on the basis of checks, found that the authorization and statement on the purpose of use of precursors are not issued at all or that the import authorization is not issued by the competent body of the country the precursor is exported to, or that the statement on the purpose of use of precursor is not issued by the competent legal person.

After performed export, the legal person shall, within 15 days, inform the Ministry of Health about performed export.

The Republic of Serbia is not a member of PEN, but there is cooperation with the Member States through informing via e-mail or fax.

- **Export /import authorizations – explain your legal provisions, including the requirements.**

The existing law envisages issuing of authorization for import/export. The legal person who wants to import/export precursors must be registered at the Ministry of Health and shall submit documentation prescribed by law. The Ministry decides on the request within 30 days. The validity of the authorization is:

- 3 months for the first category, partial deliveries not allowed;
- 6 months for the second category, partial deliveries not allowed;
- 12 months for the third category, partial deliveries not allowed.

15 days after performed import/export, the legal person shall submit a report to the Ministry on performed import/export.

- **Do you have transit control? Explain.**

The goods transited over the territory of the Republic of Serbia is under customs surveillance.

- **Authorization of operators (licensing/registrations) – explain the requirements.**

The existing law envisages issuing of the authorization for manufacturing and circulation of the precursors of the First, Second and Third category by the Ministry of Health to the legal person meeting the following requirements:

- 1) has the authorization, issued by the competent body, for manufacturing and circulation of toxic matters, chemicals or medicines, pursuant to the regulations governing the field of toxic matters, chemicals and medications;
- 2) meets special conditions for manufacturing and circulation of precursors of the first category pursuant to this Law;
- 3) has person responsible for manufacturing and circulation of precursors of the first, second or third category, with bachelor degree in chemistry, physics and chemistry, biochemistry or pharmacy;
- 4) it has not been pronounced a final conviction for economic offence related to the field of narcotic drugs and psychotropic substances and precursors;
- 5) that proceeding has not been instituted against the responsible person in the legal entity, or against person responsible for manufacturing and circulation of precursors of the first, second and third category for a criminal offence making him/her incompetent for performance of activities related to manufacturing and circulation of precursors, or that such person has not been pronounced a final conviction for criminal offence related to the field of narcotic drugs and psychotropic substances.

The authorization is renewed every 5 years.

- **Documentation/labelling/record keeping – explain your legal provisions.**

The Ministry keeps records on precursors and other substances that may be used for illegal production of narcotics and psychotropic substances.

The information from the records kept by the Ministry is available to the competent state bodies, institutions and international organizations pursuant to international agreements.

- **Explain cooperation procedures with the Chemical Industry – what measures are taken to carry out controls and supervise cooperation with Industry (i.e. implementation of the INCB Code of Practice)?**

The existing law envisages obligation of legal persons to keep records on precursors and to report to the Ministry of Health and the Ministry of the Interior on all facts indicating suspicion of abuse of precursors in manufacturing and trading, on unusual orders, theft of precursors, or on any other prohibited activities related to manufacture of and trade in precursors. The inspection and appropriate penalty provisions are also prescribed.

Legal persons that manufacture or trade in precursors of the first, second or third category, and legal persons that obtained authorizations for import, export or transit of precursors shall, within 30 days of the day of expiry of the calendar year, submit to the Ministry the annual report on manufacturing, trade, import, export, transit, consumed quantities of precursors, and on quantities of the precursor categories left over in the storage from the previous calendar year, and shall also, on the request of the Ministry, submit extraordinary reports within 15 days of the day of reception of the request.

- **Notifications of suspicious transactions by the Industry: explain what is done to receive such notifications.**

Procedures related to suspicious transactions are conducted in line with the regulations in the competence of the Ministry of the Interior.

- **Do you have list of non-controlled substances (to implement the INCB's International Special Surveillance list)?**

The Ministry does not prescribe the list of non-controlled substances, however, the Decision on Classification of Goods for the Import, Export and Transit of Which Specific Licences Shall Be Provided (*Official Gazette of RS*, no. 7/10) prescribes goods that are in the competence of the Ministry of Health, and among them are the substances not listed in the list of controlled substances, but that are controlled pursuant to recommendations and requirements of INCB.

- **Can you explain how the provisions of article 12 of the 1988 UN Convention are implemented?**

Provisions of the Article 12 of the 1988 UN Convention are implemented through the existing Law on Substances Used in Illicit Production of Narcotic Drugs and Psychotropic Substances (*Official Gazette of RS*, No. 107/05) that complies with the said Convention.

202. What are the main characteristics of your country's policy on combating drugs?

The Republic of Serbia adopted The National Strategy for the Fight against Drugs 2009 - 2013 in February 2009 and the Action Plan for its implementation in April 2009. Both documents prescribe multi-sectoral activities within the framework of policy related to the fight against drugs of the Republic of Serbia and are created in compliance with the recommendations of the European Union.

The main characteristics of the policy of the Republic of Serbia related to the fight against drugs are defined through the leading principles of the Strategy:

- compliance with constitution and law- pursuant to the Constitution of the Republic of Serbia and legal obligations, this Strategy respects existing legislation of the Republic of Serbia and ratified international Conventions and agreements; also, it is necessary to follow and study initiatives for amendments to regulations in the field of narcotic drugs and precursors and to approximate them with relevant EU regulations;
- building of institutional capacities- efficient control of circulation of narcotic drugs and precursors and creating conditions for institutions of the state and society to successfully combat illicit trafficking of narcotic drugs and precursors;
- protection of the citizens of the Republic of Serbia - protection of the population of the Republic of Serbia against consequences of abuse of narcotic drugs (crimes committed by addicts to obtain narcotic drugs) through institutions of the state and society based on the right of personal security and protection of private property of the citizens of the Republic of Serbia;
- protection of community- protection of community, employees, families and individuals against illicit trafficking of narcotic drugs and precursors including prescribing and taking of appropriate penalties against perpetrators;
- protection of human rights- support or assistance of any service is guaranteed and available to all drug users who need the assistance, regardless of the sex, ethnical affiliation, race, religion, age, educational and social status and respecting human rights, human dignity, social and personal responsibility, individual freedoms and protection of family;
- right to information- all members of society have the right to be informed about the risks and consequences of use of narcotic drugs, possibilities of treatment and rehabilitation, and drug addicts that can not stop using drugs should be offered information about programs of reduction of harmful effects caused by use of drugs;
- multidisciplinary- cooperation of all segments of community is necessary for efficient implementation of the national policy on drug supply and demand reduction, through coordination of different approaches and actions;
- comprehensiveness and continual work- approach to solving the problem of use of drugs includes continual involvement of different sectors of the field of social and health care, education, judiciary, interior, defence, finance, civil sector (non-governmental organizations), entire community;
- availability of services- services for assistance to addicts should be available and should cover all areas of the Republic of Serbia; They should offer

- different integrative and complex programs, but with emphasized individual approach adjusted to every and each individual;
- decentralization- to secure equal availability of different programs in the whole country, it is necessary to enable implementation of specific programs in the local self-government units in accordance with local needs and priorities;
 - ethics and professionalism- work with drug addicts should be in compliance with basic principles of ethics, highly professional and without prejudice;
 - destigmatisation- all programs for the fight against drug use must be free of ideological and moral interpretations.

The general objective is improvement and good health status of citizens, reduction of use of drugs and harmful effects caused by drug abuse.

203. Does your country have a National Drugs Strategy/Action Plan that is in line with the EU Drugs Strategy (2005-2012) and EU Action Plan on Drugs (2008-2013)? Is there a budget foreseen for the implementation of the Strategy/Action Plan? Does the Strategy/Action Plan include an element of evaluation?

The Strategy for the Fight against Drugs in the Republic of Serbia for the period from 2009 to 2013 was adopted in March 2009, and the Action Plan for the implementation of the mentioned Strategy was adopted in April 2009. Both documents are created in line with the Strategy and the Action Plan for Drugs of the European Union.

Pursuant to the Strategy and the Action Plan, the financial means for implementation of the Strategy and reaching objectives of the Action Plan are allocated in the budget of the Republic of Serbia to line ministries. Within the regular procedure of passing the Law on Budget of the Republic of Serbia for every coming year, requests for provision of means necessary for the implementation of the Action Plan are considered, and the Strategy is implemented in accordance with the financial possibilities of the Republic of Serbia.

The Strategy and Action Plan envisage evaluation within the fourth scope of action together with information and research. For the purposes of insight into advantages and shortcomings of the activities envisaged by the Strategy and Action Plan, it is necessary to conduct continual and comprehensive evaluation of all programs implemented at the national level. Indicators and certain technical evaluations will be prescribed and adopted for that purpose.

204. Are there formal arrangements to ensure the cooperation between authorities in the drugs field (e.g. an interministerial drugs group)? What are the principal measures deployed? How does coordination between law enforcement agencies work? Is there a clear allocation of tasks and coordination:

c) between authorities competent for drug demand reduction?

The Law on Psychoactive Controlled Substances (*Official Gazette of the RS*, No. 99/10) prescribes establishing of the Commission for Psychoactive Controlled Substances. The Commission is defined as inter-departmental body and the members

of the Commission are prominent experts in the field of psychoactive controlled substances and representatives of the Ministries competent in this field, which is laid down by the Strategy.

The Action Plan for implementation of the Strategy for the Fight against Drugs in the Republic of Serbia for the period from 2009 to 2013 defines objectives, activities and implementing parties in the field of supply reduction.

The objectives of the demand reduction are:

- 1) primary prevention;
- 2) early detection and interventions;
- 3) treatment;
- 4) rehabilitation and social reintegration;
- 5) reduction of damage caused by drugs.

1) Primary prevention includes:

- reduction of the number of new drug users;
- prevention or delay of the first contact with drugs;
- raising awareness (of individuals and society) of drug risks;
- mobilizing society for the fight against drugs;
- promotion of life without drugs.

The activities are:

- Creation and implementation of programs on health-related behaviour for pre-school and school children
- Creation of the best practices guideline for prevention of use of PAS (Psychoactive Substances)
- Education on prevention methods for the staff of health care, education and other departments involved in preventive activities
- Intensifying activities of public outlets and other means of public informing aimed at timely and impartial informing on harmfulness of PAS
- Implementation of health promotion programs
- Education of parents and peer education
- Increase the number of young people covered by counselling
- Increase of participation of other population through the work of preventive centres
- Establishing the role of family counselling centre as laid down by law
- Education of target groups for prevention measures
- Creation and distribution of educational and promotional material
- Continual radio and TV programs on the youth health and healthy life styles
- Structuring high quality leisure time activities
- Continual cooperation with public outlets and other means of public informing and their inclusion in preventive activities
- Improvement of cooperation between local self-government organizations regarding PAS prevention
- Education of employers on recognizing of PAS users and on regulations
- Continual cooperation with associations and their inclusion into preventive activities regarding PAS

The implementing parties are:

The Ministry of Health, Ministry of Education, Ministry of Youth and Sports, Ministry of Labour and Social Policy, Ministry of Culture, the Public Health Institute and Public Health Bureaus, Local self-government, associations, the Ministry of Defence.

2) Early detection and interventions include:

- preventing occasional taking of drugs to grow into regular use;
- stopping health deterioration of the individuals that regularly take drugs.

The activities are:

- Forming of counselling centres for early detection and informing in health care institutions, schools, social work centres, penitentiaries, local self-government
- Providing expert assistance to individuals of risky behaviour and individuals in the initial phase of consumption of psychoactive substances
- Contribution of public media and other means of public informing to preventive activities
- Youth information centres
- Support to scientific and student programs for health improvement
- Improvement of recognition and early detection of high-risk population
- Availability of different methods of treatment in numerous health care institutions
- Implementation of measures of mandatory treatment of addicts.

The implementing parties are:

The Ministry of Health, Ministry of Education, Ministry of Youth and Sports, Ministry of Defence, Ministry of Labour and Social Policy, Ministry of Culture, Local self-government, Health Care institutions of all levels, Education and Scientific Institutions.

3) The treatment includes:

- increase of drug consumers included in treatment programs;
- increase of number of treatment methods, variety of treatment programs;
- increase of availability of treatment programs including substitution therapy;
- reduction of morbidity and mortality due to consumption (increase of treatment efficiency).

The activities are:

- setting a doctrine in treatment- implementation and monitoring of application
- modern and free treatment and medicines
- staff increase (time reschedule, new work posts, projects, training, sub-specialisation)
- building capacities at secondary and tertiary levels and reallocation of the beds available depending on addicts' needs
- establishment of preventing and addict treatment services in health care centres
- guidelines for treatment of addicts at general practice and gynaecology departments (pregnant women)
- development of the treatment programmes of medium and low threshold (especially for risk groups)
- development of treatment programmes in prisons

- education among addicts, parents and persons involved in treatment about harmful effects, overdosing and self-assistance
- establishment of associations of addicts undergoing treatment and/or their parents
- Information/leaflets, ads with phone numbers and addresses of SOS institutions or other information about possibilities of treatment

The implementing parties are:

The Ministry of Health, Ministry of Defence, Ministry of Education, The Republic Institute for Health Insurance, Medicines and Medical Devices Agency of Serbia, Health Care institutions, Ministry of Justice, Ministry of Labour and Social Policy, Local self-government, associations, public outlets and other means of public informing.

4) Rehabilitation and social reintegration includes:

- inclusion of PAS users into rehabilitation and social reintegration programs;
 - building of rehabilitation capacities of PAS users for better functioning in family and community;
 - encouragement of education, retraining, employment and efficient work of treated addicts;
- reduction of the number of individuals that return to drug use after treatment.

The activities are:

- Education of social care institutions staff
- Standardization of services in therapy groups by adoption of regulations governing this issue
- Establishing therapy groups
- Creation of guidelines for work in therapy groups and shelters
- Implementation of rehabilitation program in therapy groups
- Development of projects of resocialization of addicts
- Organizing regular expert meetings and continual education as a form of assistance to associations and institutions engaged in assistance during rehabilitation, resocialization and reintegration
- Implementation of programs for additional education, retraining, employment of rehabilitated addicts and addicts released from penitentiaries
- Establishment of housing units for rehabilitation of addicts that do not return to families
- Expert meetings for those interested to employ treated addicts
- Implementation of high quality programs of treatment, rehabilitation and resocialization
- Taking measures aimed at families
- Legal protection of the children under risk and youth living in high risk families
- Introduction of alternative programs and special obligations.

The implementing parties are:

The Ministry of Health, Ministry of Defence, Ministry of Education, Ministry of Labour and Social Policy, Ministry of Justice, Local self-government, associations, Churches and religious communities, Ministry of Youth and Sport.

5) reduction of damage caused by drugs includes:

- reduction of transmission of infectious diseases;
- reduction of drug users mortality;
- reduction of crime related to drug use;
- reduction of isolation and discrimination;
- reduction of economical expenses related to drug use consequences;

The activities are:

- Application of substitution therapy and low threshold programs
- Free of charge HIV and hepatitis B and C testing
- Availability of condoms
- Needle and syringe exchange programs
- Development of fieldwork
- Development of information centres
- Development of day and night shelters
- Facilitated access to health and social care services for inclusion into programs of treatment and rehabilitation
- Informing public through public outlets and other means of informing
- Educational programs on TV, radio, debates...
- Assistance to treated addicts' organizations
- Timely detection and treatment
- Creation of the program for damage mitigation
- Introduction of mandatory toxicology analysis on autopsy of individuals deceased of drugs
- Purchase of modern equipment for detection of PAS

The implementing parties are:

The Ministry of Health, Ministry of Education, Ministry of Labour and Social Policy, Ministry of Justice, Ministry of Youth and Sport, Ministry of Culture, Local self-government, associations, Churches and religious communities, Ministry of Defence.

c) between authorities involved in reducing drug supply?

Cooperation of all state bodies is prescribed by law and it exists among the most significant actors in the fight against drugs, with special reference to the problem of narcotics supply. There are no special agreements and memoranda of understanding in place with relevant industries.

The Action Plan for the Implementation of the Strategy for the Fight against Drugs in the Republic of Serbia for the period from 2009 to 2013 defines objectives, activities and implementing parties in the field of supply reduction.

The objectives of the supply reduction are:

1. capacity building by improvement of expertise level of the professionals in the field of drugs;
2. creation of legislation in this area and its approximation with international legislation and conventions;
3. improvement of cooperation in enforcement of laws and criminal investigations related to drugs;
4. improvement of control and penalising for illegal manufacturing of drugs and precursors;
5. improvement of control and penalising for illegal import and export of drugs and precursors;
6. improvement of control and penalising for illicit trafficking of drugs and precursors;
7. improvement of control and penalising for organized crime and laundering of money obtained through illicit trafficking of drugs ;
8. improvement of traffic safety;
9. securing appropriate storage for seized quantities of narcotic drugs and precursors;
10. establishing the Commission for destroying of seized quantities of narcotic drugs and precursors;
11. establishing scientific and educational centre in the field of narcotic drugs and precursors;
12. establishing laboratory for characterization of narcotic drugs, medicines containing narcotic drugs and precursors.

1. Capacity building by improvement of expertise level of the professionals in the field of drugs

The activities are:

To create long-term guidelines for selection, education and training of staff in the field of fight against drug abuse, to intensify exchange of experience and knowledge with bodies of other countries, to form professional centre for education of staff of MoI, Customs and Ministry of Justice.

The implementing parties are: MoI - Criminal Police Directorate - Service for the Fight against Organised Crime - Department for Suppression of Drug Smuggling, Judiciary Centre.

2. Creation of legislation in this area and its approximation with international legislation and conventions

The activities are:

To form an expert team of civil experts and relevant organizations in the fight against drugs with the task to create proposals of necessary legal regulations in the field of the fight against drugs

The implementing parties are: MoI, the Ministry of Justice.

3. Improvement of cooperation in enforcement of laws and criminal investigations related to drugs

The activities are:

To form an expert team of civil experts and relevant organizations that will have a continual task to analyze cases of implementation of laws and criminal investigations related to drugs, and criminal law and criminal procedure matters to eliminate shortcomings in implementation of law.

The implementing parties are: MoI, the Ministry of Justice.

4. Improvement of control and punishing of illegal manufacturing of drugs and precursors

The activities are:

Relevant state bodies should form a joint expert team that will, at national and international levels, perform monitoring, analysis and detection of methods of illicit manufacturing of drugs and precursors

The implementing parties are:

MoI - Criminal Police Directorate - Service for the Fight against Organised Crime - Department for Suppression of Drug Smuggling, the Ministry of Finance, the Ministry of Justice.

5. Improvement of control and penalising for illegal import and export of drugs and precursors

The activities are:

Relevant state bodies should form a joint expert team that will, at national and international levels, perform monitoring, analysis and detection of methods of illicit import and export of drugs and precursors

The implementing parties are:

MoI - Criminal Police Directorate - Service for the Fight against Organised Crime - Department for Suppression of Drug Smuggling, the Ministry of Finance, the Ministry of Justice.

6. Improvement of control and penalising for illicit trafficking of drugs and precursors

The activities are:

Relevant state bodies should form a joint expert team that will, at national and international levels, perform monitoring, analysis and detection of methods of illicit trafficking of drugs and precursors

The implementing parties are:

MoI - Criminal Police Directorate - Service for the Fight against Organised Crime - Department for Suppression of Drug Smuggling, the Ministry of Finance, the Ministry of Justice.

7. Improvement of control and penalising for organized crime and laundering of money obtained through illicit trafficking of drugs

The activities are:

Relevant state bodies should form a joint expert team that will, at national and international levels, perform monitoring, analysis and detection of forms of organized crime and laundering of money obtained through illicit trafficking of drugs and precursors

The implementing parties are:

MoI - Criminal Police Directorate - Service for the Fight against Organised Crime - Department for Suppression of Drug Smuggling, the Ministry of Finance, the Ministry of Justice.

8. Improvement of traffic safety

The activities are:

To establish control of traffic participant and to adequately equip traffic police

The implementing parties are:

MoI, the Ministry of Health

9. Securing appropriate storage for seized quantities of narcotic drugs and precursors

The activities are:

To dedicate facilities for storing of seized quantities of narcotic drugs and precursors

The implementing parties are:

MoI, the Ministry of Health

10. Establishing the Commission for destroying of seized quantities of narcotic drugs and precursors

The activities are:

To establish the Commission

The implementing parties are:

The Ministry of Health- Division for Narcotic Drugs and Precursors, MoI, Ministry of Finance- Customs Administration, Ministry of Justice.

11. Establishing scientific and educational centre in the field of narcotic drugs and precursors

The activities are:

To form the Centre

The implementing parties are:

The Ministry of health- Division for Narcotic Drugs and Precursors, MoI

12. Establishing laboratory for characterization of narcotic drugs, medicines containing narcotic drugs and precursors

The activities are:

To form the laboratory

The implementing parties are:

The Ministry of Health- Division for Narcotic Drugs and Precursors, MoI

In the framework of prevention of smuggling of narcotic drugs, and consequently, reduction of narcotic drug supply at the market of the Republic of Serbia and broader, the Ministry of the Interior performs intensive activities aimed at detection of organized criminal groups involved in smuggling of narcotic drugs and identification of its leaders. The Ministry executes thorough checks of the companies involved in foreign trade with the aim of determining criminal liability of persons connected to smuggling of narcotic drugs into or out of our country. The facts related to the property of persons designated as organizers and leaders of organized criminal groups are determined through the work of the Financial Investigation Unit of the Service for the Fight against Organized Crime and carrying out parallel financial investigations.

MoI, in all its activities, coordinates its work with other relevant bodies on a daily basis, particularly with the Customs Administration and the Ministry of Health.

205. Is there a system for the collection of drug related data according to the standards of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)? Is there a functional Focal Point for the Reitox network of the EMCDDA and what is the legal status for the focal point?

Data on import, export and circulation of narcotic drugs and psychoactive controlled substances are collected in line with the UN conventions which are binding for all European Union countries and EU institutions competent for surveillance in this field. In the course of drafting the new law governing the field of narcotic drugs and psychotropic substances in the Republic of Serbia, namely the Law on Psychoactive Controlled Substances, which was adopted and put into effect at the end of December 2010, in addition to the reporting standards of INCB, the reporting standards of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) were also used.

The Ministry of Health cooperates with REITOX network through its organizational unit, Division for Narcotic Drugs and Precursors, competent for enforcement of law in

the field of narcotic drugs and precursors i.e. the Law on Psychoactive Controlled Substances (*Official Gazette of RS*, number 99/10) and Law on the Substances Used in the Illegal Production of Narcotics and Psychotropic Substances (*Official Gazette of RS*, No. 107/05).

206. Is there a system for detecting and analyzing new psychoactive substances? What is the procedure for placing new substances under control?

The Law on Psychoactive Controlled Substances (*Official Gazette of the RS*, No. 99/10) in the Chapter 3, "Identification and analysis of psychoactive controlled substances", regulates activities related to physical and chemical identification of psychoactive controlled substances, including the newly found ones.

To put the newly found psychoactive substance under control, it is necessary to perform its physical and chemical identification, the Commission for Psychoactive Controlled Substances need to issue an expert opinion about putting the psychoactive substance to the list of psychoactive controlled substances and the list need to published in the *Official Gazette of the Republic of Serbia*.

207. How do you co-operate with international bodies operating in the drugs field, such as UNODC, INCB, Commission on Narcotic Drugs, Pompidou Group, WHO, etc.?

The Republic of Serbia takes part in most activities of the international bodies relevant to the fight against drugs.

Representatives of the Ministry of the Interior actively cooperate with the UNODC by participating at regular meetings and sessions of the Drugs Commission. The Ministry of the Interior responds regularly to UNODC's questionnaires, as well as those sent by the International Narcotics Control Board (INCB). Cooperation with this international body is coordinated with the Ministry of Health. The Ministry of Health and Ministry of the Interior have developed a joint project and applied for funds at the regional office of the UNODC. The aim of the project is to establish a regional training centre on illegal production of synthetic drugs and identification of precursors. This project is regional in nature, as Serbia is the only country in the region that has seized a number of illegal laboratories for the production of synthetic drugs. The seized equipment can be used for training of not only police but also medical professionals, pharmacists, and other relevant services so that they are able to identify illegal processes of production of synthetic drugs and learn about the dangers posed by the entire production process in such circumstances.

A national coordinator has been designated to follow and actively participate in the activities of the "Paris Pact" initiative.

In addition, the representatives of the Service for Combating Organised Crime under the Interior Ministry's Criminal Police Directorate regularly participate in initiatives taking place in EU member states and beyond, including in the "Mini Dublin Group", WG "South-East" under the project "Drug Policing Balkan – Advanced 2009-2012". Belgrade will host the final international conference in 2012 under Interpol's project "Besa", etc.

In addition to participating in the activities of various international bodies, Serbian Ministry of the Interior has participated with these international bodies and organisations (UN bodies, EU, OSCE Mission) in the organisation of a number of international and regional meetings, conferences, lectures, and seminars in order to encourage sharing of information, police cooperation at operative level, and presenting current tendencies and trends in the area of narcotic drugs. Our representatives are also active in workshops and seminars organised by the OSCE Mission, European Union, United Nations and Western European police forces.

Cooperation with all national and international anti-drugs bodies involve exchange of information at request. The cooperation with the UN Office for Drugs and Crime (UNODC) has been improved by the organisation of specialist training for the staff of the Customs Administration and donating equipment for detection of narcotics.

The Ministry of Health cooperates with the UNODC and the International Narcotics Control Board (INCB) by participating at their meetings and sessions. According to the UN conventions, questionnaires sent by the INCB and UNODC are regularly responded to. Appropriate reports concerning the import and export of narcotic drugs and precursors are sent in the set time frame.

The Ministry of Health cooperates with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) by participating, upon invitation, at their meetings and by exchanging appropriate information. A Centre's expert team was on a mission to Serbia in order to assess the narcotic drugs situation in Serbia, based on which it made a report (Country Overview) and published it at the Centre's website.

A representative of the Ministry of the Interior participates in the Working Group of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) in order to answer all questions in the area.

The Ministry of Health of the Republic of Serbia cooperates with the Pompidou Group and the World Health Organisation. Cooperation with the Pompidou Group has been initiated, and the Serbian Public Health Institute is working on the adoption and implementation of the Pompidou Questionnaire.

208. Do you have general guidelines on the fight against drug supply reduction? Please provide information on the trends in drug trafficking in and through your country and on drug abuse.

Reduction of supply means taking efficient and appropriate measures aimed at reduction of manufacturing, trafficking and distribution of drugs and prevention of illicit trafficking and use of precursors and substances that might be used in illicit manufacturing of narcotic drugs and psychotropic substances, prevention of organized crime and money laundering obtained in drug trafficking. The objectives of the guidelines defined in the National Strategy for the Fight against Drugs are:

- 1) staff capacity building by improvement of expertise level of the professionals in the field of drugs and precursors;

- 2) creation of legislation in this area and compliance with international law and conventions;
- 3) improvement of cooperation in enforcement of laws and criminal investigations related to drugs and precursors;
- 4) enhancement of the fight against illicit manufacturing, import and export and trafficking of narcotic drugs and precursors;
- 5) improvement of control of manufacturing and circulation of narcotic drugs and precursors in legal pharmaceutical and chemical institutions;
- 6) improvement of the control of use of narcotic drugs and medicines containing narcotic drugs in health care institutions;
- 7) enhancement of the fight against organized crime, corruption, money laundering and financing of terrorism with the money obtained by illicit trafficking of narcotic drugs and precursors;
- 8) establishment of the Commission for destruction of seized quantities of narcotic drugs and precursors.

In the field of drug supply reduction, a range of activities is implemented by different social actors, especially by police and customs. Implementing measures and activities from their scope of work, police and customs officers monitor issues concerned, as well as domestic and world trends related to abuse and trafficking of drugs.

The matter of drug supply in the Republic of Serbia is not isolated; it depends on the situation in European and world illegal drug markets. Successful implementation of measures for drug supply reduction and efficient suppression of trafficking of narcotic drugs and precursors by organised criminal groups need mutual coordination and cooperation of all relevant state bodies, especially the Ministry of Health, Ministry of the Interior, Ministry of Finance- Customs Administration and the Ministry of Justice. For that purpose, the cooperation of the Ministry of Health- its organizational unit for narcotic drugs and precursors- with police, customs and court bodies is intensively improved through joint participation in projects and investigations, work of investigating teams, exchange of information, trainings, seminars, etc.

In this sense, the objective and field of acting of the state bodies of the Republic of Serbia includes: continual and efficient implementation of all necessary actions and legal measures to contribute to supply reduction, suppression and penalising for illicit manufacturing and trafficking of drugs and precursors, detection of money laundering and confiscation of money gained by illegal drug trafficking.

To reach the objectives related to reduction of drug availability, the action is directed to:

1. Suppression of organized forms of manufacturing, smuggling and dealing of narcotic drugs and precursors, including combating narco-crime by destroying international network of organized crime spread throughout our country, through:
 - Reduction of supply and demand of all narcotic drugs by taking measures and actions for suppression of abuse of narcotic drugs and the most organized forms of crime, including prevention of heroin trafficking on the so-called "Balkan route",

- Implementation of all necessary measures and actions aimed at achieving the minimum production of drugs or cultivation of plants that can be used for production of drugs at the territory of the Republic of Serbia;
- Directing police activities to national and international organized criminal groups engaged in smuggling, dealing and manufacturing of narcotic drugs and precursors;
- Improvement of collecting, processing and analyzing of all information about criminal acts related to abuse of narcotic drugs and precursors, with mutual exchange of such information at regional, national and international levels;
- Strengthening of international police and customs cooperation, bilaterally or within international police organizations, implementation of joint operative actions with mutual exchange of knowledge, experience and information;
- Timely detection of new forms of smuggling and abuse of narcotic drugs and precursors;
- Improvement of techniques related to financial investigations and laundering of money gained by illicit trafficking of narcotic drugs and precursors;
- Detection and enabling of prosecution of organized criminal groups and individuals engaged in laundering of money gained by smuggling and dealing of narcotic drugs and precursors;

2. Street-level dealing reduction through:

- Continual education and maximal engagement of police officers on suppression of street-level distribution of narcotic drugs and their consuming at public places;
- Suppression of organized dealing and distribution of narcotic drugs in the territory of the Republic of Serbia, prevention of establishing of open narco-market and suppression of dealing of small quantities of narcotic drugs in the street;
- Planning and implementing preventive measures and activities related to prevention of abuse of narcotic drugs in higher education institutions, secondary and primary schools, nursery schools and other places especially interesting for adolescent population;
- Active participation in media campaigns aimed at educating of young people about harms of use of narcotic drugs and presenting to the public the measures implemented by the police to prevent and mitigate damages caused to individuals and whole society related to abuse of narcotic drugs.

3. Control of border, so that an improved control of state border would reduce supply and demand of all kinds of narcotic drugs by cutting off international smuggling drug and precursor channels, through:

- Prevention of smuggling of narcotic drugs by efficient surveillance of state border with the focus on detection and disruption of international channels for smuggling of narcotic drugs through the territory of the Republic of Serbia (Balkan route);
- Continual professional education of the border police officers and Customs Administration officers in the field of suppression of narcotic drug and precursor smuggling;

- Technical equipping of border crossings pursuant to European standards;
- Forming of teams of border police and customs (material and technical means, police dogs for detection of narcotic drugs, etc.) specialized in suppression of all kinds of smuggling, especially smuggling of narcotic drugs and precursors;
- Improved control of import and export in the process of export and import clearance on the grounds of permits and valid lists of medicines, psychoactive substances and precursors;
- Purchase and distribution to the border crossings of on-the-spot drug tests for discovering and detection of narcotic drugs for useful and timely action.

4. Road traffic safety measures that reduce number of traffic accidents caused by drivers under influence of narcotic drugs, through:

- Introduction of narcotic drug testing of drivers in road traffic;
- Launching of pilot project: Narcotic drug testing of drivers in road traffic;
- Equipping of traffic police with modern equipment (devices) for fast and efficient checks (testing) of drivers for narcotic drugs;
- Keeping of record of drivers who drove under the influence of narcotic drugs;
- Introducing continual education of the traffic police officers who shall, within the framework of legislation, be able to efficiently test a driver for narcotic drugs in the road traffic of the Republic of Serbia;
- Continual implementation of control of devices used for checking (testing) of drivers for narcotic drugs;
- Introducing efficient surveillance over transport of precursors that might be used for production of narcotic drugs and prevention of their smuggling and abuse.

5. Storing of confiscated quantities of narcotic drugs must be improved through:

- Storage facilities equipped with controlled ventilation, video surveillance of the area, devices for fire protection and fire alarm system, burglar alarm, etc.; and
- Storage facilities secured by information technology equipment for computer recording of input and output of confiscated quantities of narcotic drugs.

6. Surveillance of precursors, whose efficient control means efficient surveillance over manufacturing and circulating of the substances that might be used for illicit manufacturing of narcotic drugs and psychotropic substances, is an important element in the prevention of illicit manufacturing of narcotic drugs and psychotropic substances and leading to reduction of their supply. As those substances are in regular circulation and are used in chemical, pharmaceutical, cosmetics and similar industries, it is necessary to control manufacturing and circulation, including import and export, pursuant to legal provisions, to prevent their illicit use.

It means that there is established control over producers (raw materials, technologies), scientific and research institutions (raw materials, laboratory equipment), import, export and circulation of precursors and equipment for their use. In addition, special attention is paid to international trade in these substances, in cooperation with authorized state bodies and manufacturers, merchants and carriers, with the aim to

prevent attempts at illicit use of precursors. Relevant records on cross border circulation of precursors are kept.

7. National laboratory for characterization of narcotic drugs, medicines containing narcotic drugs, pharmaceutical raw materials that might be abused as supplements to drugs and precursors.

The Ministry of Health works on founding a laboratory for the purposes of characterization of narcotic drugs, medicines containing narcotic drugs, pharmaceutical raw materials that might be abused as supplements to drugs and precursors. Special attention is paid to detection of new illicit drugs on the market and new precursors, thus also to updating of existing list of narcotic drugs and precursors.

8. Penalty policy in the field of suppression of illegal possession, transport, manufacturing and enabling of use of narcotic drugs that is an integral part of national policy related to suppression and reduction of use of narcotic drugs.

Precursors are under special surveillance, in accordance with adopted international standards and UN Conventions and domestic regulations. Illegal manufacturing and circulation of narcotic drugs, possession, and enabling of their abuse are, pursuant to the Criminal Code, qualified as criminal offences. The future development of penalty policy and legislation in the field of narcotic drugs and precursors will proceed in line with recommendations and decisions of EU.

The situation in Serbia and the region has significantly changed during past years. Accession of neighbouring countries to the EU and unilateral illegal declaration of independence of Kosovo and Metohija have contributed to this situation. These events have caused redirecting of smuggling channels to the territory of AP Kosovo and Metohija and further towards the EU countries, which is, at the same time, a new trend of smuggling, especially of heroin. The field of organized narco-crime has been marked by considerable involvement of our nationals in transcontinental form of cocaine smuggling, directly from the South American countries to the narco market of developed EU countries. Due to all this, there was an actual possibility of expansion of cocaine to the domestic illegal narcotics market, and therefore the Ministry of the Interior has implemented special measures.

209. How does cooperation and exchange of information with other national authorities work? Are there any Memoranda of Understanding or Joint Agreements between the various law enforcement services with responsibility for tackling the supply of drugs or other concerned counterparts (ports, express delivery services, etc.)? Are there similar agreements with relevant industries?

Cooperation among all state authorities is stipulated in the Law on State Administration, and besides the statutory requirement to cooperate domestically there are also individual cooperation arrangements signed between two individual authorities that define certain forms of cooperation more closely.

The cooperation is stipulated in the Law on State Administration (Official Gazette of the RS, No 79/05, 101/07), and in the context of this area also in the Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised

Crime, Corruption, and other Particularly Serious Criminal Offences (Official Gazette of the RS, Nos 42/02, 27/03, 39/03, 60/03, 67/03, 29/04, 58/04, 45/05, 61/05, 72/09). The Strategy for the Fight against Drugs in the Republic of Serbia covering the period 2009-2013 provides that cooperation between the most important stakeholders in the fight against drugs should be mandatory, especially in the area of narcotics supply.

No memoranda of understanding have been signed between the Ministry of Health with any legal person conducting business activities in the area of narcotic drugs and precursors. The Law on Psychoactive Controlled Substances (Official Gazette of the RS, No 99/10), which was adopted in late December 2010, was drafted in cooperation between all competent ministries.

The drafting of the Law on Psychoactive Controlled Substances started after the adoption of the Action Plan for the implementation of the National Strategy against Drugs for the period 2009-2013. One of the most important issues regulated in this law is the establishment of a Commission for Psychoactive Controlled Substances whose main responsibility will be to coordinate the activities in this area. This should result in gathering together in one body representatives of all relevant state authorities and organisations fighting against drugs; establishment of an efficient cooperation between the bodies responsible for public health, internal affairs, customs and judiciary, and their concerted action in the fight against illicit production, trafficking and distribution of drugs; and establishing of cooperation between all stakeholders at the national and local level for the purpose of implementation of legislation regulating narcotic drugs and precursors. The newly-adopted Law on Psychoactive Controlled Substances provides a new legislative framework for the implementation of the measures envisaged in the Action Plan.

Currently, there are no agreements between the police and ports, quick delivery services or relevant industries.

Customs Administration has signed 15 memoranda of understanding with business entities, which regulate their cooperation in the fight against customs fraud and other fraud and abuses. Of this number, the Customs Administration signed memoranda of understanding explicitly providing for cooperation in the prevention of drugs smuggling, with the following companies: DHL International d.o.o. Belgrade, CARGO-PARTNER d.o.o. Belgrade, EXPRESS COURIER d.o.o. Belgrade and FLYING CARGO YUGOSLAVIA, Belgrade, Jat Airways, and Public Enterprise “Železnice Srbije“ (*Serbian Railways*).

210. Is there adequate and sufficient administrative capacity to fight drug-related crime?

In addition to building of administrative capacities, continual training is also necessary. The National Strategy and the Action Plan is the legal framework for building of administrative capacities in the fight against narcotics which is not sufficient for the time being considering this issue in Serbia. Except capacity building, efforts are made to improve national coordination. The implementation of the National Strategy and Action Plan for the fight against drugs and Recommendations

of EU (EU Strategy for Drugs 2005-2012; EU Drugs Action Plan for 2009-2012 and Programme *Prevention of Narcotics and Informing 2007-2013*) will considerably contribute to the above mentioned. This would enable covering complete territory and systematic joint action directed to the problem of narcotic smuggling by creation of joint operative teams. The human resources of the Police Directorates would be improved by creation of centralised unit in MoI, which is in accordance with OSCE recommendations for organisational structure changes.

211. What are the relevant structures and competencies of the police, customs and judicial authorities? Please describe their functioning in day to day practice.

The Department for Suppression of Drug Smuggling of the Service for Combating Organized Crime of the Criminal Police Directorate, according to the tasks defined at the beginning of 2009, coordinates and exchanges information with all units and groups of MoI of Serbia engaged in suppression of narcotic smuggling. This Department became an implementing party for suppression of narcotic smuggling. Thus, the objective to review the complete issue of criminal offences in this field in the territory of the Republic of Serbia and the possibility of better planning and coordinating of work of all members of MoI engaged in narcotic smuggling suppression have been achieved. Specific tasks have been defined through integrated reporting on persons, criminal offences, criminal charges, *modi operandi*, types and quantities of confiscated narcotics.

There is a department, section or group for suppression of narcotic smuggling and drug addiction within each police directorate in Serbia. The size of these organisational units depends on size of the territory covered by the competent police directorate.

The cooperation in pre-criminal proceeding takes place in accordance with Article 46 of the Criminal Procedure Code- CPC (*O. Journal SRY*, No. 70/2001 and 68/2002 and *O. Gazette of RS*, No. 58/2004, 85/2005, 115/2005, 85/2005 –other law, 49/2007, 20/2009 – other law, 72/2009 and 76/2010), as the prosecutor manages pre-criminal proceeding and directly cooperates with the police, customs and all other state bodies with the aim of efficient implementation of pre-criminal proceeding for this criminal offence.

Material and legal grounds for proceedings are contained in the Criminal Code –CC (*O. Gazette of RS*, No. 85/2005, 88/2005 – amended, 107/2005 - amended, 72/2009 and 111/2009) Chapter 23, prescribing the following criminal offences: unauthorized manufacturing and circulation of narcotic drugs in the Article 246, unauthorized possession of narcotic drugs in the Article 246 and enabling of narcotic drug use in the Article 247. Besides the general provisions of the Criminal Procedure Code, special provisions on proceedings for criminal offences of organised crime, corruption and other particularly serious offences, pursuant to Article 504a, point 6, of CPC are also applied to the criminal offence of unauthorised manufacturing and circulation of narcotic drugs Article 246 (1) and (3) of CC (the most serious forms of this criminal offence). In that sense, measures such as surveillance and recording of telephone and other conversation or communication, provision of simulated business and legal services, controlled delivery and automated computer search of personal and other

related data, can be applied for this criminal offence by law enforcement for detection and collecting evidence of criminal offences mentioned in the Article 504a of this Code.

Law enforcement bodies are also competent for implementation of security measures in this field. The legal base is contained in the Article 246 (7) and Article 247 (3) of CC of RS that prescribes mandatory pronouncement of security measure of item seizure (“narcotic drugs and means for their manufacturing and processing shall be seized”).

In accordance with the decision of the competent court, the Ministry of the Interior bodies implement measures of destroying of drugs and precursors as the law prescribes their mandatory destroying.

Pursuant to the amendments of the Law on Organisation and Jurisdiction of State Authorities in the Suppression of Organized Crime, Corruption and Other Particularly Serious Criminal Offences (*O. Gazette of RS*, No 42/2002, 27/2003, 39/2003, 67/2003, 29/2004, 58/2004 –other law, 45/2005, 61/2005 and 72/2009,) applied since 1 January 2010, the Organized Crime Persecutor’s Office is competent for proceeding in the following criminal offences (Article 2):

- 1) criminal offences related to organised crime;
- 2) criminal offences against constitutional order and security of the Republic of Serbia (Article 310 to 312 of the Criminal Code of RS),
- 3) criminal offences of against official duty (Article 359, 366, 367 and 368 of the Criminal Code of RS), where the accused or the person who was given a bribe, is an official or a person in charge in a public office who has been elected, nominated or appointed by the National Assembly, Government, High Judicial Council or State Prosecutor Council,
- 4) criminal offence of abuse of office (Article 359(3) of the Criminal Code) when the value of gained profit exceeds the amount of 200,000.00
- 5) criminal offence of international terrorism and criminal offence of financing of terrorism (Article 391 and 393 of the Criminal Code),
- 6) criminal offence of money laundering (Article 231 of the Criminal Code) if the assets subject to money laundering originates from the criminal offences referred to in the Point 1), 3), 4) and 5), and
- 7) criminal offences against state bodies and criminal offences against judiciary (Article 333 and 335, Article 336 (1), (2) and (4) and Article 336b, 337 and 339 of the Criminal Code), if they are committed in relation to the criminal offences referred to in the Points 1) to 6).

Organized crime in the sense of this Law is defined as the commission of criminal offences by an organised criminal group or other organized group or its members, punishable by imprisonment of four years or more. The organized criminal group means a group of three or more persons, existing for a defined period and acting congruently with the aim of committing one or more criminal offences, punishable by imprisonment of four years or more, to gain, directly or indirectly, financial or other material profit.

The provisions of the Chapter XXIXa of the Criminal Procedure Code are applied to the abovementioned criminal offences referred to in the Article 2 of the Law.

The Organized Crime Prosecutor's Office is founded for the whole territory of Serbia with the headquarters in Belgrade. The Organized Crime Prosecutors' Office can have departments out of its headquarters.

The Criminal Code of RS (*O. Gazette of RS*, No.85/2005, 88/2005 – amended, 107/2005 - amended, 72/2009 and 111/2009) in Chapter 23 prescribes criminal offences against human health and penalties for those criminal offences.

The Law on Organisation of Courts (*Official Gazette of RS*, 116/2008, 104/2005 and 107/10) prescribes jurisdiction of the basic court or higher court for proceeding in the first instance, depending of the severity of the prescribed sentence.

Thus, basic courts adjudicate in the first instance for criminal offences punishable, as the principal penalty, by a fine or imprisonment of up to ten years and ten years unless some of these offences fall under the jurisdiction of another court.

The Higher court in the first instance adjudicates for criminal offences punishable by imprisonment of more than ten years as the principal penalty and is competent for proceeding.

212. What measures have been adopted at the external borders?

The external borders are continually controlled with the aim of detection of narcotic smuggling, with the use of available equipment. Setting up mobile X-ray devices at the border crossing points which will considerably facilitate checks and control of vehicles is expected.

With the aim of prevention of drug smuggling, besides basic measures of border control of passengers and vehicles, the following measures and actions are taken:

- Collection and processing of operative data and findings related to the persons involved in drug smuggling;
- Exchange of information and joint activities with neighbouring border police forces;
- Taking joint actions with neighbouring border police forces;
- Joint activities of border police with other relevant forces of the Ministry of the Interior and cooperation with other state bodies within the system of the Integrated Border Management;
- Methodical use of specially trained police dogs and of the latest technical devices for detection of narcotics (SABRE 4000 and AHURA) and measuring of density of substances (BUSTER).
- Implementing the method of risk analysis in everyday planning of tasks and engagement of police officers of the border police.

The Border Police Directorate of the MoI has 4 police dogs trained to detect narcotic drugs.

213. Do your authorities make use of systematic risk-analysis? To what extent do they rely on financial investigations and on controlled deliveries?

Systematic risk analysis has not been incorporated in everyday practice yet. The police officers of the Criminal Police Directorate perform risk analysis during their actions, especially of risks for human resources (operative staff, but also associates) and also risks for operation and partners in law enforcement. However, this practice is not formalized through the system of rules and procedures.

Financial investigations are the latest method introduced into the work of the Service for Combating Organized Crime by coming into force of the Law on Seizure and Confiscation of Proceeds from Crime (1 March 2009) and forming of the Financial Investigation Unit of CPD (Criminal Police Directorate) and MoI (1 June 2009). The procedure of financial investigation is initiated by criminal investigation if there is sufficient evidence of disproportion between assets of the suspects and their legal incomes, or during later phases of the criminal investigation when such evidence is found, but efforts are made to initiate financial investigation in the earliest phase possible.

Controlled delivery is implemented pursuant to the UN Convention against Illicit Traffic of Narcotic Drugs and Psychotropic Substances. The Criminal Proceeding Code, in the Article 504, regulates acting of the competent bodies in implementation of controlled delivery. Controlled delivery is implemented with the consent of the competent bodies of the interested countries and on the grounds of reciprocity pursuant to ratified international agreements regulating the contents of this measure in more details. The State Public Prosecutor or other public prosecutor competent for the territory of the Republic of Serbia can approve the controlled delivery measure allowing illegal or suspicious delivery to exit, transit or enter the territory of one or more states, with the knowledge and under the surveillance of their competent bodies with the aim of collecting evidence and identifying persons involved in the commission of criminal offences. The State Public Prosecutor or other public prosecutor competent for the territory of the Republic of Serbia prescribes the manner of implementation of the controlled delivery measure, and those measures are implemented by the bodies in charge of internal affairs or other state bodies. The Service for Combating Organized Crime has, during its existence (9 years), implemented over 15 controlled deliveries with the European countries (EU Member States and countries that are not EU Member States).

214. What are the measures taken in respect of drug demand reduction?

The Public Health Institute of the Republic of Serbia and public health institutes and bureaus take part, continually and in the scope of their responsibilities prescribed by law, in implementation of programme activities aimed at prevention of addiction and reduction of demand for psychoactive controlled substances. The programmes are intended for the general population, but also for the youth in schools. The experts of the institutes and bureaus, in accordance with the prescribed schedule, conduct lectures at public meetings and in student groups.

215. What types of programmes are there for the prevention and reduction of health related harm associated with drug dependence (e.g. methadone programmes, needle exchange etc) and how are these programmes regulated?

Methadone therapy has been the most common therapy in health care institutions for treatment of drug addicts. To make the therapy available to those who need it, the damage reduction programmes, primarily methadone programme and needle exchange programme, have been initiated with the help of donors in major centres of Serbia.

The methadone programme has been initiated in the psychiatric wards of clinics and hospitals in Belgrade, Novi Sad, Niš and Kragujevac, while in Belgrade the methadone programme is implemented also within Health Care Centres. Those programmes are supported by donations of Global Fund and NGO-s.

216. Are there any measures taken for improving the understanding of the drug problem?

The Public Health Institute of the Republic of Serbia and public health institutes and bureaus, educational institutions and cultural institutions implement, within the scope of their regular work, measures aimed at improvement of drug issue understanding. Lectures and education within the health care system and educational system are accompanied with appropriate printed, audio and video materials that are also presented through public media.

217. Are there any measures taken for improving coordination, cooperation and raising public awareness of the drug problem?

Coordination in the field of psychoactive controlled substances requires balanced, multidisciplinary and integrated approach which means coordination with other state administration bodies competent in this field. The objectives of the coordination are contribution to inclusion of all necessary representatives of state bodies and associations, establishment of efficient cooperation between bodies competent for health care, interior, customs and judiciary, and establishment of cooperation of all participants at national and local level in implementation of regulation governing the field of psychoactive controlled substances.

The Law on Psychoactive Controlled Substances (*Official Gazette of RS*, number 99/10) regulates the competences of the Ministry of Health and other ministries engaged in the surveillance over psychoactive controlled substances and their mutual reporting. The founding of the Psychoactive Controlled Substances Commission that should harmonise expert positions and issue expert opinions on issues in this field has also been prescribed. The Commission shall consist of prominent experts in the field of psychoactive substances, representatives of the ministries competent for health care, education, interior, labour and social policy, defence, the youth and sport, culture, justice, agriculture and veterinary medicine and of local self-government.

The possibility to found the Commission for Monitoring of Harms associated with Abuse of Psychoactive Controlled Substances and Proposing Improvement Measures on the local self-government level is also prescribed.

The Public Health Institute of the Republic of Serbia and public health institutes and bureaus, educational institutions and cultural institutions are, within the scope of their regular work, engaged in raising awareness about drug-related issues. Lectures and education accompanied with appropriate printed, audio and video materials are presented within the health care system and educational system and through public media.

Customs cooperation

218. Please provide information on legislation or other rules governing the customs area.

The Laws and by-laws governing the management of the Customs Administration are as follows:

- Customs Law (*Official Gazette of RS*, Nos 73/03, 61/05, 85/05 – other law and 62/06 – other law, 63/2006 – *corrigendum* to other law, 9/2010 – CAS Decision and 18/2010 – other law of 26 March 2010), from Article 298 to Article 329;
- Law on Civil Servants (*Official Gazette of RS*, Nos 79/05, 81/05-*corrigendum*, 83/05- *corrigendum*, 64/07, 67/07- *corrigendum*, 116/08 and 104/09);
- Rulebook on the rights, obligations, and responsibilities of the employees at the Ministry of Finance-Customs Administration;
- Rulebook on the internal organisation and job description of the Ministry of Finance-Customs Administration.

219. Does the Customs Administration have an integrated computer system?

Yes. The ISCS (Information System of the Customs Service) is a complex integrated system supporting all key customs procedures and operating 24 hours a day and 365 days a year.

The ISCS processes the following customs declarations: Transit Single Administrative Document (hereinafter: SAD), customs clearance SAD, summary declaration, TIR carnet, ATA carnet, passenger customs declaration.

The following procedures are supported: transit, import, export, temporary import/export, inward or outward processing, re-import/re-export, goods warehousing, processing of goods under customs control, and destruction of goods.

Risk analysis is a constituent part of the ISCS. Risk profiles are created at three levels, including the national, regional, and local. The results of inspections are processed using the Report on the selective inspection of goods. There are various reports that measure the efficiency of the risk profiles, of the control measures, and of the results of selective inspections of goods.

Electronic submission of declarations involves SAD processing for all transit and customs clearance procedures, and summary declaration processing.

The Serbian Customs Administration is integrated into the national payment operations system (payment operations of the National Bank of Serbia) through an electronic funds transfer system incorporated in the ISCS. The Customs Administration exchanges data electronically with the Treasury Administration: Treasury Administration reports to the Customs Administration any changes in the Customs Administration's accounts, whilst the Customs Administration reports to the Treasury Administration any transfer orders from its accounts to the accounts of other users.

The ISCS currently consists of 11 sub-systems which are further divided into approximately 60 modules with about 800 options, using about 3000 programmes.

The ISCS sub-systems are as follows:

1. General sub-system: administration of users, licences, network configuration, ~~referent~~ reference data, etc;
2. Legislation: legal framework, customs tariff, customs valuation of goods;
3. Transit: processing of declarations (Single Administrative Document (SAD), TIR and ATA carnets, summary declaration), confirmation of arrival of goods in a Customs Post of destination, processing of the Report on the inspection of goods performed, calculation and collection of road tax, support to other functions (follow-up requests for unconfirmed transit documents, discharge of transit documents, etc);
4. Other customs approved treatments of goods (customs clearance): processing of SADs for customs clearance, control and inspection of goods, calculation of customs debt, release for free circulation, sampling and laboratory analyses;
5. Legal – administrative proceedings: customs legal proceedings, administrative proceedings, requests and approvals for procedures with economic impact, requests and approvals for simplified procedures and authorised exporters;
6. Organization and human resources: organization and job classification, staff records etc;
7. Collection of budgetary revenues: processing of cash received/paid, collection of customs debt, calculation of interest, monitoring of bank guaranties, transfer of funds to the budget accounts, etc;
8. Statistics: statistics on passengers, transport means, offences, etc;
9. Customs passenger declaration: declaration processing, calculation and collection of duties for the goods that passengers carry with themselves;
10. Risk analysis: Risk analysis system management;
11. Electronic submission of declarations: processing of declarations electronically submitted.

220. Is there development of risk analysis using, inter alia, information derived from Memoranda of Understanding (MoU)?

Article 2 of the Customs Law from 2003 introduces risk assessment and risk management into the customs service. Since 2004, risk analysis and risk management have gone through a number of stages characterised by a constant progress in terms of organisation, human resources, and IT (commission/group has been transformed into

a department, the number of officers has increased from 7 to 20, the IT support to risk analysis and risk management has been upgraded and improved). With the new Customs Law in place as of 2010, risk analysis and risk management is based on a completely new legislative framework.

Today, risk treatment and measurement is automated to a great extent and is processed through the ISCS. The risks can be treated by using 24 parameters, 20 of which are related to the SAD boxes. The risks are treated at the national, regional, and local level. Risk treatment is followed by an appropriate message containing the risk description and a performance order, whilst the feedback on the performed inspection and the analysis of the inspection of shipment is received through the mandatory Report on the selective examination made by the assigned customs officer.

The Customs Administration has signed memoranda of understanding and cooperation, faster flow of goods and passengers, fight against customs frauds, smuggling and protection of intellectual property rights with 15 business entities.

A satisfactory sustainable cooperation with all relevant departments within the Customs Administration, and particularly with other State authorities and organisations is still not in place.

221. What is done to ensure inter-agency co-operation and the implementation of mutual assistance agreements?

For a detailed reply and explanation of the inter-agency cooperation please read the answer to the question No. 60 e. of this Chapter (24).

The main form of cooperation between the customs service and other State authorities is exchange of information.

The Customs Investigation Department of the Serbian Customs Administration implements 20 bilateral agreements on mutual administrative assistance in customs matters. The agreements are implemented by providing administrative assistance in international investigations on fighting against smuggling and organised crime. The exchange of information refers to the requests that are sent to foreign administrations and to the replies to their requests.

222. Does the Customs Administration have a special investigation service with sufficient resources?

Serbian Customs Administration established the Customs Investigations Department within the Enforcement Division, whose operations are organised through its organisational units located in Belgrade, Novi Sad, Kraljevo, and Niš. The Customs Investigations Department is responsible for controlling the compliance with the customs regulations and performance of the Customs Administration's internal units in charge of customs clearance, customs surveillance, temporary import and export, material and financial operations, revenue collection, prevention of illegal entry of weapons, drugs, and currency into Serbia, and other serious violations of customs regulations; it recommends measures and methodology to improve risk management, planning and analysing of available resources, organisation and coordination of activities related to the identification of the relevant objectives in the area of most expected risks, contacts with other internal units in order to obtain

current data, analysis of risks and possible regulation violations, as well as other tasks within the Division's competence.

223. Are there adequate methods for the fight against fraud, including the introduction of mobile surveillance units?

All divisions of the Customs Administration are involved in the fight against frauds, especially Enforcement Division and of Internal Affairs Department. Within the Enforcement Division there are anti-smuggling mobile teams assigned throughout Serbia and their scope of work is to control, detect and prevent frauds in the customs procedure.

The officers of the Internal Affairs Department are responsible for fighting against frauds in the cases of abuse of official positions by customs officers. The Internal Affairs Department does not have adequate technical equipment for an autonomous operation of the mobile surveillance units; that is why this type of preventive action in the field is carried out in cooperation with the officers of the Ministry of the Interior.

224. Which risk profiles are used by customs?

The Customs Administration has adopted the risk analysis and management system as its organisational approach, which assures improvements to the efficiency and effectiveness of operations and decision-making process. However, customs service risk profiles have not been developed on uniform methodological grounds. There are specific risk profiles in place developed and used by the Customs Administration's organisational units.

Even though they are not derived from strategic analyses, at the national level, specific risk profiles are used, and refer to: the value of used goods (all types of motor vehicles and equipment), value of goods of Euro-Asian origin, preferential origins of goods, protection of intellectual property rights, export/import and transit of goods under special requirements and dual used goods, etc.

For more information about operations and functioning of the Risk Analysis and Management Department, please see the reply to question 23 of the Chapter 29 – Customs Union.

225. Please provide information on the training of customs officers (including possible cooperation with EU countries on such training).

Most of the training is delivered through the Vocational Training Centre of the Customs Administration. Generally, training can be divided into basic and specialist.

Basic training

The Vocational Training Centre organises and delivers basic training for customs officers and customs agents.

Basic training for customs officers

Apart from the requirement to pass the State administration professional exam at the competent ministry, which applies to all civil servants, there is also obligation for interns, newly employed customs officers, customs officers acquiring a higher level of formal education while in service, and customs officers that need professional training on the customs system and customs policy to be able to perform their working tasks, to pass a professional exam in this area in a set time frame. Theoretical vocational training course is performed in the Vocational Training Centre of the Customs Administration of Serbia, whilst the practical training course is carried out in the Headquarters of the Customs Administration of Serbia and Customs Houses.

Vocational Training Centre carries out two types of basic training courses for customs officers:

1) Basic training courses for customs officers holding university and two-year college degree, lasting for 50 working days and composed of the following subjects:

- Customs system and procedure;
- Customs tariff, origins of goods, customs value and tax system;
- Identification of goods;
- Foreign trade and foreign exchange system;
- Detection of violations of customs regulations;
- Customs Service information system.

2) Basic training courses for customs officers holding high school degree, lasting for 35 working days and composed of the following subjects:

- Basics of customs system and procedure;
- Basics of customs tariff, foreign trade, foreign exchange and tax systems;
- Identification of goods;
- Detection of violations of customs regulations;
- Customs Service information system.

The training courses are delivered by customs officers working as lecturers at the Customs Administration's Vocational Training Centre, while for certain specific areas by customs officers appointed by the Decision of the Customs Administration's Director General. In order to complete the training course successfully, an exam consisting of a written and oral part should be passed.

Specialized training

Aiming for permanent education of customs officers and improvement of their professional knowledge, competences and skills, specialized seminars are organised as required covering areas which not all customs officers are obliged to be familiar with. Lectures, consultations, courses and similar forms of education are also organised for the purpose of innovating professional knowledge. Mostly, this trainings are delivered by lecturers i.e. customs officers of the Vocational Training Centre, but if needed external

experts are also engaged. Moreover, if deemed necessary, customs officers are sent for further training advancement to some other state bodies or institutions and similar professional organisations, as well as to customs administrations of the EU members states, other countries and international organisations.

Under the EU Customs 2013 Programme, in which the Customs Administration of Serbia participates from 2009, Working Visits to EU member states are being implemented giving Serbian customs officers' opportunity to share experiences with their foreign colleagues and to acquire new knowledge.

226. Which measures are taken to ensure the integrity of customs officers and prevent corruption?

In order to ensure the integrity of customs officers and prevent corruption, the Internal Control Department employs a number of operational measures:

- Performs unannounced controls;
- Requests from the heads of all Customs Administration's organisational units to submit regular reports about customs procedures, which indicate whether there are elements of serious violations of regulations by customs officers;
- Carries out verification of all employees through the penal records of the Serbian Ministry of Interior;
- Trains customs officers through seminars and pilot projects on strengthening the integrity of customs officers and fight against corruption.

For more details, please see the reply to question 46, Chapter 29 – Customs Union.

227. What internal disciplinary procedures exist?

General information:

Disciplinary liability of customs officers (procedure to disciplinary liability of customs officers; minor and severe violations of official duty; as well as types of disciplinary measures- imposed for violations committed) is governed by Article 308 of the Customs Law (*Official Gazette of RS*, Nos 73/2003, 61/2005, 85/2005 – additional law, 62/2006 – additional law, 63/2006 – *corrigendum* of additional law, 9/2010 – decision of the CA and 18/2010 – additional law of 26 March 2010) and by-law – Rulebook on the Rights, Duties and Responsibilities of Employees in the Ministry of Finance and Economy – Customs Administration 08 No 110-00-315/2003 of 14 November 2003 (hereinafter: Rulebook).

Disciplinary proceedings:

1. Disciplinary proceedings for a severe violation of official duty is initiated based on ~~at~~ the request of Heads of customs house against customs officers working at customs house concerned, or based on the request of the Assistant Director General against customs officers working in the Headquarters of the Customs Administration. Disciplinary proceeding is carried out by the Disciplinary Council, while the Decision is brought by the Director General of the Customs Administration after the proceeding has been completed. On the appeal of employees, on the disciplinary decision

brought, further decides the Minister of Finance. The Internal Control Department mostly carries out a preliminary procedure, i.e. investigative actions, before the Head of Customs House or Assistant Director General makes request for disciplinary procedure against customs officers.

2. Disciplinary proceedings for a minor violation of official duty is carried out by the Head of Customs House against employees working at customs house concerned or the Director General for employees in the Customs Administration Headquarters, who also decide upon the responsibility of their employees, respectively.

Disciplinary violations

Severe and minor violations of the official duty are prescribed by the provisions laid down in Article 308, paragraph 2, of the Customs Law and by the provisions laid down in Article 39 of the Rulebook (5 minor violations of the official duty) and Article 40 of the Rulebook (24 severe violations of the official duty). The Rulebook also prescribes which of the violations of the Code of Conduct for Customs Officers, 08 No 483-00-163/2003 of 14 November 2003, are considered to be minor, and which are considered to be severe violation of the official duty.

Disciplinary measures which are imposed for a severe violation of the official duty imply pecuniary penalty rating from 20%-35% of a salary for 3-6 months period or termination of employment. Article 308, paragraph 5, of the Customs Law provides for an additional measure - downgrading of a customs officer to a lower rank for a period not exceeding one year (following the entry into force of the new Law on Civil Servants, Law on Salaries of Civil Servants and Public Employees and accompanying regulations, the Customs Administration made organizational changes accordingly, thus this measure which is more serious than pecuniary penalty and milder than termination of employment is no longer applied. A disciplinary measure imposed for minor violation of the official duty implies pecuniary penalty up to 20% of a monthly salary.

Link to criminal procedure: Article 308, paragraph 8, of the Customs Law prescribes that disciplinary proceeding shall be terminated if a criminal proceeding is initiated against customs officer (for the same act), even though two liabilities are independent and autonomous responsibilities (i.e. only a verdict obliges the disciplinary authorities).

Obsolescence of disciplinary proceeding – Article 308, paragraph 4, of the Customs Law prescribes that a disciplinary proceeding cannot be initiated or administered after expiry of period of one year from the day of violation of the official duty, and if the violation has characteristics of a criminal offence, the time limit for initiating and administering the disciplinary proceeding shall be determined in line with the time limits foreseen for the criminal offence concerned.

Disciplinary records: Requests for initiating disciplinary proceedings for severe violations of official duty are registered in the disciplinary records of the Customs Administration's Headquarters, while the records of disciplinary proceedings for minor violations of official duty are kept in internal units of the Customs Administration (customs houses). Decisions on the disciplinary measures are kept in personal files of customs officers, whilst the procedure for the execution of disciplinary measures is conducted in the internal units.

Removal from records: Pursuant to Article 308, paragraph 9, of the Customs Law, disciplinary measures shall be deleted from customs officer's personal file one year after the pronouncing of the measure for a minor violation of official duty, and three years after the pronouncing of the measure in case of a severe violation of official duty (provided that during the period concerned no further disciplinary measures have been taken).

228. Are any statistics available on the number and type of disciplinary cases that have been undertaken in the last 3 years?

As every request for disciplinary proceedings for a severe violation of the official duty is kept in the Register of disciplinary proceedings in the **Customs Administration Headquarters** (while the records on disciplinary proceedings for minor violations of official duty are kept in customs houses) **statistics are available on the number and type of disciplinary cases.**

2007 A total of 43 disciplinary proceedings for severe violations of official duty were initiated against 51 customs officers. 10 customs officers were punished for minor violations of the official duty.

2008 A total of 55 disciplinary proceedings for severe violations of official duty were initiated against 61 customs officers. 15 customs officers were punished for minor violations of the official duty.

2009 A total of 55 disciplinary proceedings for severe violations of official duty were initiated against 65 customs officers. 21 customs officers were punished for minor violations of the official duty.

2010 (up to 30 November 2010): 54 disciplinary proceedings for severe violations of official duty were initiated against 67 customs officers. 5 customs officers were punished for minor violations of the official duty.

In total (from 1 January 2007 to 30 November 2010), requests for initiation of disciplinary proceedings were filed against 295 customs officers (244 of which for severe violations of official duty, and 51 of which for minor), and one third of the total number of the requests involve violations relating to corruption or corruption-related acts. Most of the requests were filed on the grounds of "failure or dishonest, untimely or negligent performance of duties and tasks" as referred to in Article 40, paragraph 1, point 1 of the Rulebook, but this is understandable given the fact that this offence has the broadest and most unrestricted boundaries, representing an offence which may preclude many actions of the employees.

CRIMINAL PROCEEDINGS AGAINST CUSTOMS OFFICERS

According to the available data, criminal proceedings are pending against 104 customs officers for criminal offences committed at work or which are work-related. Most of the cases refer to criminal offences such as: abuse of office stipulated in Article 359 of the Criminal Law, forgery of official document referred to in Article 357 of the Criminal Law, and accepting bribes from Article 367 of the Criminal Law.

85 customs officers are currently suspended (70 because of criminal proceedings initiated, and 15 on grounds of both criminal and disciplinary proceedings).

229. Do customs cooperation agreements with EU countries exist?

Yes, Serbian Customs Administration has customs cooperation agreements concluded with the following EU member states: Bulgaria, Romania, Czech Republic, Hungary, Slovakia, Slovenia, Poland, Italy, France, Austria, Greece, and Germany.

Based on a bilateral customs cooperation agreement with France, a Memorandum of Understanding was signed on 5 May 2010 between the Serbian Customs Administration and the France's Customs and Indirect Taxes authority, on cooperation of customs services at the airports "Nikola Tesla" in Belgrade and Roissy Charles de Gaulle airport in Paris, in the fight against fraud.

Protection of the euro against counterfeiting (penal aspects)¹

230. Does national law criminalise fraud against the Communities' financial interests, covering both expenditure and revenue?

The Criminal Code of the Republic of Serbia (*Official Gazette of RS*, No. 85/2005, 88/2005 – corr, 107/2005 – corr, 72/2009 and 111/2009) in its special part, regulates, inter alia, offences against property (Chapter 21), offences against economic interests (Chapter 22) and offences against official duty (Chapter 33), thus providing for the protection of financial interests of the European Union.

The Criminal Code (*Official Gazette of RS*, No. 85/2005, 88/2005 – corr, 107/2005 – corr, 72/2009 and 111/2009), Chapter 21 – offences against property, stipulates the following criminal offences:

Fraud – whoever with intent to acquire unlawful material gain for himself or another by false presentation or concealment of facts deceives another or maintains such deception and thus induces such person to act to the prejudice of his or another's property, is punished with imprisonment from six months to five years and fine. Whoever commits this offence only with intent to cause damage to another, is punished with imprisonment up to six months and fine. If by the offence specified in the above two cases material gain is acquired or damages caused exceeding four hundred and fifty thousand dinars, the offender is punished with imprisonment of one to eight years and fine. If material gain is acquired or damages caused exceeding one million five hundred thousand dinars, the offender is punished with imprisonment of two to ten years and fine.

Embezzlement – Whoever with intent to obtain for himself or another unlawful material gain, appropriates another's movable object entrusted in his care, is punished with fine and imprisonment up to two years and fine. If this offence is committed by a guardian, he is punished by imprisonment of three months to three years and fine. If the value of embezzled goods exceeds the amount of four hundred and fifty thousand dinars, the offender is punished with imprisonment of six months to five years and fine. If the value of embezzled goods exceeds the amount of one million five hundred thousand dinars, the offender is punished with imprisonment of one to eight years and fine.

¹ Please See Framework Decisions 2000/383/JHA of 29 May 2000 and 2001/888/JHA of 6 December 2001. "Non-penal" issues related to the protection of the euro against counterfeiting are dealt with under Chapter 32.

Obtaining and Using Loans and Other Benefits under False Pretences – whoever by false presentation of facts or concealment thereof obtains for himself or another a credit, subvention or other benefit although not meeting the relevant requirements, will be punished with fine or imprisonment up to two years. Whoever uses the obtained credit, subvention or other benefit for purposes other than those for which the credit, subvention or other benefit was granted, will be punished with fine or imprisonment up to one year. The responsible officer in an enterprise or other business entity is punished for the above offences if the credit, subvention or other benefit are obtained for the enterprise or another business entity or if used by these entities for purposes other than those for which they were granted.

The Criminal Code (*Official Gazette of RS*, No. 85/2005, 88/2005 – corr, 107/2005 – corr, 72/2009 and 111/2009), Chapter 22 – offences against economic interests, stipulates the following criminal offences:

Tax evasion – whoever with intent to fully or partially avoid payment of taxes, contributions or other statutory dues, gives false information on legal income, objects or other facts relevant to determination of such obligations, or who with same intent, in case of mandatory reporting (filing of returns) fails to report lawful income, objects or other facts relevant to determination of such obligations or who with same intent conceals information relevant for determination of aforementioned obligations, and the amount of liability whose payment is avoided exceeds one hundred and fifty thousand dinars, will be punished by imprisonment from six months to five years and fined. If the amount of the liability whose payment is avoided exceeds one million five hundred thousand dinars, the offender is punished by imprisonment of one to eight years and fined. If the amount of the liability exceeds seven million five hundred thousand dinars, the offender is punished by imprisonment of two to ten years and fined.

The Criminal Code (*Official Gazette of RS*, No. 85/2005, 88/2005 – corr, 107/2005 – corr, 72/2009 and 111/2009), Chapter 33 – offences against official duty, stipulates the following criminal offences:

Abuse of office – an official or responsible person who by abuse of office or authority, by exceeding the limits of his official authority or by dereliction of duty acquires for himself or another natural or legal person any benefit, or causes damages to a third party or seriously violates the rights of another, is punished by imprisonment of six months to five years. If the commission of this offence results in acquiring material gain exceeding four hundred and fifty thousand dinars, the offender is punished by imprisonment of one to eight years. If the value of acquired material gain exceeds one million five hundred thousand dinars, the offender is punished by imprisonment of two to twelve years.

Fraud in service – an official or responsible person who in discharge of duty, with intent to acquire unlawful material gain for himself or another by submitting false accounts or otherwise misleads an authorised official to effect unlawful payment, is punished by imprisonment of six months to five years and by fine. If this offence results in acquiring material gain exceeding four hundred and fifty thousand dinars, the offender is punished by imprisonment of one to eight years and by fine. If this

offence results in acquiring material gain exceeding one million five hundred thousand dinars, the offender is punished by imprisonment of two to twelve years and by fine.

Embezzlement – whoever with intent to acquire for himself or another unlawful material gain appropriates money, securities or other movables entrusted to him by virtue of office or position in a state authority, enterprise, institution or other entity or store, is punished by imprisonment of six months to five years. If this offence results in acquiring material gain exceeding four hundred and fifty thousand dinars, the offender is punished by imprisonment of one to eight years. If this offence results in acquiring material gain exceeding one million five hundred thousand dinars, the offender is punished by imprisonment of two to twelve years.

231. Does national law provide for the concepts of criminal liability of heads of businesses and liability of legal persons for these offences?

The Criminal Code of the Republic of Serbia (*Official Gazette of RS*, No. 85/2005, 88/2005 – corr, 107/2005 – corr, 72/2009 and 111/2009) prescribes that the criminal liability of legal persons and sanctions against them be pronounced under a special law.

The Law on the Liability of Legal Entities for Criminal Offences (*Official Gazette of RS*, No. 97/2008) regulates in a general way the liability of legal persons for all criminal offences and applies to a domestic and foreign legal person held accountable for a criminal offence committed in the territory of the Republic of Serbia. This Law applies to foreign legal persons held accountable for criminal offences committed abroad to the detriment of the Republic of Serbia, its nationals or national legal persons. This Law applies to national legal persons held accountable for criminal offences committed abroad. The Law will not apply to the above two situations if special conditions for criminal prosecution pursuant to the Criminal Code are fulfilled.

A legal person is a national or a foreign legal person considered a legal person under positive legislation of the Republic of Serbia. A liable person is a natural person legally or *de facto* entrusted with certain duties within a legal person, as well as a person authorised, that is, a person who may reasonably be considered as authorised to act on behalf of a legal person.

A legal person is held accountable for criminal offences which have been committed for the benefit of the legal person by a responsible person within the remit, that is, powers thereof.

The liability of a legal person also exists where the lack of supervision or control by the responsible person allowed the commission of crime for the benefit of that legal person by a natural person operating under the supervision and control of the responsible person. The liability of a legal person is based upon culpability of the responsible person.

A legal person is held accountable for a criminal offence committed by the responsible person even though criminal proceedings against the responsible person have been discontinued or the indictment refused.

If a legal person ceases to exist before the completion of criminal proceedings, a fine, security measures and confiscation of material gain may be imposed against the legal person being a legal successor thereof, if the liability of the legal person that ceased to exist was previously established. If the legal person ceases to exist after the final completion of the proceedings where the liability has been established and a penal sanction for a criminal offence imposed, a fine, security measures and confiscation of material gain are enforced against the legal person being a legal successor thereof. A legal person that after the commission of a criminal offence changes its legal form under which it operated, is liable for criminal offences under the conditions stipulated pursuant to this Law. A legal person in bankruptcy is liable for a criminal offence committed before the instigation of or in the course of bankruptcy proceedings. The confiscation of material gain or the security measure of confiscation of objects are pronounced against the accountable legal person.

A legal person is liable for an attempt of a criminal offence if the attempt is stipulated by the Law as punishable. An accountable legal person may be imposed a punishment for an attempt as provided for by this Law, but it may also be punished less severely. A legal person who has prevented the completion of a criminal offence may be exonerated from punishment.

A legal person is liable for the continuance of a criminal offence if it is accountable for several criminal offences committed by two or several responsible persons, provided that the criminal offences constitute a joinder within the meaning of the Criminal Code.

The sanction imposed against the liable legal person for the continuance of a criminal offence may be aggravated to the extent of a double amount stipulated by this Law.

The following penal sanctions may be imposed against a legal person for a criminal offence: sentence, suspended sentence, security measures. The following sentences may be imposed against a legal person: fine and termination of the status of a legal person. Fine and the termination of the status of a legal person may be imposed only as principal sentences. Fines are imposed in certain amounts within the stipulated range of the smallest and highest fines.

The court determines the amount of a fine for a legal person who has committed a criminal offence within the range provided for such offence by the law, taking into account the purpose of punishment and all circumstances influencing the fine to be higher or lower (extenuating and aggravating circumstances), in particular: the degree of liability of the legal person for the committed criminal offence, the size of the legal person, the position and the number of responsible persons within the legal person who have committed a criminal offence, measures taken by the legal person to prevent and detect a criminal offence and measures it took against the responsible person after the commission of a criminal offence.

When the court is empowered to exonerate a legal person from punishment, it may mitigate the respective punishment without any limits stipulated for the mitigation of fines under this Law.

If a legal person is held accountable for the joinder of criminal offences, the court imposes a single fine in the amount of the sum of punishments pronounced in so far as that it may not exceed five hundred million dinars. If prison sentences of up to three years are prescribed for all criminal offences constituting a joinder, the single fine may not exceed ten million dinars.

The sentence of termination of the status of legal person may be imposed if the activity of the legal person concerned was for the purposes of the commission of criminal offences, in its entirety or to a considerable extent. Following the finality of the judgement imposing the sentence of termination of the status of a legal person, the procedure of winding-up, bankruptcy or termination of a legal person in a different manner is conducted. A legal person ceases to exist by being deleted from the register maintained by a competent authority.

A legal person may be exonerated from punishment if it detects and reports a criminal offence before learning that criminal proceedings have been instituted or when it on a voluntary basis and without delay eliminates the incurred detrimental consequences or returns the illegally acquired material gain.

The court may impose a suspended sentence against a legal person for the commission of a criminal offence. By imposing a suspended sentence against a legal person, the court determines a fine of up to five million dinars and concurrently specifies that the sentence will not be enforced if the convicted legal person, during a period defined by the court that may not be shorter than one year and not longer than three years (probation period), is not held accountable for any criminal offence prescribed by this Law. In deciding whether or not to impose a suspended sentence, the court takes into consideration in particular the degree of liability of the legal person for the committed criminal offence, the measures taken by the legal person to prevent and detect the criminal offence and the measures it took against the responsible person after the commission of the offence. The court revokes a suspended sentence if the convicted legal person under probation period is held accountable for one or several criminal offences for which the fine of five million dinars or more has been pronounced against it.

If, under the probation period, the convicted legal person is held accountable for one or several criminal offences for which the fine of less than five million dinars was pronounced against it, the court, having assessed all circumstances relating to the committed criminal offences and the legal person, in particular the relatedness of committed criminal offences and the significance thereof, decides whether or not to revoke the suspended sentence. The court is thereby bound to the prohibition to impose a suspended sentence if the fine exceeding five million dinars should be imposed on the legal person for criminal offences established in the suspended sentence as well as for new criminal offences.

If it revokes the suspended sentence, the court, by virtue of provisions of this Law, imposes a single sentence both for prior and new criminal offences, having regard to the punishment from the revoked suspended sentence as established. If it does not revoke the suspended sentence, the court may impose a suspended sentence or punishment for a new criminal offence.

If the court finds that a suspended sentence should be imposed also for a new criminal offence, it determines, by virtue of provisions of this Law, a single sentence both for prior and new criminal offence, specifying a new probation period that may not be shorter than one year and longer than three years as of the day of finality of the new judgement. During the probation period, should the convicted legal person be held accountable for a criminal offence, the court will revoke the suspended sentence and impose a sentence, by virtue of the provision of this Law.

The court may determine that the legal person, against whom a suspended sentence has been imposed, may be placed under protective supervision for a specified period of time during the probation period. The protective supervision may include one or several commitments as follows: to organise control to prevent further commission of criminal offences; to abstain from business activities if that could be an opportunity or encouragement for recommitment of criminal offences; to remove or alleviate the damage incurred by the commission of criminal offences; to carry out work in the public interest; and to submit periodical reports on business operations to the authority competent for conducting protective supervision.

The following security measures may be imposed for criminal offences that legal persons are liable for: prohibition to practise certain registered activities or operations; confiscation of objects; and the publicising of the judgement.

The court may impose against the liable legal person one or several security measures if there are legally stipulated conditions for their imposition. Security measures for the confiscation of objects or publicising of the judgement may be imposed if the suspended sentence has been imposed against the liable legal person. The court may forbid the liable legal person to practise certain registered activities or operations in respect of which a criminal offence was committed. The measure under this Law may be imposed for the period between one and three years as of the day of finality of the judgement.

The objects used or were intended for use to commit a criminal offence or that derived from the commission of a criminal offence may be confiscated if they are in the possession of the legal person concerned. The objects may be confiscated under this Law also when they are not in the possession of the legal person concerned if that is required by the interests of overall safety and by reason of morals, but the right of a third party to compensation should not be infringed thereby. Mandatory confiscation of objects may be ordered by the Law. The security measure of publicising a judgement is imposed by the court if it found that it would be useful for the public to get acquainted with the content of the judgement, particularly if the publicising of the judgement would contribute to eliminating a danger to life or health of people or to protecting the general interest. The court passes a decision, according to the significance of the criminal offence and the need for informing the public, through

what kind of mass media the judgement will be publicized, as well as whether the reasoning of the judgement will be publicised in its entirety or in extracts, taking into consideration that the manner of publicising should allow everyone, in whose interest the judgement is to be publicised, to be informed. A convicting judgement of a legal person for a criminal offence may as a legal consequence have termination, that is, forfeiture of certain rights or prohibition of acquiring certain rights. Legal consequences may be envisaged only by law and become effective by force of the law under which they are set forth. Legal consequences of the conviction relating to termination or forfeiture of certain rights are the following: termination of practising certain activities or business operations; forfeiture of certain permits, approvals, concessions, subsidies or other forms of incentives granted by a decision of a state authority or an authority of the local government unit.

Legal consequences of the conviction become effective on the day of finality of the judgement ordering a fine. Legal consequences of the conviction under this Law may be specified to be in force for the maximum period of ten years.

In terms of economic offences, under Article 25 of the Law on Organisation of Courts (*Official Gazette of RS*, No. 116/2008, 104/2009 and 101/10), the first-instance commercial court decides, inter alia, on economic offences and in relation to that on the termination of protective measures or legal effects of a verdict.

Under Article 26 of the Law on Organisation of Courts, the second-instance Commercial Appellate Court decides on complaints against decisions of commercial courts and other authorities, in line with the law.

According to the legislation of the Republic of Serbia, legal persons and responsible persons in a legal person are also accountable for economic offences, as a type of punishable acts (in addition to misdemeanours, including criminal offences after the adoption of the new Law on the Liability of Legal Entities for Criminal Offences).

Economic offences are established as a special type of publishable acts by the adoption of the first Law on Economic Offences (*Official Journal of SFRY*, No. 4/77, 36/77 – corr, 14/85, 10/86 (consolidated), 74/87, 57/89 and 3/90 and *Official Journal of FRY*, No. 27/92, 16/93, 31/93, 41/93, 50/93, 24/94, 28/96 and 64/2001 and *Official Gazette of RS*, No. 101/2005 – other law) from 1960. The valid Law on Economic Offences was adopted in 1977 and was amended several times, mainly in the part relating to the amount of fines.

Economic offences are defined by the Law as socially damaging violation of regulations on economic and financial operation, which caused or might have caused serious consequences, and which is, by regulation of the competent authority, established as an economic offence, including the stipulation of the punishment to be pronounced against the perpetrators of such offences.

The most common types of economic offences that commercial courts decide upon relate to accounting and audit, payment transactions, the market of securities and other financial instruments, takeover of joint-stock companies, prevention of money laundering, protection of copyright and related rights, protection of nature and other property, safety of food, safety of transport, etc. Commercial courts process around 6000-7000 cases of economic offences per year on average.

The Law on Economic Offences (*Official Journal of SFRY*, No. 4/77, 36/77 – corr. 14/85, 10/86 consolidated, 74/87, 57/89 and 3/90 and *Official Journal of FRY*, No. 27/92, 16/93, 31/93, 41/93, 50/93, 24/94, 28/96 and 64/2001 and *Official Gazette of*

RS, No. 101/2005 – other law) is in force today as well. This Law regulates the general terms and principles for the pronouncement of sanctions for economic sanctions, the system of sanctions, and the procedure for establishing the liability and pronouncing sanctions against perpetrators of economic offences.

In terms of economic offence proceedings conducted against perpetrators of economic offences (legal and responsible persons), Article 56 of the said Law envisages the appropriate application of the earlier Criminal Procedure Code (*Official Journal of SFRY*, No. 4/77... *Official Journal of FRY*, No. 27/92 and 24/94) – the relevant provisions are enumerated relating to the main principles, joinder and severance of proceedings, transfer of territorial jurisdiction, consequences of non-jurisdiction, recusal, public prosecutor, injured party, defence council, petitions and records, costs of criminal proceedings, property claims, adoption and communication of decisions, submission of briefs and consideration of records, meaning of legal terms, summoning and bringing the defendant, site inspection, expert analysis, preparation for the trial, the trial, judgment, regular legal remedies, reopening of criminal proceedings, motion for the protection of legality, proceedings for implementation of measures and issuance of arrest warrant and notice.

Under Article 16 of the Law on Economic Offences, some provisions of the Criminal Code of the SFRY, i.e. Basic Criminal Code (*Official Journal of SFRY*, No. 44/76 *Official Journal of FRY*, No. 35/92 *Official Gazette of RS*, No. 39/03) apply accordingly to the matter of economic offences (extreme necessity, mental capacity, intent and negligence, mistake of law and mistake of fact, attempt, complicity, manner, time and place of commission of a criminal offence).

Amendments to the criminal legislation, both those relating to the Criminal Procedure Code (*Official Journal of FRY*, No. 70/2001 and 68/2002 and *Official Gazette of RS*, No. 58/2004, 85/2005, 115/2005, 85/2005 – other law, 49/2007, 20/2009 – other law, 72/2009 and 76/2010) and the Criminal Code (*Official Gazette of RS*, No. 85/2005, 88/2005 – corr, 107/2005 – corr, 72/2009 and 111/2009) are the relevant reason for the adoption of the new Law on Economic Offences. The draft new Law on Economic Offences has been prepared by the working group nominated by the decision of the Ministry of Justice.

Article 9 of the valid Law on Economic Offences stipulates who should take over the offence on behalf of the legal person so that his/her penal responsibility is constituted. Further, the legal person is accountable for an economic offence committed by an action or failure of due supervision by a management authority, action or failure of due supervision by a responsible person or action of another person authorised to act on behalf of the legal person, meaning that the legislator accepted the principle of the so-called objective accountability of a legal person.

Economic offence proceedings are instituted before the court by the competent public prosecutor by filing a motion to indict. If the public prosecutor fails to instigate the proceedings or gives up on prosecution in the course of proceedings, the injured party may instigate or continue the economic offence proceedings if he/she filed a motion for accomplishment of property claim.

Single proceedings are instituted and conducted in respect of a legal and responsible person, based on the principle of parallel accountability of a legal and responsible person within proceedings that are not severable, except for highly restrictive cases envisaged by the law, when it is possible to conduct proceedings only against a legal person or only against a responsible person.

Accountability for an economic offence stipulated by a regulation may be determined for a legal person and responsible person in a legal person and/or responsible person in a state authority, if envisaged by a regulation.

Accountability for an economic offence may also be determined for a foreign legal person and responsible person in a foreign legal person, if legal conditions have been fulfilled.

In economic offence proceedings, legal and responsible persons may have a joint or separate defence council, if that is not contrary to their interests.

The regulation determining an economic offence may stipulate that all or only some legal persons may be accountable for that particular economic offence.

A legal person undergoing bankruptcy proceedings is also accountable for an economic offence, regardless of whether the economic offence was committed prior to or during the bankruptcy proceedings, whereby a fine may not be pronounced against such person, but only the protective measure of the seizure of objects and seizure of material gain acquired through such offence.

The representative of the legal person participates in the proceedings – the representative is authorised to take all actions in the proceedings which may be taken by the defendant in criminal proceedings. The representative is a person authorised to represent the legal person based on the law, act of a competent state authority or statute and/or another general act of the legal person, possessing a written authorisation of the designating authority.

A fine may be prescribed and pronounced for an economic offence, whereby the general minimum and maximum amounts of the fine are determined by this Law (from RSD 10,000.00 to RSD 3,000,000.00 for a legal person and from RSD 2000.00 to 200,000.00 for a responsible person). Collected fines represent the revenue of the budget of the Republic of Serbia.

A suspended sentence may also be pronounced for an economic offence if legal conditions are fulfilled. Along with the suspended sentence, the protective measure of publicising the judgment and seizure of objects may also be pronounced.

Protective measures may also be pronounced against perpetrators of economic offences, only if a fine has been pronounced, unless differently stipulated by law. Protective measures are the following: publicising the judgment in the media, seizure of objects that were used or intended for commission of an economic offence, or created through the commission of an economic offence, prohibition of a legal and responsible person to engage in a particular business activity or operations, in the period of 6 months to 10 years as of the finality of the judgment.

As a rule, immediately after the conclusion of the trial, a judgment is pronounced and publicised with relevant reasons thereof.

Responsible persons may file against a first-instance judgment a complaint which stays the enforcement of the judgment.

The second-instance Commercial Appellate Court decides on the complaint only at the session of the chamber consisting of two judges and one lay judge. A complaint against the decision of the second-instance court is not allowed.

The Supreme Court of Cassation decides on the motion for the protection of legality submitted by the Republic Public Prosecutor against the final decision adopted in economic offence proceedings.

The execution of sanctions pronounced for economic offences is regulated and implemented as envisaged by the Law on Enforcement of Penal Sanctions (*Official Gazette of RS*, No. 85/2005 and 72/2009).

232. Has your country established jurisdiction over all of these offences?

Pursuant to the Constitution of RS (Official Gazette of RS, number 98/2006), the judiciary power at the territory of the Republic of Serbia is unified. Pursuant to the Criminal Code of RS (*O. Gazette of RS*, No.85/2005, 88/2005 – amended, 107/2005 - amended, 72/2009 and 111/2009) one can not be pronounced a sentence or other criminal sanction for the offence that was not designated as a criminal offence before it was committed, nor one can be pronounced a sentence or other criminal sanction that was not prescribed by law before the criminal offence was committed. Thus, the jurisdiction of judiciary bodies is laid down for all criminal offences prescribed by the Criminal Code of the Republic of Serbia.

Protection of the euro against counterfeiting (penal aspects)²

233. Has your country acceded to the 1929 International Convention on the Suppression of Counterfeiting?

The Kingdom of Yugoslavia ratified the International Convention for Suppression of Counterfeiting 10 April 1929 – 24 November 1930. It was published in the International Agreements of the Kingdom of Yugoslavia in 1930, page 955; Agreement collection of the National Association, book CXII, page 371. The Republic of Serbia has not given the succession statement.

234. Does national law criminalise the making and altering of counterfeit currency and related offences? Does it ensure that such activity is punished by appropriate criminal penalties, including imprisonment and the possibility of extradition?

The criminal legislation of the Republic of Serbia sanctions the criminal offence of making and altering of counterfeit currency and related offences by defining the term of money, as well as criminal offences of counterfeiting money, securities, counterfeiting and misuse of payment cards and counterfeiting of value tokens. The imprisonment sentence is prescribed for all criminal offences specified below and extradition is possible as well.

Article 112, paragraph 23 of the Criminal Code (*Official Gazette of RS*, No. 85/2005, 88/2005 – corr, 107/2005 – corr, 72/2009 and 111/2009) stipulates the notion of money within the meaning of the Criminal Code. According to this provision, money is metal and paper money or money fabricated of other material that is legal tender in Serbia or a foreign country.

Article 223 of the Criminal Code sanctions the criminal offence of counterfeiting money – whoever produces forged money with intent to put it in circulation as genuine or who with same intent alters genuine money, is punished by imprisonment

² See Framework Decisions 2000/383/JHA of 29 May 2000 and 2001/888/JHA of 6 December 2001. “Nonpenal” issues related to the protection of the euro against counterfeiting are dealt with under Chapter 32.

of two to twelve years and fine. Whoever procures forged money with intent to circulate it as real or who puts forged money in circulation, is punished by imprisonment of one to ten years and fine. If through the above offences forged money is produced, altered, circulated or procured in an amount exceeding one million five hundred thousand dinars and/or a corresponding amount in foreign currency, the offender is punished by imprisonment of five to fifteen years and fine. Whoever accepting forged money as genuine, and upon learning that it is counterfeit, puts it in circulation or whoever knows that forged money is produced or that forged money is put in circulation and fails to report it, is punished by fine or imprisonment up to three years. Forged money is impounded.

Article 224 of the Criminal Code sanctions the criminal offence of counterfeiting securities – whoever produces forged securities or alters genuine securities with intent to use them as genuine, or to give them to another to use, or whoever uses such forged securities as genuine or procures them to such intent, is punished by imprisonment of one to eight years and fine. If the total nominal amount of forged securities exceeds one million five hundred thousand dinars, the offender is punished by imprisonment of two to twelve years and fine. Whoever receives forged securities as genuine and upon learning that these are forgeries puts them in circulation, is punished by fine and imprisonment up to three years. Forged securities are impounded.

Article 225 of the Criminal Code sanctions the criminal offence of counterfeiting and misuse of payment cards – whoever fabricates a forged payment card or who alters a real payment card with intent to use it as genuine or who uses such payment card as genuine, is punished by imprisonment from six months to five years and fine. If the offender acquired unlawful material gain through the use of the payment card, he/she will be punished by imprisonment of one to eight years and fine. If the offender acquired unlawful material gain exceeding one million five hundred thousand dinars, he/she will be punished by imprisonment of two to twelve years and fine. An offender who commits the offence through unauthorised use of another's card or confidential data that regulate the card in payment transactions is punished by imprisonment of one to eight years and fine or imprisonment of two to twelve years and fine. Whoever obtains a forged payment card with intent to use it as genuine or whoever obtains information with intent to use it for fabrication of forged payment card, is punished by fine or imprisonment up to three years. Forged payment cards are impounded. Article 226 of the Criminal Code sanctions the criminal offence of counterfeiting tokens of value – whoever fabricates forged or alters genuine value tokens with intent to use them as genuine or to give them to another to use, or who uses such forged tokens as genuine or obtains them to such end, is punished by imprisonment up to three years. If the overall value of value tokens exceeds one million five hundred thousand dinars, the offender is punished by imprisonment of one to eight years. Whoever by removing a stamp invalidating a value token or otherwise endeavours to give such value token an appearance as if unused in order to re-use them, or who re-uses the already used value tokens or sells them as valid, is punished by fine or imprisonment up to one year. Forged value tokens are impounded.

The Republic of Serbia is a contracting party to the European Convention on Extradition, based on which it is possible to extradite a defendant or a convicted person for the above criminal offences.

235. Does national law ensure that it has the appropriate jurisdiction over offences involving counterfeiting, both of the euro and of other currencies?

Yes – this criminal offence is envisaged by the Criminal Code of the Republic of Serbia (*Official Gazette of RS*, No. 85/2005, 88/2005 – corr, 107/2005 – corr, 72/2009 and 111/2009). This Code generally prescribes in a general way the protection of all currencies, including the euro – Article 223 of the Code sanctions the criminal offence of counterfeiting money – whoever produces forged money with intent to put it in circulation as genuine or who with same intent alters genuine money, is punished by imprisonment of two to twelve years and fine. Whoever procures forged money with intent to circulate it as real or who puts forged money in circulation, is punished by imprisonment of one to ten years and fine. If through the above offences forged money is produced, altered, circulated or procured in an amount exceeding one million five hundred thousand dinars and/or a corresponding amount in foreign currency, the offender is punished by imprisonment of five to fifteen years and fine. Whoever accepting forged money as genuine, and upon learning that it is counterfeit, puts it in circulation or whoever knows that forged money is produced or that forged money is put in circulation and fails to report it, is punished by fine or imprisonment up to three years. Forged money is impounded.

236. Does national law provide for the concept of criminal liability of legal persons for these offences?

A legal person may be liable for all criminal offences, as stipulated by the Criminal Code of the Republic of Serbia (*Official Gazette of RS*, No. 85/2005, 88/2005 – corr, 107/2005 – corr, 72/2009 and 111/2009) and the Law on the Liability of Legal Entities for Criminal Offences (*Official Gazette of RS*, No. 97/2008). The Criminal Code prescribes that the liability of legal persons for criminal offences and sanctions against legal persons be pronounced under a special law. The Law on the Liability of Legal Entities for Criminal Offences (*Official Gazette of RS*, No. 97/2008) regulates in a general way the criminal liability of legal persons for all criminal offences (see answer to question 231).

237. Does your country recognise, for the purposes of establishing habitual criminality, sentences handed down in other Member States for these offences?

If a person is sentenced for a criminal offence in other country and if the other country informs the Republic of Serbia and its competent bodies about it, in the moment of initiation of any criminal proceeding against that person in the Republic of Serbia (for the same form of criminal offence, but also for any other criminal offence), the person will be treated as a recidivist in commitment of the criminal offence and the previous adjudication in other country will be considered as aggravating circumstance.

238. Have you formally designated a National Central Office on currency counterfeiting in line with Article 12 of the 1929 Geneva Convention and Regulation 1338/2001?

Based on Article 58 of the Law on National Bank of Serbia, the National Bank of Serbia is the only institution in Serbia dealing with authenticity of money (Serbian dinars and foreign currency) as well as with laying down conditions and procedures

for handling counterfeit Serbian dinars and effective foreign currency found in cash transactions in Serbia.

The Department for Treasury Operations within the National Bank of Serbia, also has a **Division of national centres for combating counterfeiting, and for the analysis of banknotes and coins.**

This division's responsibilities include the following two groups of main tasks, and one special group:

Second group of main tasks:

- Checking of currency including effective banknotes and coins, and banknotes of effective foreign currency suspected to be counterfeit, effective currency banknotes with damage percentage of more than 51%, and banknotes with colour markings, which originates from banks, State authorities, and organisations and organisational units responsible for treasury operations within the National Bank of Serbia;
- Identification of types of counterfeit money (dinars) and identification of types of counterfeit effective foreign currency according to the Interpol's schedule and establishing of internal classification of counterfeit money for new types that are not recorded with the Interpol's Secretariat-General;
- Additional expertise of counterfeit money and effective foreign currency at the request of judicial bodies, by providing reports and opinions;
- Delivering of counterfeit banknotes to Serbian state authorities (Ministry of the Interior, Ministry of Foreign Affairs) including among other things for the purposes of expertise and trials, as well as receipt of such banknotes following the expertise or trials;
- Storage and keeping of counterfeit money.

First group of main tasks:

- Collection and classification of information on fake effective money (Serbian dinars) as well as emergence of new types of counterfeit money, collection and classification of information on authentic and fake effective foreign currency, on putting and withdrawing from circulation, as well as emergence of new types of counterfeit money;
- Exchange of information on counterfeit money by monitoring the counterfeit money register at the central database and making data available to authorised users; cooperation and participation in working groups together with the authorities responsible for detecting and suppressing of counterfeiting; development of periodical and ad-hoc statistical overviews and information on the detected counterfeit money and effective foreign currency in Serbia;
- Holding seminars and training for employees at the National Bank of Serbia organisational units responsible for treasury operations at the National Bank of Serbia, banks and other participants in cash payment operations in relation to the identification of counterfeit cash and effective foreign currency.

Group of special tasks:

- Collection and classification of information about banknotes (Serbian dinars and foreign effective currency) with markings in colour used to protect banknotes chemically in transport, or used to mark banknotes in case of forced opening of a banknote package;
- Correspondence and other activities with the Ministry of Interior and banks in relation to banknotes containing colour alert markings;
- Classification of information about banknotes (Serbian dinars and foreign effective currency) whose damage percentage is over 51%.

This division is responsible **for all information regarding counterfeit dinars** and is responsible to send and share such information with all competent line institutions both in Serbia and abroad, as well as to prepare public reports thereon.

As for the **information on the counterfeit foreign effective currency** this division regularly sends all reports and information to the Interior Ministry's Service for Combating Organised Crime and the National Central Bureau of Interpol. All the above institutions recognise this Division as the only one responsible to receive all information on counterfeit foreign currency, and to prepare appropriate public statements thereon.

The National Bank of Serbia started an initiative to establish a working group that would include, in addition to the representatives of the National Bank of Serbia, also the representatives of line ministries (Ministry of the Interior and Ministry of Justice), and which would serve as the key central point at the national level for the fight against money counterfeiting (of Serbian dinars and foreign currency) in Serbia.

OLAF has included the Division of national centres for combating counterfeiting and for the analysis of banknotes and coins into its own programmes of further training in the area of efficient detection of counterfeit Euros and withdrawal from circulation, as well as efficient exchange of relevant information.