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ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

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COMMENTS OF THE GOVERNMENT OF SERBIA ON THE SECOND OPINION OF THE ADVISORY COMMITTEE ON THE IMPLEMENTATION OF THE FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES BY SERBIA

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(received on 30 September 2009)

COMMENTS OF THE REPUBLIC OF SERBIA ON THE SECOND OPINION OF THE ADVISORY COMMITTEE ON THE IMPLEMENTATION OF THE FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES IN SERBIA

I. INTRODUCTION

The Advisory Committee, as established in Article 26 paragraph 1 of the Framework Convention for the Protection of National Minorities (hereinafter referred to as the Convention), adopted the second Opinion on the implementation of the Convention in Serbia on 19 March 2009.

Serbia greatly appreciates the activities of the Advisory Committee in the process of monitoring of the implementation of the Convention and welcomes the co-operation established with the Advisory Committee during the preparation of the Opinion, resulting in the preparation of an additional questionnaire, which, with the aim to collect more detailed information, was submitted to the Serbian authorities on the occasion of the visit of the delegation of the Advisory Committee to Serbia from 3 to 7 November 2008.

Serbia finds the fulfilment of obligations undertaken by the accession to the Convention the priority of its policy of national minorities, which is implemented in the country within the process of building a democratic state based on the rule of law. The base of such a policy is complete integration of national minorities into the society, together with further preservation and development of their national and cultural specific features. The foundations of the policy of national minorities are: development of democratic institutions and respect for the rule of law, building of comprehensive legal regulations in the domain of protection and improvement of the rights of the national minorities, creation of social environment where the spirit of tolerance and respect for diversities shall be fostered, as well as faster and more equal economic growth and development of the country. This is to be accomplished in constant communication between the state authorities and the representatives of all communities of national minorities and partnership with the relevant international organizations and institutions. In this context, Serbia finds that the fulfilment of obligations arising from the accession to the Convention is a step forward in civilizational terms, which classifies the country among the states equally participating, under the supervision of the Council of Europe, in Pan-European process of improvement and protection of the rights of the national minorities. In view of the above mentioned, Serbia is sincerely committed to the fulfilment of the obligations resulting from the Convention.

The State Report on the implementation of the Convention, which is the base of monitoring, as well as the supplement to the State Report made on the grounds of the questionnaire of the Advisory Committee, have been prepared and are entirely based on the principle of transparency. Serbia finds that the implementation of the Convention is of extreme importance to keep an open and constructive dialogue with the bodies competent for monitoring of the implementation of the Convention, with the Advisory Committee

and the Committee of Ministers of the Council of Europe. Within this meaning, Serbia considers that the opinion of the Advisory Committee is based on an expert analysis of the status of national minorities as well as that it addresses very important issues. Serbia thinks that a truly open and constructive dialogue is positively supported by the realization of the Advisory Committee that, since the submission of the State Report, the state has been rapidly working on the completion of legislation in the field of protection and promotion of the rights of the national minorities, as well as that it has been facing a series of objective difficulties, primarily of economic nature.

The comments of Serbia on the Opinion of the Advisory Committee have been prepared by the Ministry of Human and Minority Rights, and the representatives of the line ministries and other state bodies have also been consulted in the process of their preparation.

Proceeding from the point that the Serbian authorities regularly co-operate with non-governmental organizations, whose activities also include promotion and protection of the minority rights, with organizations gathering the representatives of the national minorities, as well as with the national councils, which are the stakeholders of cultural autonomy of the national minorities, Serbia establishes with due respect that a series of objections and suggestions expressed in the Opinion of the Advisory Committee is known to the competent authorities as well as that they have been actively working on their solutions.

In view of the positive nature of the Opinion of the Advisory Committee, Serbia wishes to make the following comments:

II. COMMENTS ON THE CONCLUDING REMARKS OF THE ADVISORY COMMITTEE EXPRESSED IN SECTION III OF THE OPINION OF THE ADVISORY COMMITTEE (PAR. 267 – 284)

In order to avoid unnecessary repetition concerning certain paragraphs expressed in the Concluding Remarks of the Advisory Committee, please refer to the relevant comments expressed in Chapter III of our comments, in particular:

Concerning paragraph 275: reply to paragraph 11;
Concerning paragraph 276: reply to paragraph 103;
Concerning paragraph 277: reply to paragraph 253;
Concerning paragraph 278: reply to paragraph 17;
Concerning paragraph 279: reply to paragraphs 20 and 193;
Concerning paragraph 280: replies to paragraphs 28, 29, 85, 111 and 260;
Concerning paragraph 281: reply to paragraph 83;
Concerning paragraph 282: reply to paragraph 153.

III. REPLIES TO THE MAIN FINDINGS AND FINDINGS OF THE ADVISORY COMMITTEE ACCORDING TO INDIVIDUAL ARTICLES OF THE CONVENTION (PAR. 6 – 266)

Reply to the Main Findings

Paragraph 11

The Advisory Committee notes that in connection with the above mentioned developments, Serbia adopted a new Constitution in October 2006 which includes a specific chapter on the protection of national minorities. Although some relevant legislative changes have been introduced since the Advisory Committee's first Opinion, the failure to adopt key legislation to advance the protection of national minorities in Serbia has prompted legitimate concerns. The Advisory Committee refers in particular to the adoption of a comprehensive law on non-discrimination and the law on the national minority councils.

In replies to additional questions of the delegation of the Advisory Committee of the Framework Convention for the Protection of National Minorities made on the occasion of its visit to Serbia from 3 to 7 November 2008, the Advisory Committee was informed about the basic solutions contained in the drafts of the Law on Prohibition of Discrimination and the Law on National Councils of National Minorities. Since the Republic of Serbia adopted the Law on Prohibition of Discrimination on 26 March 2009 and the Law on National Councils of National Minorities on 31 August 2009, the key legislative framework for the improvement of protection of the rights of national minorities has been provided.

With this in mind, the authorities of the Republic of Serbia invite the Committee of Ministers not to express the viewpoint on incomplete legislative reforms in the light of special recommendations of the Advisory Committee in its Conclusions and Recommendations addressed to the concerns about non-completed reforms in the field of prohibition of discrimination and settlement of the issue of the national councils of national minorities.

Paragraph 12

At the institutional level, recent years have been characterized by a lack of continuity in the allocation of institutional responsibility for national minorities. Such changes have affected negatively the capacity and effectiveness in developing and implementing a coherent minority policy. The replacement in July 2008 of the Agency for Human Rights by a new Ministry of Human and Minority Rights demonstrated a more committed approach to minority protection and gave positive signals to national minorities who for the most part, have felt that too limited attention has been paid to them by central authorities so far. However, Serbian authorities are still largely considered to lack a comprehensive and strategic approach towards the integration of its minorities into the society. In addition,

measures taken in this field of minority protection are often perceived by Serbian society as a result of the pressure exercised by external actors. The Advisory Committee finds it essential that issues affecting national minorities are fully incorporated into the general public policy discourse and that further awareness measures are taken

The finding of the Advisory Committee that institutional solutions of the structure of executive power effect the development of the policy in respect of the national minorities in the Republic of Serbia cannot be acceptable. In the Republic of Serbia, as in any other democratic state established on the rule of law, the grounds for the development of the policy of protection of the national minorities, together with the international legal documents, are contained in the Constitution which was adopted in 2006, which is, in respect of integration and protection of the national minorities, the continuation of the new minority policy initiated in the country after the democratic changes of the political system in 2000. In this sense, it is sufficient to point out that the national councils of the national minorities, as the stakeholders of cultural autonomy of the national minorities, were transferred from the legal to the constitutional category, as well as the existence of other comprehensive and directly applicable constitutional rights of the members of the national minorities, which are a necessary condition and inseparable part of any strategy striving to integration of national minorities into the society and to application of high standards of international legal protection of minorities. The constitutional amendments and the elections after the dissolution of the State Union of Serbia and Montenegro have contributed to the delay in adoption of certain solutions contributing to integration and protection of national minorities, although there is no doubt that the changes in the structure of executive power in the Republic of Serbia have not resulted in the lack of continuity of the policy concerning national minorities, nor in the lack of competence to perform the jobs of state administration in the field of protection and promotion of the status of national minorities. On the contrary, it may be pointed out that since 2000 and the membership in the Framework Convention, considerable progress has been made at the institutional, legal and political-strategic levels.

At the institutional level of protection of human and minority rights, the Republic of Serbia has introduced the Ombudsman into its legal system and one of its deputies is in particular charge of protection of national minorities. In addition, there is also the Autonomous Ombudsman in the Autonomous Province of Vojvodina, and in several larger towns in Serbia, including Belgrade as well, there are their own ombudsmen. In the Republic of Serbia, the Council of the Republic for National Minorities also deals with preservation, promotion and protection of national, ethnic, religious, linguistic and cultural specifies of the members of the national minorities (see the reply to paragraph 103). The Provincial Council of National Communities has been established in the Autonomous Province of Vojvodina, as a temporary working body of the Executive Council, which takes care of preservation, promotion and protection of national, ethnic, religious, linguistic and cultural specifies of the members of the national minorities in the territory of the Autonomous Province of Vojvodina. In the nationally mixed units of local self-government, the Law on Local Self-Government prescribes the establishment of the councils for the relations between the nationalities, which are to be composed of the

representatives of all national and ethnic communities (see the reply to paragraph 253). The establishment of the new government of the Republic of Serbia in June 2008 also included the establishment of the Ministry of Human and Minority Rights, which again includes a special sector for promotion and protection of the rights of the national minorities. Such an organization provides institutional grounds for a comprehensive and complete approach to protection, affirmation and promotion of minority rights in the Republic of Serbia at all levels of power organization.

Within the period after the preparation of the State Report on the implementation of the Framework Convention for the Protection of National Minorities, new laws prescribing in more details certain important issues of protection and accomplishment of minority rights and advancement of the status of the national minorities were adopted in the Republic of Serbia. It primarily refers to the Law on the National Minority Councils, which governs the issues of election, competence and funding of the national minority councils, the Law on Prohibition of Discrimination, which prescribes in details the constitutional prohibition of discrimination and the Law on Political Parties, which explicitly prescribes that a political party of some national minority may be established by the at least 1,000 citizens of the Republic of Serbia who are of age and who have business capacity, as different from other political parties, which may be established by 10,000 citizens who are of age and who have business capacity.

With the aim to improve the status of the members of the national minorities, which are also characterised as vulnerable groups, and their integration in the society, the Republic of Serbia has adopted numerous strategies, action plans and political documents. Among them, the most important ones are by all means the Strategy for the Improvement of the Situation of the Roma and the Action Plan for its implementation (see the reply to paragraph 80), the National Strategy for dealing with refugees and internally displaced persons (see the reply to paragraph 30), as well as the Strategy dealing with the re-integration of returnees on the grounds of the Readmission Agreement and the Action Plan for its implementation, which were adopted in 2009.

The authorities of the Republic of Serbia are committed to undertake in future, too, the measures for the improvement of the situation of the national minorities in all fields of social life, especially in the fields the national minorities are particularly interested in, but also in those where the participation of the members of the national minorities was weaker, such as already undertaken measures to improve the participation of the members of the national minorities in public jobs, especially in those concerning them (abolishment of the election census related to the political parties of the national minorities, the Conclusion of the Government of the Republic of Serbia on the measures to increase the participation of the members of the national minorities in the state administration bodies).

All the above mentioned is the very statement of comprehensive and strategic approach to integration of national minorities in the society and it has never been or it has never been taken in the Serbian society as the consequence of pressures by external stakeholders. On the contrary, all the things done in respect of protection and integration

of national minorities at institutional, legal and political-strategic levels are the expression and the confirmation of the democratic society and sensibility of the democratic political parties in the country concerning the issues of protection and improvement of national minorities. On this occasion, too, the authorities of the Republic of Serbia wish to stress that they are committed to continue to create the conditions for the basic strategic goal – integration of national minorities in all spheres of social life, starting from the standpoint that the level of protection of human and minority rights and the atmosphere in which the majority and the minority population constantly build and improve their relations in peaceful and creative atmosphere, is more than a clear indicator of the level of democracy in a society, of the power of its democratic potentials and of the readiness of the institutions to meet all challenges.

The authorities of the Republic of Serbia are sincerely committed to all those goals as a continuous process, through constant re-examination of the existing solutions, improvement of legislative and institutional frameworks, as well by applying the min practice, so they invite the Committee of Ministers not to state the opinion in its Conclusions and Recommendations that in the Republic of Serbia there is the lack of a comprehensive and strategic approach towards the integration of its minorities into the society.

Paragraph 13

There are considerable discrepancies in the implementation of minority rights between the Province of Vojvodina where regulations and relevant practice relating to minority language use and education are more advanced, than other parts of the country where minorities are living in substantial numbers such as Sandžak (Bosniac minority), South Serbia (Albanian minority) and East Serbia (Bulgarian and Vlach-Romanian minorities). At local level, implementation of minority rights provisions is often reported to vary according to the political circumstances prevailing in the municipality concerned. Such a situation represents a clear obstacle for the consistent implementation of legal provisions and needs to be tackled.

The expressed opinion of the Advisory Committee contains three conclusions: 1. In the Autonomous Province of Vojvodina the regulations and the relevant practice concerning the use of minority languages and education are at a higher level in relation to other parts of the country, 2. The differences in the implementation of minority rights are considerable and 3. The implementation of the provisions on the minority rights at the local level is different depending on the political circumstances in each unit of the local self-government.

According to the understanding of the authorities of the Republic of Serbia the expressed findings of the Advisory Committee contain unilateral interpretation and neglect the important circumstances the Republic of Serbia had pointed out in its Report. Moreover, the expressed findings of the Advisory Committee are not in compliance with the findings contained in other opinions.

The authorities of the Republic of Serbia point out in the first place that in the Republic of Serbia the laws governing the method of accomplishment of certain rights guaranteed in the Constitution are in force in the entire territory of the Republic off Serbia and that, in this sense, there is no difference in the legal position of national minorities at the normative level in some geographic regions of the country. In this sense, it should be stressed in particular that the regulations adopted in the Autonomous Province of Vojvodina have less legal power than the laws, that they are adopted on the grounds of the laws and that they cannot establish the legal system leading to unequal legal status of national minorities in different parts of the country.

Possible differences in relation to the official use of the minority languages and education are not explicitly the consequence of the existence of the political-territorial autonomy in a part of the territory of the country, for the issues of the official use of languages and scripts and education are partly within the competence of the local self-governments. In other words, if there are even certain differences in respect of the official use of the languages and scripts and education, such differences may be the consequences of vested rights guaranteed by the Constitution of the Republic of Serbia and the Law on Protection of Rights and Freedoms of National Minorities in those fields of social life, or the consequence of the high percentage of participation of the members of the national minorities in the total population of certain units of the local self-government, or the consequence of different economic possibilities of different units of the local self-government, or different geographic regions. The Law on Protection of Rights and Freedoms of National Minorities prescribes that the minority languages are introduced in the official use in certain units of the local self-government if the members of the national minorities participate in the total number of population of a municipality in the percentage of more than 15%, that the unit of local self-government may also introduce the language of some national minority in the official use for a smaller number of the members of the national minority and that the minority languages shall remain in the official use in those units of local self-government where they were in the official use before the adoption of the law, regardless of the percentage of participation of the members of the national minorities in the total number of population of the unit of local self-government. The stated solution is reinforced by the provision of the Constitution of the Republic of Serbia prescribing that the achieved level of protection of human and minority rights may not be decreased. If we take the stated solutions into account, it is clear that although there are differences in the area of the official use of the languages and scripts in respect of the introduction of some minority languages in the official use and the percentage participation of the members of the minorities in the total population in the territory where the language concerned is introduced in the official use, such differences should neither be taken nor interpreted as the differences between the Autonomous Province of Vojvodina and other regions, which do not enjoy the political-territorial autonomy but as the differences existing between certain units of the local self-government.

Such differences, which are most frequently the failure to introduce certain minority languages in the official use, or the failure to have certain forms of the official use or education in the languages of the national minorities, are not, according to the opinion of

the authorities of the Republic of Serbia, dramatic nor of essential importance. They are also partially the consequence of the fact that certain languages (e. g. the Bosnian) present new linguistic standards resulting from the cease of existence of the Serbian-Croat language standard. Also, such differences may also be the consequence of the fact that some languages, such as the Vlach language, have not been standardized and, as such, they cannot be used officially as long as they are not standardized, and neither in the educational process. In this sense, the authorities of the Republic of Serbia stress once again the distinct dissatisfaction with the fact that the Advisory Committee uses in many paragraphs of its Opinion the expression „the national minority of the Vlachs-the Romanians", which implies the sameness of these minorities, or certain elements of their identity, as it is in this paragraph implying that the Romanian language has neither been introduced in the official use nor in the educational process in the Republic of Serbia. The authorities of the Republic of Serbia, proceeding from the freedom of national affiliation and freedom of self-identification of each individual pursuant to Article 3 of the Framework Convention, wish to reiterate they would not allow any imposing of identity to any person concerned and stress that, according to the population census, there are no concordance and sameness between the Romanian and the Vlach languages and their speakers.

In view of all the above mentioned, it is clear that the third finding of the Advisory Committee stating that the implementation of the provisions on the minority rights differs in accordance with the political circumstances in each unit of the local self-government is also arbitrary, and it does not take into account all the relevant circumstances. The authorities of the Republic of Serbia strongly insist on excluding by the Committee of Ministers in its Conclusions and Recommendation of any findings that might indicate the differences in the status of the national minorities and the implementation of the minority rights between the Autonomous Province of Vojvodina and other regions of the country. The authorities wish to draw a particular attention to unsustainable and absolutely unacceptable linking of the Vlach and the Romanian minorities, which is present in several paragraphs of the Opinion of the Advisory Committee. In addition, such a linking is contrary to the viewpoint stated in paragraph 41 of the Opinion where it is stated that it is essential to respect the right of every person belonging to a national minority to choose freely to be treated or not as such, in line with Article 3 of the Framework Convention. The authorities of the Republic of Serbia insist on a consistent re-affirmation of the principle of free self-identification by the Committee of Ministers, as contained in Article 3 of the Convention.

Paragraph 17[1]

Ethnically-motivated offences are not adequately addressed by the police and the courts, as evidenced in the case of recent manifestations of violence against persons belonging to the Albanian and other minorities at the beginning of 2008. This situation is particularly worrying and requires urgent action.

[1] A reply to paragraph 17 of the Opinion also refers to paragraphs 106, 107 and 135 of the Opinion.

In the recent period progress has been made in the improvement of the conditions of inter-ethnic and inter-religious relations in the Republic of Serbia**,** so the number of offences of this kind was reduced accordingly. The only exception is a short period at the beginning of 2008 when the so-called Republic of Kosovo was self-declared, contrary to the provisions of the national law of the Republic of Serbia and of the international law. On this occasion, there were gatherings of citizens in several towns and there were some individual offences, mainly in the territory of the Autonomous Province of Vojvodina and other regions, which manifested in damages of some business premises of the citizens of belonging to the Albanian nationality. These are individual cases of stone throwing to the windows of the bakeries and other shops, as well as writing of slogans and graffitoes.

Within the mentioned period there were 196 offences of this kind, and the number of offences was later reduced by adequate state and social measures (the Government, the Ministry of Internal Affairs, the National Assembly, the media, citizens), which can be illustrated by the following data: in March 2008 there were 34 recorded offences, 14 in April, 7 in May, 4 in June, 2 in July, 4 in August and 1 in September. There were 237 offences in total, which presents a considerable trend of reduction in relation to 2007.

In addition to the decrease of the total number of offences committed in the territory of the Republic of Serbia, it is particularly important that the number of severe offences has been decreased, such as, for example, assaults (from 35 to 19), and almost all other forms of expression of possible inter-ethnic and inter-religious intolerance were also reduced.

In respect of the structure of 237 recorded offences within the period from January to September 2008, there were: 19 assaults (35 in 2007), 10 fights (9), 8 anonymous threats (2), 29 so-called verbal conflicts (35), 41 damages of religious buildings (49), 107 slogans and symbols (100), 6 grave stone defilements (16), 5 damages of buildings belonging to the persons of the Albanian nationality (6), 3 damages of buildings belonging to the persons of the Roma nationality (3), 6 other damages (8) and 3 other cases of causing inter-ethnic intolerance.

In respect of the place of commitment, it has been established that out of 19 assaults 12 assaults were committed in the territory of the Police Directorate of the city of Belgrade, 3 were committed in the territory of the Regional Police Directorate of Subotica, 2 were committed in the territory of the Regional Police Directorate of Novi Sad and 1 assault was committed in the territory of the Regional Police Directorate of Čačak and the Regional Police Directorate of Vranje each.

In respect of the victims, the following was recorded, namely the following were injured because of assaults committed against them: 11 Roma (5 cases were cleared up), 4 Hungarians (2) and a citizen of Ghana, one Serb and one guard at the building used by the members of the religious community of Jehovah's witnesses. In addition to assaults 10 fights were recorded, of which 5 fights were between the Serbs and the Roma, 2 fights were between the Serbs and the Albanians, 1 fight between the Serbs and the Croats, 1

fight between the Serbs and the Hungarians and 1 fight between the two persons of the Serbian nationality but of different religious affiliations.

According to the statistical data, there were also damages to religious buildings in the total number of 41, of which 24 were in the territory of committed in the territory of the Autonomous Province of Vojvodina. In the majority of cases (33), window glasses were broken, while in other cases there were mainly damages to entrance doors of the buildings concerned. Slogans and graffitoes are also one of the important indicators of the conditions of inter-ethnic and inter-religious relations, so in the course of 2008 there were 107 such recorded cases, in relation to 100 in 2007. A new form of expression of inter-ethnic intolerance is also observed through the Internet communications and electronic mail.

Sporadic and isolated cases of anti-Semitism are not sufficient reason to make a conclusion about anti-Semitism being spread in Serbia. For example, within the period from 2000 to almost the end of 2008 there was only one registered case of assault against the citizen of Israel, which was cleared up and on these grounds criminal charges were filed against the perpetrator to the competent municipal public prosecution office. There also were recorded cases of writing slogans (graffitoes) and broken window glasses of the religious building, one in Belgrade and 2 in Niš, which was cleared up and on these grounds criminal charges were filed against the perpetrators to the competent municipal public prosecution offices. The Ministry of Internal Affairs here also made good results in co-operation with other authorities, local self-government and citizens, so criminal charges were filed for causing intolerance against 7 perpetrators (the Serbs), for damages to the belongings against one perpetrator (a Hungarian) and 3 tortuous charges against the perpetrators of Serbian nationality.

The undertaken operative measures and prosecution of perpetrators indicate that the Ministry of Internal Affairs, in co-operation with other state authorities (courts, municipal public prosecution offices, etc.) and local self-government, has achieved good results in the combat against all forms of inter-ethnic and inter-religious intolerance. Out of 237 offences, which had been recorded conditionally to have the properties of inter-ethnic and inter-religious offences, criminal charges were filed for 60 criminal acts, of which causing national, racial and religious hatred are the most evident (38). Charges included 22 persons (19 Serbs, one Muslim, Romanian and Croat). There were 37 motions to initiate tortuous proceedings, of which against: the Serbs (54), the Roma (21), the Albanians (5) and one each against Croat, Hungarian and Romanian.

The table below contains the data about the persons charged, accused and convicted in the Republic of Serbia within the period from 2004 to 2008 for the criminal act of causing national, racial and religious hatred contained in Article 317 of the Criminal Code.

	2004	2005	2006	2007	2008
Charged Persons	23	73	84	80	82

Accused Persons	1	2	6	8	26
Convicted Persons	1	1	6	6	16

Within the period after the submission of the State Report, the Republic of Serbia adopted two laws, the Law on Prohibition of Discrimination and the Law on Prohibition of Manifestations of Neo-Nazi or Fascistic Organizations and Associations and Prohibition of Use of Neo-Nazi or Fascistic Symbols and Features, which show unambiguous and firm intention of the state to combat against all forms and manifestations of expression of discrimination, intolerance and hatred, especially against those caused by somebody's race or national and religious affiliation.

In Article 13 the Law on Prohibition of Discrimination classifies causing and encouragement of inequality on the grounds of national, racial or religious affiliation as a severe form of discrimination. Thus, this law also prescribes an adequate system of court protection in the civil proceedings for the persons whose rights, prescribed by this law, have been violated. In Article 13 this law prescribes several complaints that may be submitted for the protection of rights, such as: prohibition of action threatening discrimination, prohibition of further action of discrimination, namely, prohibition to repeat action of discrimination; establishment of discriminatory acts of the defendant against the plaintiff or another person; commitment of action in order to eliminate the consequences of discriminatory acts; compensation of pecuniary and non-pecuniary damage; publication of the judgement adopted in respect of some actions referred to in paragraphs 1 - 4 of this Article. The court is obliged to resolve the cases initiated on the grounds of the Law on Prohibition of Discrimination in an urgent procedure.

The Law on Prohibition of Manifestations of Neo-Nazi or Fascist Organizations and Associations and Prohibition of Use of Neo-Nazi or Fascist Symbols and Features was adopted in May 2009, which prescribes prohibition of manifestations, display of symbols or features or any other activities of neo-Nazi or fascist organizations and associations, which in some way violate the constitutional rights or freedoms of citizens and also prescribes sanctions for violations of this law.

In Article 3 this law prescribes prohibition of production, storage, presentation, enlargement or dissemination of promotional matter, symbols or features in any other way, which cause, encourage or spread hatred or intolerance for free self-identification of citizens, racial, national or religious hatred or intolerance, propagate or justify neo-Nazi and fascist ideas and organizations or jeopardize the public order in some other way. Causing, encouragement and spreading of hatred or intolerance within the meaning of Article 3 of this law is placing the symbols, features or the promotional matter at the disposal of the public, which contain neo-Nazi or fascist features through the computer system. The promotional matter, symbols and features include in particular: flags, badges, marks, drawings, graffitoes, emblems, phonographic recording, musical compositions, photographs, slogans, uniforms or parts of uniforms (Article 6).

In Article 5 this law prescribes that any organized or spontaneous public performance causing, encouraging or spreading hatred or intolerance towards the members of any nation, national minority, church or religious community is considered to be manifestation, display of symbols or features or any other activity of the members or sympathizers of neo-Nazi and fascist organizations and associations.

Tortuous sanctions are prescribed for violations of the provisions of these two laws, the amount of which is in accordance with the Law on Offences and with other laws these laws are complied with.

In view of the above mentioned, the authorities of the Republic of Serbia wish to invite the Committee of Ministers not to stress that the police and the court do not efficiently consider ethnically-motivated offences in its Conclusions and Recommendations.

Paragraph 18[2]

More consistent implementation of the existing legal framework regarding the use of minority language in relations with local administrative authorities and the display of traditional place names and topographical signs in minority languages is required. There is also a need to further clarify the existing legal regulations governing the right to use of personal names in minority languages and its official recognition and remove any territorial limitations to this right.

The new Law on Registry Books, which was adopted in March 2009 and whose enforcement started on 27 December 2009, precisely defines the issue of registration of personal names of children, parents, spouses and deceased members of the national minority in the registry books (of births, marriages and deaths). Namely, in Article 17, for the first time in the regulation governing the registry books, it is explicitly prescribed that the members of the national minority have the right to enter their personal name in the registry books according to the language and scripts of the members of the national minority, which does not exclude parallel entry of personal names in Serbian language in Cyrillic script as well. By this provision the members of the national minority gain the right to entry of their personal name in their mother tongue and script regardless of the territorial jurisdiction of the body for entry of relevant facts in the registry books, namely regardless whether the entry is to be made in the registration area of the town or municipality where the language of such a national minority is in the official use or not.

The law also contains a separate chapter concerning registrars and their professional training, as well as the programmes and the methods how to check up knowledge during the professional training. Before the commencement of enforcement of this law, some by-laws necessary for the enforcement of the law shall be adopted, *inter alia*, the by-law governing the programme and method of how to pass special professional examination to obtain a registrar's certificate, the contents and the form of professional training of registrars and the method how to check up the knowledge the registrars obtained during their professional training.

[2] A reply to paragraph 18 of the Opinion also refers paragraph 176 of the Opinion.

The authorities of the Republic of Serbia invite the Committee of Minister not to stress in their Conclusions and Recommendations the ambiguities of legal regulations prescribing the right to use personal names in minority languages, nor the findings that the conditions should be provided for consistent application of the right to use personal names in minority languages, including the adoption of consolidated procedures and the training of registrars, since the Law on Registry Books adopted this year already prescribes such issues.

Paragraph 20

Recognition of diplomas in Serbia is reportedly still subject to lengthy and unnecessary complex procedures. This has caused obstacles for persons belonging to national minorities to access higher education institutions as well as access employment. Steps should be taken to find comprehensive solutions regarding the recognition of diplomas by educational establishments in Kosovo. There is also a need to ensure that the competent Serbian educational authorities are issuing their decisions on the recognition of diplomas of other institutional establishments of the region within a reasonable time-limit.

In the legal system of the Republic of Serbia the recognition of primary and secondary school certificates and diplomas is performed by the Ministry of Education, while the recognition of foreign higher education papers is independently performed by the domestic higher educational institution the application had been submitted to. According to the existing regulations, the recognition of foreign educational papers is done in the procedure in which, *inter alia*, it is decided on the grounds of the curricula of educational institutions at which the diploma being recognized had been gained. As far as the authorities of the Republic of Serbia are concerned, there were no complaints in the Republic of Serbia against any person that the procedure of recognition of some foreign school or higher education papers had been too long and unnecessary, nor there were any cases that someone had any problems on the occasion of admission to higher education institutions and employment. The fact that a large number of foreign citizens study in Serbia clearly indicates that persons having adequate qualifications, regardless of the place they had gained them, have no problems on the occasion of admission to higher education institutions.

In paragraph 213 of the Opinion the Advisory Committee welcomes the fact that the Serbian authorities had decided to recognize diplomas from Kosovo and Metohija having UNMIK seals and acknowledged this to be a positive step to enable those who had graduated in Kosovo and Metohija to continue their education or get employment in Serbia without unnecessary obstacles, which confirms that the authorities of Serbia are not motivated to create obstacles to the members of the Albanian or any other national minority on the occasion of admission to higher education institutions or on the occasion of employment in the Republic of Serbia. Therefore, the Serbian State recognizes diplomas issued by UNMIK, which acts strictly within the framework of the Resolution 1244 of the United Nations Security Council.

Diplomas and other papers issued by the Interim Institutions of the Self-Government of Kosovo and Metohija, to the members of the Albanian national minority or any other person, the Republic of Serbia does not recognize and it shall neither recognize the min future as long as they indicate that they had been issued by the authorities of „the independent state", of the so-called Republic of Kosovo. To conclude, the failure to recognize such documents cannot be interpreted in the context of the state policy towards the national minorities, and even less interpreted as discriminatory policy towards the members of the Albanian national minority, but it is about the problem that must be considered in a wider context. The recognition of such diplomas might have far-reaching implicit effects to a clear and unambiguous standpoint of the Republic of Serbia in relation to the status of Kosovo and Metohija.

Paragraph 28

Persons belonging to the Roma minority still face discrimination in a number of fields including employment, health and housing. The lack of personal documents of both local and internally displaced persons has still not been tackled in an adequate manner, which has resulted in obstacles to access a number of social rights. More resolute action is needed in the context of the future National Strategy on Roma to tackle these problems.

The authorities of the Republic of Serbia would like to emphasize again the political will and firm determination to ensure complete and effective equality among the members of the Roma national minority by means of adequate measures, which had been identified as one of the most vulnerable social groups in the Republic of Serbia, and of those who belong to the majority, in all areas of economic, social, political and cultural life. Within the last two years, namely in the period after the adoption of the State Report, the state has taken a series of activities and measures contributing to the improvement of the status of the Roma national minority, which shall be addressed in more details in the replies to certain paragraphs mentioned in the second Opinion of the Advisory Committee (see replies to paragraphs 80, 83, 84, 85, 111 and 260).

Within the framework of efforts to mitigate unfavourable social circumstances the majority of the members of the Roma nationality live in and improve their status, on 9 April 2009 the Government of the Republic of Serbia adopted the Strategy for Improvement of the Roma Status (hereinafter referred to as the Strategy), and on 2 July 2009 it adopted the Action Plan which makes the priorities and the recommendations of the Strategy operational. As it is explicitly said in the Strategy, the objective set in this document is the improvement of the Roma status and reduction of differences between the Roma population and the majority population in all areas of social life. Also, this document provides the grounds to identify and apply the measures of affirmative action, primarily in the fields of education, health, employment and housing.

All fields of social life wherein measures for the improvement of the Roma status should be undertaken, have been treated equally important and all of them have been given equal attention. However, the Strategy clearly distinguishes the necessity of application of the

measures for the improvement of full and effective equality, which is on the grounds of the statistical indicators, beyond reasonable doubt, infringed in the fields of education, health, employment and housing. Within the scope of measures for the improvement of comprehensive and effective equality in the field of education , the measures to create the system conditions for the inclusion of the Roma in the education system are of particular importance as well as for their longest possible presence in the system (continual education), for the development of a special admission policy for the Roma pupils, for the preparation of education institutions to admit the Roma pupils and the measures for the preparation of the Roma children to be placed in schools. The basic approach for the improvement of the status of the Roma in the field of housing rests on the necessity to legalize the Roma settlements. For the settlements to be determined as settlements that cannot be made legalized and improved, the Strategy prescribes it is necessary to improve the living conditions by applying adequate technical solutions to the existing essential infrastructure within the period before they move out or relocate (water, electricity, access roads, etc.). Regular utilities and technical maintenance should be provided in all Roma settlements by means of the adequate institutional system existing in other parts of towns. The Strategy also prescribes that the settlement co-ordinators should be introduced in the system of maintenance of the settlements as persons permanently employed within the relevant municipal, namely town services. The recommendations contained in the Strategy concerning the field of employment consist of general recommendations, recommendations on the measures for the increase of employment and entrepreneurship among the Roma and participation of the Roma in public services and public works, as one of the measures that might increase the employment among the Roma.

Paragraph 29[3]

In the area of education, the undue placing of Roma pupils in special schools for persons with mental disabilities is still reported to occur. This needs to be stopped urgently. Undue administrative and other obstacles of enrolment of the Roma pupils to schools needs to be vigorously addressed. Roma teaching assistants need to better integrate into the general education structure. Adequate language support should be in place for Roma pupils displaced from Kosovo and Roma returned from Western European countries, who lack proficiency in Serbian.

The authorities of the Republic of Serbia are determined to eliminate in full the problem of undue placing of the pupils of the Roma nationality in special schools for persons with mental disabilities. It is to be stopped and the new Law on the Basics of Education and Upbringing adopted on 31 August 2009 shall also make it possible. This law, being different from the previous one, defines the principles of education and upbringing stressing equality and accessibility of the quality education, directed towards the child, in accordance with the child's needs and capabilities, in a democratically organized and socially accountable institution. The accomplishment of the right to education without any impairing of other rights of the child and other human rights is stressed. Thus, the focus of education and upbringing is changed and aimed at equity, quality and efficiency. The role of school to socialize children is also stressed by means of clear provisions on

[3] A reply to paragraph 29 of the Opinion also refers to paragraphs 204 and 208 of the Opinion.

prohibition of discrimination, violence, abuse and neglect. The obligation of the institutions to ensure all the conditions for the accomplishment of the rights of the child and the pupil is also prescribed, as well as the right to protection and just treatment of pupils by school and under the circumstances it violates the obligation prescribed by the mentioned law.

The definition of the principle of admission to education also includes the definition of the enrolment policy, which implies the admission to education and education institutions under equal conditions, which do not discriminate anyone on any grounds, and the assessment of the child for readiness for school is performed in the mother tongue of the pupil. Within the meaning of early monitoring of the child's growth, detection of the child's needs, without „classification", adequate and continuous educational support is ensured and, accordingly, a teaching assistant is introduced, as the support to education of children, especially of those from marginal groups, an individual curricula, as the support to children in education and an expert team is established to monitor the progress of these children and pupils.

In addition to the Action Plan for the implementation of the Strategy for the improvement of the status of the Roma specifying a series of measures and activities to prevent segregation, suppression of discrimination in education was one of the priorities within the framework of the presidency of Serbia over the Roma Decade, within the period from June 2008 to June 2009. In order to monitor and document unequal treatment of Roma children in schools, a questionnaire has been prepared including the data of all the members of the Decade. The office for the implementation of the Strategy keeps successful co-operation with school administrations in order to resolve the current problems, as well as to plan future measures and activities that should contribute to the establishment of conditions for better and more qualitative education of Roma children. The results of such activities are multiple and reflected in: the application of measures prescribed by the Action Plan for the implementation of the Strategy for the improvement of the status of the Roma, more active participation of the local community in the improvement of education, meeting specific needs of the local Roma community, participation of representatives of school administrations in the creation of policy of accessible quality education for children from marginal population groups.

On the spot, within the units of local self-government an important role in the improvement of education is also played by the local Roma co-ordinators at local self-governments, teaching assistants as well as medical mediators. As the representatives of the local Roma community, the Roma co-ordinators, teaching assistants and medical mediators shall contribute to dissemination of information of importance to the Roma community. Since they perform their activities on the spot, in the Roma settlements, they are the most important link between the local Roma community and the local institutions. They help collect necessary documents to enrol children in pre-school and school institutions, mediate in providing aid to buy textbooks and access to other rights in the field of medical and social care. The Action Plan for the implementation of the Strategy for the improvement of the status of the Roma, in the part concerning education, adopts a series of measures and activities aimed at the improvement of education for the Roma

children. These measures include: introduction of teaching assistants to help the Roma children in pre-school and primary education; regular collection and updating of the data about health, social-economic and financial standing of families, in co-operation with the social welfare centres, associates in educational-upbringing activities, local Roma co-ordinators, visiting services of medical centres, local inclusion teams, associations of citizens, local teams of the National Action Plan; inclusion of the entire population of the Roma children in compulsory pre-school programme, primary, secondary and university education and support to the re-placement or inclusion of children from special schools to ordinary schools.

The Action Plan pays particular attention to the prevention of segregation by desegregation measures, researches about the conditions, causes and modalities of segregation of Roma in education in pre-school institutions and primary schools, by abolishing segregation in education in pre-school institutions and primary schools through the preparation of local communities and schools in the entire territory of the local community to render support to the implementation of the programme of desegregation (equal enrolment of children in schools located in the territory of the local self-government units) and monitoring of segregation in education on the grounds of elaborated indicators in pre-school institutions and primary schools.

For the pupils of the Roma nationality who had come to Serbia as displaced persons from Kosovo and Metohija or who had come within the readmission programme, a model has been prepared related to language support to internally displaced or readmitted Roma. This programme has been prepared with the Council of Europe and the Roma Educational Fund. Its implementation has not started yet because the funds for its implementation are expected to be received.

The Strategy for re-integration of returnees based on the Readmission Agreement establishes and defines the problems of the younger population of returnees, primarily of children of pre-school and school age. Since the children of the returnees have often been born abroad, or have gone abroad as very small children and spent many years abroad, they do not know Serbian sufficiently or they do not know it at all, and neither the Cyrillic script in which the upbringing-educational programme is implemented in the Republic of Serbia. That is why these children face tremendous challenges in the continuation of their education in the Republic of Serbia. Such children fall behind in education, they cannot follow the classes, they are not motivated and often leave school, or they are unduly enrolled in schools for children with special educational needs. Also, they often face intolerance and discrimination by the community because they do not fit in general standards. The young people who return are not satisfied because they lack proficiency in Serbian for which reason they are no table to continue higher education and they often give up further advancement.

In order to resolve the above mentioned problems, many measures and activities in respect of integration of children have been prescribed, the Ministry of Education as the performer, in co-operation with the local self-government and non-governmental organizations. In order to provide assistance in learning to children and younger returnees

who have less successful achievements, preparation of special support programmes has also been foreseen within the curricula and annual programmes, as well as the co-operation between schools and non-governmental organizations having accredited programmes. The activities to prepare special programmes to address children and young returnees include: preparation of an inclusive support programme for children who have been included in regular institutions, preparation of programmes for primary and secondary school pupils who have exceeded the relevant age through the preparation, organization and implementation of exams for enrolment in the next grade, as well as the preparation and organization of continuous education. The activities and measures in the field of training of the existing upbringing and teaching personnel relate to: implementation of special /specific educational programmes for certain needs of children and young returnees, preparation of new and improvement of the existing educational programmes, application of interactive teaching/learning methods, individualization of educational process as well as the co-operation with families.

The implementation of the pilot support project for children who return from the Western European countries in learning Serbian in 15 municipalities in Serbia is also worth mentioning, which was implemented within the period from November 2007 to March 2008 by the Agency of Human and Minority Rights under the support of international organizations.

The activities in the domain of education undertaken within this project had the form of direct support to children of the returnees, in the form of Serbian classes and by free of charge translations of school certificates from other foreign countries. These measures were aimed at the temporary language difficulties of the returnee children, preparing the grounds for other interested parties to perform the same activities in other locations and at other levels, as well as to overcome the gap before the systematic educational measures are introduced, which will tackle the problems of the returnee children in a systematic way.

The implementation of the project started with the preparation of the strategy and the curricula for the activities with the returnee children, as well as by the selection of municipalities and primary schools where the very activities shall be carried out. This project included the municipalities where there was the largest number of the returnee population: Zemun, Mladenovac, Novi Beograd, Kikinda, Zrenjanin, Kraljevo, Kruševac, Zaječar, Niš, Negotin, Vranje, Tutin, Bujanovac, Sjenica and Novi Pazar. The criteria for the selection of primary schools was the number of children of the returnee population and the interest of the very school to participate in the project. The very schools proposed the personnel to work with children in order that they learn Serbian, which is the language of the classes at schools, thus providing school teachers to perform sensitive jobs with vulnerable groups. Six additional classes of Serbian were weekly organized at each school. In addition to the language classes, all the pupils also had free of charge snacks, as well as the textbooks and school accessories.

Pupils in the total number of 235 attended additional classes of Serbian language (105 girls and 131 boy), whose families were returned from Holland, Germany, Denmark,

Sweden and Austria. The children were of age from the first to the last grade of primary school. The majority of children were of the Roma nationality. The teachers engaged to perform these activities noticed that a large number of children who attended classes of Serbian language showed progress in general classes. Their vocabularies were improved, social interaction was improved and they had better results in other subjects. The children were motivated to learn and did not find these additional classes to be a burden in addition to their existing classes and school assignments.

Paragraph 30[4]

Although some steps have already been taken, Serbia still lacks a comprehensive strategy for dealing with refugees and internally displaced persons. It is important that adequate steps are taken in that direction in order to find durable solutions to their situation.

On 30 May 2002 the Government of the Republic of Serbia adopted the National Strategy for the resolution of issues of refugees and internally displaced persons. The existing National Strategy prescribes two basic directions for the resolution of issues of refugees and internally displaced persons (IDP). The first one, also the most desirable one, is to create the conditions for the return to place of previous residence. The second relates to the implementation of various programmes intended for the creation of conditions for integration of refugees from the former republic of SFRY and the improvement of living conditions of internally displaced persons from the territory of AP Kosovo and Metohija while being displaced.

One of the most important activities prescribed by the Strategy is to close collective centres by providing adequate living conditions for the displaced persons outside these centres. Since the beginning of the implementation of the Strategy up to now the number of collective centres was reduced from 343 to 72, and the number of persons place din them from more than 24,500 to about 5,500.

With the aim to implement the National Strategy, various programmes are performed:

- The programme complete construction, partial construction and self-construction;
- Purchase of and donations to rural households;
- Grant of prefabricated houses;
- Aid in the form of packages of construction materials to finish the started buildings;
- Income earning projects for economical strengthening and independence of families;
- Construction of dwelling houses under socially protected conditions;
- Adaptation and amendments of the buildings of collective centres to institutions for placement of the old.

Since 2002 the housing problems of more than 5,100 families have been solved through the mentioned project, having more than 22,000 persons.

[4] A reply to paragraph 30 of the Opinion also refers to paragraphs 127 and 128 of the Opinion.

The Commissariat for Refugees has been preparing the revision of the existing Strategy in order to update it and bring it in compliance with the existing conditions.

The projects aimed to resolve the issues of refugees and internally displaced persons are one of the priorities for funding from IPA resources (more than 20 million euros shall be provided). At the same time the Republic of Serbia has been allocating considerable funds in the budget for the functioning of collective centres, placement in social care institutions, health care and education of refugees and internally displaced persons. Considerable funds have also been allocated in the budgets of local self-governments. These funds are mainly intended for infrastructures of the buildings were the refugees and internally displaced persons shall be living.

In order to provide a more successful implementation of the Strategy and spend the funds more efficiently, the Commissariat for Refugees supported the municipalities interested to solve the problems of the refugees and internally displaced persons in their territories in an adequate way in the preparation of local action plans. The support to prepared local plans is partly provided by the Commissariat for Refugees by means of budget funds and partly through the co-ordination of donor activities.

In view of the fact that Serbia has the largest number of refugees and internally displaced persons in the region, in order that their status is adequately resolved, the Government of the Republic of Serbia adopted a detailed and comprehensive strategy as far as 2002. On the grounds of the above mentioned, the authorities of the Republic of Serbia find that the Conclusions and the Recommendations of the Committee of Ministers should not include findings on the lack of a comprehensive strategy addressing the refugees and internally displaced persons.

Reply to Article 3 of the Convention

Paragraph 35

The Advisory Committee regrets that the Serbian authorities have maintained the citizenship requirement in the general definition of national minorities in Article 2 of the Law on National Minorities. As already explained in the context of its first Opinion on the then Serbia and Montenegro, the Advisory Committee finds that such a citizenship requirement can only have a negative impact on those persons whose citizenship status, following the break-up of Yugoslavia and the conflict in Kosovo, has not been clarified. This is particularly the case of the Roma who face difficulties in obtaining confirmation of their citizenship, notably due to a lack of personal documents.

The Law on Protection of the Rights and Freedoms of National Minorities defines a minority as any group of citizens representative sufficiently in relation to its number, although it represents a minority in the territory of the state, which has been in long and tight relations with the territory of the state and has its own specific features such as language, culture, national or ethnic affiliation, origin or religion, which make it different

from the majority of the population, the members of which take care to maintain their common identity together. Proceeding from the above mentioned, it is clear that in Serbia the national minorities are the groups fulfilling the following criteria: the members of the group are the citizens of Serbia, the group is different from the majority population in respect of its language, culture, national affiliation, origin or religion, the members of the group maintain their identity in community, and the group is also historically present in the territory of Serbia. Such a wide definition of a national minority is comprehensive enough to include all traditional minorities and corresponds to the relevant international standards.

The above mentioned definition of a national minority does not allow the inclusion of the immigrants or the persons without the citizenship of Serbia in it. By the legal definition of the expression of a national minority as stated in Article 2 of the Law on Protection of the Rights and Freedoms of National Minorities, efforts have been made to include in the legal system of the country the definition to be accepted by a large number of theoretical experts in the field of the international public law, which is in accordance with comparative experience and which is based on the European Charter on Regional or Minority Languages, which in Article 1 prescribes that the expression of „regional or minority languages“ does not include the languages of immigrants.

The authorities of the Republic of Serbia find that such an approach is also in accordance with the Framework Convention, which does not contain a definition of the notion of national minority but leaves it to the member states to define it. The protection of national minorities is the subject of the Framework Convention. According to the opinion of the authorities of Serbia, the Framework Convention is not a general document for the protection of human rights to protect the rights of all groups that differ from the majority population on the basis of some criterion. The members of such groups are protected in Serbia because they enjoy general human rights also prescribed by a large number of international instruments ratified by Serbia.

According to the opinion of the authorities of Serbia, the finding of the Advisory Committee that a citizen requirement „can only have a negative impact on those persons whose citizenship status, following the break-up of Yugoslavia and the conflicts in Kosovo, has not been clarified“ is relevant, although the authorities regain the standpoint that this problem can be overcome not only by leaving out the citizenship as the criterion of affiliation to some national minority, but in other ways as well, primarily by more liberal solutions in respect of obtaining the citizenship by persons who had had the citizenship of the former SFRY, which otherwise meet other requirements prescribed by the legal definition of a national minority in the Republic of Serbia. The authorities of the Republic of Serbia find that leaving out the citizenship from the definition of a national minority would beyond reasonable doubt open the possibility that other, not only vulnerable categories of the population the Committee points out to with all reasons, might be included in the protection of minorities for which in the Republic of Serbia there is neither any need nor economic capabilities (the immigrant labour from Asian countries, asylum seekers, etc.). In this sense, the authorities of Serbia make tremendous efforts to resolve the issue of the persons with no citizenship, which occurred after the

break-up of SFRY in an adequate way, by obtaining the citizenship of the Republic of Serbia in the first place.

The Law on Citizenship of the Republic of Serbia from 2004 (hereinafter referred to as the Law on Citizenship) prescribed that the citizenship may be obtained: by origin, birth in the territory of the Republic of Serbia, admission and pursuant to the international treaties. The basic method of obtaining the citizenship of the Republic of Serbia is by origin. It occurs combined with the system of obtaining the citizenship by birth in the territory of the Republic of Serbia. The combination of these two systems is practically accomplished in the way that any child, who has one or both parents to be the citizens of the Republic of Serbia (regardless of ethnic affiliation), namely any child born or who happens to be in the territory of the Republic of Serbia, if both his/her parents are not known or are of unknown citizenship or without citizenship, may obtain the citizenship of the Republic of Serbia. Also, a member of another nation or ethnic community born in the territory of the Republic of Serbia may be admitted the citizenship of the Republic of Serbia under easier conditions, if he/she had continuously spent at least two years in the territory of the Republic of Serbia and if he/she submits a written declaration on considering the Republic of Serbia to be his/her state.

The issue of citizenship has become more current in this region after the break-up of SFRY, and later after the Sate Union of Serbia and Montenegro ceased to exist. In this context, the provisions of the Law on Citizenship also prescribed wide options to obtain the citizenship of the Republic of Serbia on various legal grounds (refugees, displaced persons, persons having residence in the Republic of Serbia, persons born in the territory of the Republic of Serbia, etc.). In addition to dual citizenship, the law also prescribes multiple citizenships.

The members of national minorities in the territory of the Republic of Serbia, whether they are the citizens of former republic of SFRY, being newly established countries now, the Montenegrin citizens or the citizens of some other country, may obtain the citizenship of the Republic of Serbia on these legal grounds under considerably easier conditions.

Pursuant to the provision of Article 23 of the Law on Citizenship, a member of another nation or ethnic community from the territory of the Republic of Serbia who does not have residence in the territory of the Republic of Serbia is able to obtain the citizenship of the Republic of Serbia, as a refugee, an exiled or displaced person, regardless of ethnic affiliation, who resides in the territory of Serbia or who is a refugee abroad, if he/she file san application for the admission to the citizenship of the Republic of Serbia and a written declaration that he/she considers the Republic of Serbia his/her state.

A member of the national minority who had the citizenship of some other republic of the former SFRY on 27 February 2005, namely of another state established in the territory of the former SFRY, is also considered a citizen of the Republic of Serbia, pursuant to Article 52 paragraph 1 of the Law on Citizenship, if he/she has registered residence in the territory of the Republic of Serbia for at least nine years and if he/she gives a declaration on considering himself/herself a citizen of the Republic of Serbia, as well as a request to

be entered in the registry of citizens of the Republic of Serbia. Pursuant to this provision, the procedure to obtain the citizenship of the Republic of Serbia is extremely simple, and the citizenship is obtained on the date of the declaration on recognition of the Republic of Serbia as his/her state, and, thus, the entry in the registry of the citizens of the Republic of Serbia is also carried out on the same day. The citizens of Bosnia and Herzegovina, regardless of their ethnic affiliation, may also be admitted the citizenship of the Republic of Serbia under easier conditions, on the grounds of the Treaty on Dual Citizenship concluded between FRY and Bosnia and Herzegovina.

The decision on the requests of the Montenegrin citizens to obtain the citizenship of the Republic of Serbia are adopted by the Ministry of Internal Affairs by applying the Law on Citizenship, namely by applying the Law on Amendments and Supplements to the Law on Citizenship of the Republic of Serbia, from 2007, which prescribes an option to obtain the citizenship of the Republic of Serbia on various grounds and under considerably easier conditions. Namely, Article 52 paragraph 2 of the Law on Amendments and Supplements to the Law on Citizenship of the Republic of Serbia, which also prescribes an extremely simple procedure to obtain the citizenship of the Republic of Serbia, governs the provision of the citizenship of the Republic of Serbia by the Montenegrin citizens who had the residence in the territory of the Republic of Serbia on 3 June 2006 (an order for the registration), and the citizenship is obtained on the date of the declaration on recognition of the Republic of Serbia to be his/her state, and, thus, the entry in the registry of the citizens of the Republic of Serbia is also carried out on the same day. However, before the adoption of this law, the Montenegrin citizens also had the option to obtain the citizenship of the Republic of Serbia based on the Declaration on admission of the Montenegrin citizens having the residence in the Republic of Serbia to the citizenship of the Republic of Serbia, which was adopted by the Government of the Republic of Serbia. Also, the Montenegrin citizens who do not have registered residence in the territory of the Republic of Serbia may obtain the citizenship of the Republic of Serbia under easier conditions, pursuant to Article 23 of the Law on Citizenship of the Republic of Serbia. Although there is no bilateral treaty between Montenegro and the Republic of Serbia prescribing the option of dual citizenship, the application of the above mentioned provisions of the Law on Citizenship of the Republic of Serbia, the Law on Amendments and Supplements to the Law on Citizenship of the Republic of Serbia, as well as the Declaration on admission of the Montenegrin citizens having the residence in the Republic of Serbia to the citizenship of the Republic of Serbia, which was enforced before the adoption of the amendments of the law, the Montenegrin citizens are given an option to have dual citizenship, namely, to have multiple citizenship.

Paragraph 41

The Advisory Committee finds that there are still debates as to whether the Vlachs and the Romanians on the one hand and the Croats and the Bunyevtsi on the other hand have distinct identities. It further notes, as far as the Vlach and the Romanian identities are concerned, that these controversies are on-going inside and outside Serbia. Irrespective of the context, the Advisory Committee finds it essential that the

right of every person belonging to a national minority to choose freely to be treated or not as such, is respected, in line with Article 3 of the Framework Convention.

As underlined in both State Reports on the implementation of the Framework Convention in the Republic of Serbia, which had been submitted in the monitoring process, the competent authorities have not so far taken part in the debates on national affiliation, having a view that the authorities of the Republic of Serbia cannot and must not take part in the debates on national identity, that they must not be arbitrators in arguments on national identity of certain national communities, nor to impose national identity to any national community. Any sort of support to the activities in this context by the authorities of the Republic of Serbia would mean that the authorities of the Republic of Serbia are committed to certain viewpoints about national identity, namely, it would mean that they impose national identity to certain communities, which is contrary to the Constitution and the positive legal regulations of the Republic of Serbia, as well as to Article 3 of the Framework Convention for the Protection of National Minorities. On this occasion, too, it is stressed that the authorities of the Republic of Serbia are explicitly determined not to take part in the debates on ethnic affiliation of any of the national minorities, including Bunyevtsi, Croat, Vlach and Romanian national minority. Proceeding from the solutions contained in the Constitution (Article 47) and the Law on the Protection of Rights and Freedoms of National Minorities (Article 5), in practice the state abides the basic principle of freedom of national affiliation and expression and treats the above mentioned national minorities as equal and special identities. Moreover, the decision of the state not to take part in the debates on identity of certain communities does not mean that the state shall tolerate acts contrary to the Constitution aimed to disregard the freedom of national identification, national assimilation or to cause national intolerance and hatred.

The authorities of the Republic of Serbia welcome the recommendation of the Advisory Committee to continue to strictly abide by the principle of free self-identification pursuant to Article 3 of the Framework Convention and express their readiness to do so on this occasion, too. In this sense, the authorities of the Republic of Serbia remind the Committee that the debates on the national identity of certain communities, especially those between the Vlach national minority and the Romanian national minority in the Republic of Serbia, should not effect the findings and the opinion of the Advisory Committee and the Committee of Ministers, especially if they originate from outside the Republic of Serbia. The authorities of the Republic of Serbia express amazement that the Advisory Committee ever takes into account, in the process of monitoring of implementation of the Framework Convention in the Republic of Serbia, the contradictories relating to the identity of the Vlachs and the Romanians existing outside the Republic of Serbia.

The authorities of the Republic of Serbia express deep respect for the professional and impartial role of the Advisory Committee in the process of monitoring, as specified in the Convention, and accordingly, they invite the Committee of Ministers to, in compliance with its findings so far, appreciate the essential importance of respect for the right of every person to choose freely to be treated as a member of some national minority, and to avoid to link the Romanian and the Vlach national minorities in the Republic of Serbia

and its Conclusions and Opinions, either explicitly or using the expressions in plural, which, however, imply equality, links between or closeness between these two national minorities („Vlach-Romanian minorities"), as it is done in paragraphs 13 and 144 of the Opinion and in other contexts.

Reply to Article 4 of the Convention

Paragraph 57

The Advisory Committee notes that its recommendation to eliminate any undue citizenship criterion from all pertinent legislation in the field of national minority protection has not been fully addressed. It notes, for example, that certain provisions of the Criminal Code still refer to citizens (and not to "persons") in areas of relevance for the protection of national minorities.

By keeping the general condition of citizenship in the definition of a national minority in Article 2 of the Law on the Protection of Rights and Freedoms of National Minorities, the Republic of Serbia has harmonized its legislation in the field of protection of national minorities, including also the criminal legislation, with such a definition. In respect of the citizenship being kept as one of the criteria to define the notion of a national minority, the authorities of the Republic of Serbia request the Advisory Committee to refer to the comments on paragraph 35 of the Opinion of the Advisory Committee.

Paragraph 58

Furthermore, the Advisory Committee finds it problematic that the Serbian Constitution restricts to "citizens" the right to address international human rights institutions in order to protect the freedoms and rights guaranteed by Article 22 of the Constitution. Given the prevailing situation in Serbia regarding issues of citizenship (see Article 3 above), such a provision results in the exclusion of those non-citizens who form part of a minority group from accessing international human rights institutions.

The authorities of the Republic of Serbia reiterate that the provisions of the Constitution of the Republic of Serbia ensure a high level of protection for human and minority rights, including also the protection of persons who do not have the citizenship of the Republic of Serbia. In the context of the finding of the Advisory Committee, the comments on paragraph 35 of the Opinion should be first referred to, on which grounds it is clear that there are many options for the members of various minority groups to obtain the citizenship of the Republic of Serbia according to the existing regulations. Also, it should be stressed that the Constitution of the Republic of Serbia (Article 22 paragraph 1) prescribes that anyone, meaning a person who is not a citizen as well, has the right to court protection if some of his/her human or minority rights have been violated or deprived of as guaranteed by the Constitution, as well as the right to elimination of consequences resulting from the violation, and that foreigners, pursuant to the international treaties, have all the rights guaranteed by the Constitution and by law in the

Republic of Serbia. Also, the Constitution of the Republic of Serbia prescribes that the provisions on human and minority rights are to be intepreted in favour of promotion of the values of a democratic society, according to the existing international standards concerning human and minority rights, as well as according to the case-law of international institutions supervising their implementation. Bearing in mind that the right to refer to international institutions is equally available to anyone, and that it is accomplished without any interference or participation of the state authorities, which means that the state does not limit this right in any way, according to the opinion of the authorities of the Republic of Serbia, the above mentioned constitutional provisions enable foreigners to refer to the international institutions in charge of human rights, too, in compliance with the international legal documents governing the activities of such institutions.

Paragraph 63

The Advisory Committee notes that Article 76 of the 2006 Constitution provides for the introduction of "specific regulations and provisional measures (…) for the purpose of achieving full equality among members of a national minority and citizens who belong to the majority". However, it finds it problematic that the adoption of such measures may be considered as discriminatory if they are taken for purposes other than eliminating "extremely unfavourable living conditions". Such a provision reflects a restrictive approach to the concept of positive measures which is not compatible with the principles resulting from Article 4 paragraph 2 of the Framework Convention. The Advisory Committee is aware that positive measures may give rise to a number of concerns and that they may be perceived as contrary to the principle of non-discrimination. The Advisory Committee recalls however that Article 4 paragraph 2 of the Framework Convention explicitly provides for the adoption of "adequate measures" and foresees that such measures shall not be considered to be an act of discrimination. Indeed, such measures are meant to address a situation of inequality between persons belonging to a national minority and those belonging to the majority, taking into account the circumstances of persons belonging to national minorities. The Advisory Committee would like to emphasize, as stated in the Explanatory Report of the Framework Convention, that such measures need to be proportional and adequate i.e. that they should not extend, in time or in scope, beyond what is necessary in order to achieve the aim of full and effective equality.

Article 76 paragraph 3 of the Constitution of the Republic of Serbia, adopted in 2006, explicitly prescribes that special regulations and provisional measures that might be imposed by the Republic of Serbia in the economic, social, cultural and political spheres are not considered discriminatory for the purpose of achieving full equality among the members of a national minority and citizens who belong to the majority population, and if they are aimed at elimination of extremely unfavourable living conditions affecting them in particular. The mentioned provision of the Constitution, if considered separately and interpreted linguistically, may indeed lead to an understanding that the adoption of such measures may be considered discrimination, if they are undertaken for other purpose

except for elimination of „extremely unfavourable living conditions“, which would not, of course, be in accordance with the principles stated in Article 4 paragraph 2 of the Framework Convention on the Protection of National Minorities. Nevertheless, the authorities of the Republic of Serbia indicate that the Constitution also contains other provisions which, if interpreted systematically and in a teleological manner, do not lead to the understanding that the intention of the creator of the Constitution was that the adoption of positive measures in favour of the members of national minorities was allowed only if such measures were undertaken to eliminate „extremely unfavourable living conditions“. Article 21 of the Constitution prescribes equality pursuant to the Constitution and law and prohibition of discrimination. In Article 4 of this Article, the Constitution prescribes that special measures that might be imposed by the Republic of Serbia are not considered discriminatory if they are imposed for the purpose of full equality among the persons or a group of persons who are essentially in an inequal position in relation to other citizens, which naturally referes to national minorities as well. In addition to the above mentioned general provision, the Constitution also contains several provisions that might be considered special constitutional legal grounds to undertake certain measures of affirmative action in favour of the members of national minorities. Thus, in Article 77 of the Constitution it is prescribed that the members of national minorities have, under the same conditions as other citizens, the right to participate in the management of public affairs and perform public functions, while it is prescribed in paragraph 2 of the same Article that care shall be taken of the national composition of the population and adequate representation of the members of national minorities in relation to employment with the state authorities, public services, bodies of the autonomous province and the units of local self-government. Moreover, Article 180 paragraph 4 of the Constitution prescribes that it is made possible in autonomous provinces and local self-government units where the population is of mixed national composition to have proportional representation of national minorities in the representative bodies of the assemblies, pursuant to the Law on Representation of National Minorities. According to Article 100 paragraph 2 of the Constitution, at the National Assembly of the Republic of Serbia, equality and representation of the representatives of the national minorities is ensured pursuant to the law. Bearing in mind the above mentioned provisions, it is absolutely clear that the intention of the creator of the Constitution was not to allow positive measures in favour of the members of the national minorities only in cases of extremely unfavourable living conditions affecting them in particular, nor that positive measures in favour of the members of national minorities, undertaken after the adoption of the Constitution, were considered discriminatory, if they were not directed towards elimination of extremely unfavourable living conditions affecting them in particular, but were directed to promotion of equality in general, as the Committee was informed in details in the State Report and which also went on to be undertaken after the submission of the Report (e. g. The Law on Political Parties prescribes that a political party of some national minority may be established by only 1,000 citizens of age and with legal capacity, which is different from other parties, which are to be established by 10,000 citizens at minimum).

Paragraph 80

The commitment of the Serbian authorities to improve the socio-economic situation of the Roma has not yet led to substantial changes in practice. The gap separating the Roma from the rest of the population persists and so do the serious difficulties which many of them continue to face. The National Action Plans have regularly lacked resources and with some exceptions (see paragraph 79 above), no funds were clearly earmarked from the State budget for their implementation. As a consequence, they have, for the most part, relied on international donors. This has caused difficulties for the continuity of the measures taken and can demonstrate a lack of ownership and commitment.

On 9 April 2009 the Government of the Republic of Serbia adopted the Strategy for Improvement of the Roma Status, and the follow-up Action Plan for its implementation was adopted on 2 July 2009. The Action Plan, which presents making the priorities and recommendations of the Strategy for Improvement of the Roma Status operational, was adopted with an assessment of budget funds required for the implementation of planned measures and activities for the period from 2009 to 2011. In 2009, for the implementation of the Strategy and the Action Plan, the amount of **525,853,913** (5.5 million euros) has been foreseen. The Action Plan for the implementation of the Strategy for Improvement of the Roma Status includes 13 fields in total: in addition to the action plan sin four priority fields of the Decade, employment, housing, education and health, which were adopted in 2005 and revised now, the Action Plan also adopts the measures and other activities in the field of social care, internally displaced persons, returnees on the grounds of the Readmission Agreement, the nit also covers the field of promotion of the status of women, the field of media, culture and information in the mother tongue, as well as the field of discrimination and political participation.

The table below contains the display of budgetary funds required to implement the planned measures and activities of the Strategy for Improvement of the Roma Status and the Action Plan for the implementation of the Strategy for the period from 2009 to 2011.

Sr. No.	Name of Body	2009	2010	2011
1.	The Ministry of Education	44,498,000	44,498,000	44,498,000
2.	The Ministry of Health	18,500,000	18,500,000	18,500,000
3.	The Ministry of Environment and Spatial Planning	14,000,000	14,000,000	14,000,000
4.	The Ministry of Economy and Regional Development	255,000,000	255,000,000	255,000,000
5.	The Commissariat for Refugees	150,000,000	150,000,000	150,000,000
6.	The Ministry of Labour and Social Policy	7,000,000	7,000,000	7,000,000
7.	The Ministry for Kosovo and Metohija	2,500,000	2,500,000	2,500,000
8.	The Ministry of Culture	12,155,913	12,155,913	12,155,913
9.	The Ministry of Human and Minority Rights	22,200,000	22,200,000	22,200,000

	TOTAL:	**525,853,913**	**525,853,913**	**525,853,913**

The line ministries have precisely and clearly defined individual measures and activities within the budget of 2009 in the Action Plan for the implementation of the Strategy for Improvement of the Roma Status.

In view of the above mentioned, the authorities of Serbia maintain the opinion that the Conclusions and the Recommendations of the Committee of Ministers should not include findings on the lack of allocated funds in the state budget for the implementation of the Strategy for Improvement of the Roma Status and the Action Plan for the implementation of the Strategy.

Paragraph 81

Coordination between various ministries has proved difficult in the absence of clearly established structures, and calls for the institutionalisation of the implementation and monitoring of the Roma Strategy, have repeatedly been made by Roma representatives, NGOs as well as international actors. In the meantime, the evaluation of the progress made has mainly rested on the non-governmental sector, notably with the League for the Roma Decade, a coordinating body of Roma NGOs.

The improvement of the Roma status may only be implemented successfully through the partnership of all sectors of the society – the state authorities, international and national non-governmental and private organizations, bodies of local self-government and territorial autonomy, educational institutions, media. Proceeding from such an understanding, the state includes and supports all relevant parts of the society in the process of the implementation of the Strategy for Improvement of the Roma Status.

In order to efficiently implement the Strategy for Improvement of the Roma Status and the follow-up Action Plan for its implementation, the Council for the Improvement of the Roma Status and the implementation of the Decade of Roma Inclusion were established, presided by the Deputy Prime Minister of the Government of the Republic of Serbia. The Council consists of the representatives of the line ministries implementing the action plan from the fields of the line ministries, as well as of the representatives of the associations of the Roma citizens. The Council for the improvement of the status of the Roma and the implementation of the Decade of Roma Inclusion has taken over, together with the Office for the implementation of the Roma National Strategy with the Ministry of Human and Minority Rights, to co-ordinate the line ministries, by establishing the framework of the monitoring structure and follow-up of success indicators of the implementation of priorities and measures foreseen in the Strategy and the Action Plan. The Ministry of Human and Minority Rights regularly collects and co-ordinates relevant information received from the line ministries on the implementation of the measures of the Action Plan. In order to efficiently implement the Strategy and the Action Plan, the Ministry of Human and Minority Rights has initiated the establishment of working groups with the line ministries to implement the Action Plan within the scope of their activities and report

to the Ministry of Human and Minority Rights on the achieved results, as one of the co-ordinators in the process of improvement of the Roma status.

Proceeding from the above mentioned facts, the authorities of the Republic of Serbia invite the Committee of Ministers not to state the findings on the lack of institutional implementation and monitoring of the Strategy in its Conclusions and Recommendations.

Paragraph 82

The National Action Plans do not oblige the local government to adopt their own plans taking into account local circumstances and to earmark funding for measures aimed at improving the situation of the Roma. While some municipalities have taken initiatives to adopt their own plan, the general lack of commitment of local authorities has been identified as a particular weakness for the implementation of the Roma Decade Action Plan.

The local action plans are one of the key activities worked out by the Roma co-ordinators at the local level. At the units of local self-government the Roma co-ordinators are the representatives of the local Roma community who have been engaged by the local self-government, under the support of the international donors at the beginning. The role of the local Roma co-ordinators is to resolve the key issues of the local Roma community. The co-ordinators are the link between the local Roma community and the local authorities. The co-ordinators take part in the adoption of all important decisions at the level of local self-government concerning the improvement of the status of the Roma population. Under the support of the Ministry of Labour and Social Policy and the international donors, 55 units of local self-government have established the position of a Roma co-ordinator. Out of 55 co-ordinators, 48 of them have signed contracts on the engagement with the units of local self-government, while 7 of the mare volunteers. The units of local self-government have recognized the importance of Roma inclusion in the creation and implementation of strategic documents, so that 13 units of local self-government have adopted the local action plans for Roma and allocated the funds for their implementation, while in 14 municipalities these jobs are at their final stage.

Paragraph 83

The Advisory Committee is deeply concerned about the situation of the many Roma who still lack personal documents. This concerns local Roma and internally displaced Roma, Ashkali and Egyptians from Kosovo, who many years after their displacement, find themselves without the basic documentation needed to access a number of social rights (see also Article 15 below). The Advisory Committee is aware that some valuable initiatives have been taken by some local NGOs with the support of the international community, such as the provision of free legal aid. However, it regrets the fact that no decisive measures have been taken so far by the Serbian authorities to tackle effectively this situation. As a result, it is estimated that 30% of the approximately 206 000 internally displaced persons (IDPs) recorded in Serbia are still without personal documents. Procedures for obtaining personal

documents remain lengthy, unnecessarily bureaucratic and they place an unreasonable burden on IDPs to acquire documentation. In addition, it has been reported that IDPs often lack adequate information about their rights and that the registry offices have failed to devote sufficient attention to this.

In respect of the improvement of the situation of Roma who still lack personal documents, the recommendations contained in the Strategy for the Improvement of the Roma Status are also important concerning the necessity of uniform actions by the administration bodies in the procedure of subsequent entry of the data in the registry books of births, by adopting the relevant instructions or booklets, which would enable that these procedures are carried out in an efficient way, as well as the organization of regular professional training of the employees of the competent authorities that would contribute to their becoming more sensitive in relation to the needs and difficulties of the Roma who have not been registered in the books of births.

In the text of the Strategy in the part under the title of Personal Documents, the procedure of issuance of personal documents has been clarified if they are the documents within the competence of the Ministry of Internal Affairs, with a special review of specific features of difficulties occurring in the administrative procedure as per the requests of the members of the Roma population. It is stated that the issuance of identity cards, as primary identification documents, is conditioned by the solution of preliminary issues in charge of the Ministry of State Administration and Local Self-Government, regarding the entry of the fact of birth, the fact of citizenship of the Republic of Serbia and establishment of identity of persons filing the applications for the issuance of personal documents to the organizational units of this ministry.

Since the registry books present one of the official records on personal status of citizens, the issue of entry of adequate facts in the registry books, primarily the entry of the fact of birth in the registry book of births, of both the primary entry of the fact of birth and of the subsequent entry of the fact of birth, as well as of the renewal of entry of that fact in case the registry book where the birth data of some person is entered is destroyed or lost, has been defined in the regulations on the registry books. In this respect, it is necessary to stress that internally displaced persons accomplish their rights in the field of registry books with the administration bodies of towns of Niš, Kragujevac, Kraljevo, Kruševac, Jagodina, Vranje and Leskovac, which, according to the Law on Amendments of the Law on Registry Books from 2003, have been entrusted to keep the registry books for the municipalities from the territory of the Autonomous Province of Kosovo and Metohija. According to the Law on Registry Books and the Instructions on How to Keep the Registry Books and the forms of the registry books from 1999, the process of renewal of entries of adequate facts, which had been entered in the destroyed or lost registry books from this region, is still in progress. The persons who have not been entered in the registry books of births so far also have the right to subsequent entry of the facts of birth with the administration body ensuring the keeping of registry books in the Republic of Serbia, namely upon the expiration of the legal time limit for the application and in accordance with these regulations. In addition, the new Law on Registry Books contains, in the part regarding the entry of the fact of birth in the registry book of births, certain novelties that may be regarded by all means as further implementation of the

rights guaranteed in the ratified Convention on the Right of the Child of the United Nations (Article 7 paragraph 1). Bearing in mind that the Strategy for the Improvement of the Status of Roma has been adopted as well as the Action Plan for its implementation, the implementation of the measures and activities within the scope of established objectives of the Strategy has started, which shall ensure the entry of the fact of births of persons who have not been registered in the registry books so far.

One of the preliminary issues in the procedure of issuance of identity cards is the procedure of registration of residence of citizens of the Republic of Serbia, which, within their competence, is carried out by the territorial (regional) police directorates and police stations of the Ministry of Internal Affairs, competent according to the place of permanent residence of the applicant. In case of the Roma population there is a problem of inability to register the residence according to the place of permanent living, since it is about non-hygienic settlements not included in the Registry of Territories of the Republic Statistical Office, and, thus, neither in the same registry of the Ministry of Internal Affairs. For these reasons, the Action Plan for the implementation of the Strategy for Improvement of the Roma Status establishes the insurance of the conditions for the registration of residence of the persons having no legal grounds for it. In order to implement it, the amendment of the Law on Permanent and Temporary Residence of Citizens has been foreseen as one of the measures, thus making it possible to establish the temporary residence of the person who has no permanent residence, the grounds of which is the permanent residence. Accordingly, this ministry has prepared the draft of the Law on Permanent and Temporary Residence of Citizens providing a legal possibility to establish the residence of a citizen of the Republic of Serbia by means of a decision to be in the place where he/she permanently lives, where the residence of his/her spouse is, where his/her parents have residence, in the place where he/she is registered in the registry book of births, namely in the book of citizens as well as in the place to be established in accordance with special regulations, all in case some person cannot register his/her residence on some legal grounds prescribed by law.

The Ministry of Internal Affairs shall continue the commenced activities in the forthcoming period, too, being particularly sensitive towards the mentioned categories of persons and with the aim to simplify this procedure. In this context, further co-operation with other ministries, state authorities and local self-government bodies shall be improved, in order to facilitate the accomplishment of rights and resolve the status issues of the persons belonging to the Roma nationality and of the members of other national minorities. Within the scope of its activities and competences, the Ministry of Internal Affairs shall enable the members of the Roma and other national minorities to have their applications for the citizenship of the Republic of Serbia resolved as priorities, in due time and to be fully informed about the procedures concerning the issuance of personal documents through the information displayed on the information boards of the organizational units of the Ministry of Internal Affairs, on the web presentation and voice service of Telekom RS, as well as by undertaking other necessary measures to accomplish the rights in a simplified and efficient manner.

In order to ensure an easier provision of the personal documents and decrease the costs of provision of birth certificates, the Law on the Republic Administrative Duties prescribes that internally displaced persons (and refugees) are exempted from the payment of 70% of administrative duty for the issuance of certificates from the registry books. Also, it is expected that the access to rights of internally displaced persons shall be largely prescribed in the new Law on Registry Books.

In order that an internally displaced person is registered and obtains the identity card of an internally displaced person issued by the Commissariat for Refugees, which is not an identification document but an evidence that such a person must accomplish his/her rights outside the place of residence, it is necessary that such a party submits a written application, an identification document (for persons of age it is the identity card and for the under-aged it is a birth certificate and the identity card of one of the parents) and the certificate of temporary residence.

Paragraph 84

The Roma Gazela settlement which has been the subject of recent attention by the authorities (see also above) is one of the many examples of illegal settlements existing in Serbia. Although nation-wide data on the housing situation of the Roma is not available, some studies have indicated that out of the 593 existing Roma settlements in Serbia, 72% have not been legalised. Many of the Roma, Ashkali and Egyptian IDPs who do not have access to collective accommodation, live in those informal settlements, sharing the same precarious situation as the local Roma population. In addition, the Advisory Committee was informed that Roma are still faced with forced eviction without being offered any alternative accommodation.

In case of the Roma Gazela settlement the representatives of the Ministry of Human and Minority Rights and the Ministry of Labour and Social Policy have been actively engaged. The Ministry of Labour and Social Policy had a meeting with the representatives of the municipalities the inhabitants of this settlement come from, in order to find a solution of this problem. The representatives of the Ministry of Human and Minority Rights have also made contacts with the potential donor, the European Bank for Reconstruction and Development. As regards a more detailed solution of the problem of the Gazela illegal settlement, see reply to paragraph 111.

In order to ensure transparency and efficiency in the solution of the housing issues of the Roma, at the initiative of the Ministry of Human and Minority Rights, the Working Team of the Government of the Republic of Serbia has been established to prepare the plan of social inclusion of Roma who temporarily live in illegal settlements, which consists of the representatives of the line ministries. The assignments of the Working Tea mare to propose the priority activities on the basis of the Strategy for the Improvement of the Roma Status, to prepare a review of the Roma settlements in the Republic of Serbia, including an assessment of their needs and possibilities of social inclusion, to prepare the drafts of the plans for care for the families in accordance with their requirements, in co-operation with the units of local self-government and international organizations, to

propose the amounts of available and required budgetary and donor funds, to propose the measures to co-ordinate the concrete activities of the ministries and the Commissariat for Refugees, in accordance with their competences, to co-operate with the international organizations implementing the programmes for the improvement of the status of the Roma, such as the Mission of OECS, UNDP, UN-HABITAT, UNICEF, UNHCR and the World Health Organization, to co-operate with the units of local self-government, the institutions in charge of enforcement of certain measures as well as with the associations of citizens. Having the same aim to resolve the housing issues of the Roma population in Belgrade, the City of Belgrade has adopted the Action Plan prescribing the measures and activities for long-term resolution of this issue.

The adopted Action Plan for the implementation of the Strategy for the Improvement of the Roma Status in the Republic of Serbia contains the measures and activities for the improvement of the housing conditions of the Roma population. The line ministry in charge of the implementation of this part of the Action Plan, the Ministry of Environment and Spatial Planning, has allocated the funds for the enforcement of these activities, which relate to the regulation of property- related legal status of the houses in the Roma settlements, wherein the most important part is the preparation of adequate urban planning documentation and the regulation of property-related legal status of dwelling houses.

The aim is to improve the living and housing conditions for the parts of the local self-government units where the Roma settlements are located. Based on the activities commenced in the previous year and the taken over obligations in this field, the funds in the amount of 14,000,000 dinars have been allocated in 2009. the Ministry of Environment and Spatial Planning has initiated the engagement of the local self-governments in the implementation of the activities specified in the Action Plan dealing with the improvement of the housing conditions of the Roma by financing 9 local self-governments to prepare the detailed regulation plan for 11 Roma settlements: Prokuplje (the Mala guba and the Jungle settlements), Opovo (Block 45 A), Apatin, Soko Banja (the Zlatna ploča settlement), Srbobran, Mladenovac (the Mali prolaz and the Bataševo settlements), Knjaževac (the Niški put), Niš– the Crveni krst town municipality (the Šljaka settlement) and Bela Palanka.

The Roma, Ashkali and Egyptians, as well as other internally displaced persons, have access to placement in the collective centres. Out of the total number of persons placed in the collective centres, about 20% are persons of this population. The Roma, Ashkali and Egyptians are one of the most affected parts of the society and they most frequently meet the criteria of being affected for the inclusion in the projects of improvement of the living conditions carried out by the Commissariat for Refugees, so that out of the total number of the programme users, about 20% are Roma, Ashkali and Egyptians, although internally displaced persons are represented in the total population with about 10%. On the occasion of any forced relocation of settlements, the Commissariat for Refugees offered to internally displaced persons living in such settlements to be place din the collective centres where there was vacant accommodation.

Paragraph 85

The Advisory Committee is deeply concerned by the fact that in many regards, the hygienic and sanitary conditions in many of these settlements have not improved since its first Opinion in 2003. Roma organisations, including Roma women organisations, describe the health situation of Roma, in particular Roma women, children and elderly as particularly alarming and highlight the difficulty to access health care in the absence of the necessary medical registration. The Advisory Committee finds that such a situation is not compatible with Article 4 of the Framework Convention. Against this background, the Advisory Committee regrets the fact that the National Action Plan on Health, which provided for the introduction of a system of health mediators, has been implemented too slowly to address adequately the urgency of the situation.

In the field of health care, the Strategy for the Improvement of the Roma Status prescribes that, in co-operation with the media and the relevant experts in the field of public health, the activities are to be performed in order to increase the level of information and knowledge of the Roma population, in respect of both the rights to health care as prescribed by law and the factors effecting health and healthy lifestyles. Applying health educational methods and developing the communication skills, influence should be made to change behaviour related to health of the Roma, however, having respect for the tradition and culture of the Roma community. The Strategy also prescribes that it is necessary to continue to support the projects dealing with the assessment of hygienic and sanitary conditions in the Roma settlements (monitoring quality of drinking water, solving the issue of water supply, control of sanitary premises and disposal of solid waste). In this sense, it is expected that local self-governments shall take an active part, which should undertake the actions in order to resolve the observed problems based on the analyses to be made by the district institutions in charge of public health.

The Action Plan for the implementation of the Strategy for the Improvement of the Roma Status, in the part concerning the improvement of health conditions of the Roma population, prescribes a series of measures and activities to achieve this objective. One of the most important implemented activities specified in the Action Plan is the introduction of medical mediators, the Roma women, who are engaged at the local medical centres to be mediators between the local Roma community and health institutions. So far 60 mediators have been engaged in the same number of municipalities/towns. They are paid from the budget of the Ministry of Health, which allocated the funds for this purpose for the forthcoming period as well. One of the important activities is to mediate also in the provision of personal documents, primarily in the provision of health insurance cards. This project is being implemented, in addition to the Ministry of Human and Minority Rights, by the Ministry of Health, under considerable support of non-governmental organizations and the National Council of the Roma National Minority. It has been planned to increase the number of presently engaged mediators, as well as that they are equipped with mobile telephones and lap top computers for the operations in the field.

Reply to Article 5 of the Convention

Paragraph 91

Stable funding distributed according to a systematic procedure and with the consultation of national minorities is still lacking in Serbia. Although foreseen in the Law on National Minorities, the State Fund for the National Minorities has still not been made operational, creating a growing frustration among national minorities. Pending the establishment of this Fund, projects often receive ad hoc support or are funded on the basis of public tenders. Such a situation is unsatisfactory.

In the Replies to the additional questions of the delegation of the Advisory Committee of the Framework Convention for the Protection of National Minorities raised on the occasion of its visit to Serbia from 3 to 7 November 2008, which had been submitted in writing, the Advisory Committee has been informed about the intention to constitute the Fund to incite social, economic, cultural and general development of national minorities, pursuant to Article 20 of the Law on Protection of Rights and Freedoms of National Minorities. The objective circumstances, primarily the long-term process of adoption of the Law on the National Councils, and the lack of regulations governing the competence of this fund, have resulted in the fact that it has not been constituted.

In Article 119 the Law on the National Councils of the National Minorities prescribes that the national councils take part in the procedure of distribution of funds from the State Fund for the National Minorities, which are granted in the public tender for funding of programmes and projects in the field of culture, education, information and official use of languages and scripts of national minorities. The State Fund for National Minorities is managed by the Ministry of Human and Minority Rights, which shall regulate this issue by adequate by-laws.

The authorities of the Republic of Serbia point out that the fact that the above mentioned has still not been operational, which is only one of the sources for funding the activities of the national minorities, does not mean that the projects of national minority communities get *ad hoc* support of the state.

In addition to stable and systematic funding of the national councils of the national minorities from the budget, the Republic of Serbia renders considerable support to organizations and associations dealing with the protection and improvement of culture, education, information, religious and other rights of the national minorities. This support originates from all power levels – from the level of the Republic, through the provincial bodies to the units of local self-government. The State Report contains detailed review of all the aspects of state support to organizations of national minorities dealing with the protection and improvement of the rights of the members of the national minorities, and the differences in the support by relevant bodies to the initiatives of minority organizations should be interpreted in the light of economic capacities of different regions and levels of organization of power.

Paragraph 92

In the absence of the aforementioned Fund, the level of support to the culture of national minorities is still considered insufficient by a number of national minorities to meet efficiently their needs in this area. In particular, some national minorities have been in a less favourable position in attracting the necessary funding for their cultural activities. Indeed, discrepancies in this area remain high between minorities living in Vojvodina where a higher level of support is reported, and minorities living in other parts of Serbia such as the Vlachs in East Serbia or the Albanians in South Serbia. Roma organisations also pointed out that the modest public funding allocated to their activities makes them de facto reliant on international donors to ensure continuity.

The Ministry of Culture has been in charge, *inter alia*, of the financial support to the cultural institutions. In accordance with the Law on Activities of General Interest in the field of culture, as well as according the European tendencies, the number of cultural institutions financed explicitly from the budget has been decreased to minimum, and the advantage is given to project funding of culture. Since 2002 tenders have been introduced as the method to grant financial support to projects/programmes in all fields of modern creative activities. Tender co-financing of projects/programmes has many advantages in relation to the earlier forms of funding: it provides due and rational planning of funds, publicity of activities, competition among participants in the procedure, improvement of quality of projects, decentralization in decision making, a clearer picture of real conditions and existing needs. The tenders are issued once a year and relate to all programmes/projects in the field of culture: theatre, music and dance, visual art and multi-media, art colonies, art workshops and residential programmes for artists, cinematography, scientific research projects in the field of art and culture, literature manifestations and awards, publishing of periodic publications in the field of art and culture, programmes in Kosovo and Metohija, programmes presenting the support to disabled persons, cultural programmes for children and the young, international cultural co-operation of importance for the Republic of Serbia. All natural persons and legal entities have the right to submit their applications to the tender. A special tender for co-financing of projects/programmes of national minorities in the field of culture has been introduced since 2007, whereas the level of financial support to culture of national minorities depends on the level of support to culture in Serbia in general.

In compliance with the economic capacities of the state, the funds allocated in the budget are distributed and planned at the annual level, taking into account the needs of the users and previously established criteria.[5] The criteria of distribution of funds allocated for culture of national minorities are, *inter alia*, the following: the importance of a project for the improvement of cultural and linguistic identity, art and culture, promotion and development of multi-cultural features, contribution to inter-cultural dialogue, realistic possibilities of implementation, and the most important criterion of all – project quality. During the selection of the project to be co-financed, care is always taken of

[5] The tendency is to make plan sin relation to short-term and long-term objectives – the Government's project of the Annual Operative Planning.

representation of all national minorities. However, the decisive criterion to select the best one is a project quality, for which reason some minority communities might have received less financial support, but explicitly because of the lack of quality projects.

Having realized this problem, at the end of 2007 and at the beginning of 2008 the Ministry of Culture carried out the training of the members of the national minorities on how to apply to the tender of the ministry and meet formal requirements of the tender. The training was performed under the support of the national councils of national minorities. In order to meet the specific needs of the Roma, instead of one place, the training was organized in several towns in Serbia, to be precise in 6 towns (Šabac, Novi Sad, Trstenik, Niš, Leskovac and Belgrade).

In order to master the training successfully to participate in the tender procedure for national minorities, as well as to co-operate successfully with the minority communities in general, the Ministry of Culture published the Guide, which has been distributed to all participants and to all national councils and can be found on the website of the Ministry of Culture. The guide, going through the tender procedure for the national minorities clarifies briefly all important elements of the tender procedure: from the internal organization of the Ministry of Culture and the legal framework, through concrete questions on how to fill in the tender forms and meet other formal requirements of the tender, to the adoption of the decision on funding and submission of the report on the project implementation.

In addition to affirmative action measures, which are applied in relation to the Roma minority, some concrete steps related to the Albanian minority from the South of Serbia have also been taken. Since it has been noticed that the Albanian minority had not taken in the tenders in the past years, through the Co-ordinating Body of the Government of the Republic of Serbia for the municipalities of Preševo, Bujanovac and Medveđa, the information on all important elements of the procedures of the Ministry of Culture was forwarded there, which resulted in the first applications from this region.

The authorities of the Republic of Serbia find that, if we take into account the number of the members of certain national minority and the data on the funds distributed pursuant to the tenders in 2008, as stated in the table below, the concerns about the lower level of support to the Roma national minority or the minorities living in the Central Serbia cannot be accepted.

National Minority	Programme (Manifestations)	Magazines	Publishing	Literature Manifestations	Total
Ashkali			70,000.00		70,000.00
Bosniacs	2,100,000.00	400,000.00	50,000.00	400,000.00	2,950,000.00
Bulgarians	650,000.00	80,000.00	60,000.00	50,000.00	840,000.00
Bunyevtsi	500,000.00	150,000.00	80,000.00	50,000.00	780,000.00
Vlachs	500,000.00				500,000.00
Jews	380,000.00		310,000.00		690,000.00

Hungarians	1,200,000.00	650,000.00	360,000.00	310,000.00	2,520,000.00
Macedonians	650,000.00	50,000.00	50,000.00		750,000.00
Multi-cultural	1,530,000.00	200,000.00			1,730,000.00
Germans	200,000.00				200,000.00
Roma	1,415,000.00		240,000.00	230,000.00	1,885,000.00
Romanians	600,000.00		80,000.00	60,000.00	740,000.00
Ruthenians	400,000.00		130,000.00	60,000.00	590,000.00
Slovaks	650,000.00	200,000.00	200,000.00		1,050,000.00
Ukrenians	300,000.00	100,000.00			400,000.00
Croats	750,000.00	250,000.00		135,000.00	1,135,000.00
Tzintzars			200,000.00		200,000.00
Czech	100,000.00				100,000.00

The funds intended for the support to culture of national minorities, as from 2004 to 2008, have been increased ten times, so that in 2008 they amounted to almost 20,000,000 dinars. In 2009, due to the world economic crisis, there was the budget re-balance, so the funds planned for the implementation of programmes/projects according to the tenders have been considerably decreased. Namely, the amount of 5,000,000 dinars has been foreseen for all fields of cultural activities.

Reply to Article 6 of the Convention

Paragraph 103

The legacy of the past regime and the violent conflict in the region continue to influence the way in which certain minorities, especially Croats, Bosniacs and Albanians are perceived within the Serbian society. The valuable and innovative media campaign "Tolerance" launched in 2001 throughout Serbia was regrettably a one-off action of the authorities to encourage respect for the ethnic diversity of Serbian society, and with the exception of Vojvodina, central authorities did not demonstrate a continuous commitment to actions that would promote interethnic confidence. The Advisory Committee regrets the fact that the State level Council for National Minorities envisaged in the 2002 Law on National Minorities has only rarely met and has therefore not developed into a forum where national minorities could discuss issues of common concern as well as propose initiatives for dialogue and inter-ethnic tolerance.

Encouragement and fostering of the spirit of tolerance and inter-cultural dialogue are of priceless value for societies in which more than 30 different ethnic groups live, such as the Serbian society. Mutual respect, understanding and co-operation between the people of different nationalities, language, religious affiliation are one of the very main objectives of the policy of national minorities implemented in the Republic of Serbia. The State Report mentions the activities the state has been undertaking in order to promote inter-ethnic confidence and strengthening of the spirit of tolerance. There are many

factors on conditioning the sufficiency of these activities are sufficient, but the authorities of the Republic of Serbia assure that they are firmly determined to create a society based on understanding, dialogue and inter-ethnic tolerance, to create a society where the rights to diversities shall be respected by all.

The institutional frameworks for the improvement of inter-ethnic relations and inter-cultural dialogue in the Republic of Serbia are numerous and lasting. The authorities of Serbia share the opinion of the Advisory Committee that it is necessary to expand the institutional frameworks for the improvement of dialogue and inter-ethnic tolerance through the activities of the Council of National Minorities as well. In July 2009 the Government of the Republic of Serbia adopted a new Decree on the State Level Council of National Minorities of the Republic of Serbia (hereinafter referred to as the Council).

The Council takes care of preservation, improvement and protection of national, ethnic, religious, linguistic and cultural specific features of the members of the national minorities in the Republic of Serbia. Its competences are: recognition of symbols, monuments and holidays of the national minorities at the proposal of the national councils of the national minorities; examination of the drafts of laws and other regulations of importance for the accomplishment of the rights of the national minorities and submission of the opinion to the Government about them; monitoring and consideration of the conditions of accomplishment of the rights of the national minorities in the Republic of Serbia and the status of inter-ethnic relations in the Republic of Serbia; proposal of measures to improve full and effective equality of the members of the national minorities and consideration of measures to be proposed for these purposes by other authorities and bodies; monitoring of co-operation between the national councils and the competent authorities of the Republic of Serbia, Autonomous Provinces, municipalities, towns and the city of Belgrade; consideration of conditions for the activities of the national councils; consideration of fulfilment of international obligations in respect of accomplishment of the right of the members of the national minorities in the Republic of Serbia and international co-operation of the national councils; examination of the list of candidates for the National Education Council pursuant to Article 11 of the Law on Basics of the Education and Upbringing System, and consideration of international or regional agreements related to the position of the national minorities and protection of their rights in the procedure of their conclusion. The members of the Council are the Prime Minister, who is the president of the Council, the ministers of human and minority rights, state administration and local self-government, culture, education, sports and youth, religion, justice and internal affairs, as the representatives of the Government, the representatives of the national councils of the national minorities and the president of the Association of Jewish Municipalities of Serbia, who holds the position of the president of the national council. The Decree prescribes that the Council shall meet when required, however, at least four times a year. The Council shall adopt the decisions by the majority of votes of all the representatives of the Government and by the majority of votes of all presidents of the national councils. At the request of the presidents of at least the half of the national councils, the president of the Council is obliged to summon a meeting of the Council within 30 days at the latest. Professional and

administrative-technical support to the activities of the Council is provided by the Ministry of Human and Minority Rights.

Paragraph 108

The positive achievements of the multi-ethnic police force in South Serbia have remained largely limited to this region. While some efforts have been made by the Ministry of the Interior to attract persons belonging to national minorities into the police force, they proved insufficient to increase substantially the ethnic diversity in the police force of Serbia. In particular, Bosniacs representatives from the Sandžak area, where Bosniacs live in substantial numbers, have informed the Advisory Committee that there has not been progress regarding their participation in the police forces operating in this area.

Proceeding from the fact that the Republic of Serbia is a multi-national state, the general commitment of the authorities of the Republic of Serbia is to employ regularly and equally with the police force and all state authorities all the candidates meeting the relevant requirements, including also the members of the national minorities. The Ministry of Internal Affairs is especially sensitive to the engagement of personnel from the national minority communities, especially in the communities with mixed national composition, bearing in mind the nature and the character of the police jobs (police investigations, the right to use mother tongue in the proceedings, etc.).

In practice the Ministry of Internal Affairs has been undertaking the measures of affirmative actions and giving advantage to the employment of the members of the national minorities. It has the same approach concerning the education of the members of the national minorities, of both those who had already been in the police forces of the Ministry of Internal Affairs and those who are potential candidates for education at secondary and high schools. Within the project „*Police Activities with Minority Groups*", in the course of 2007 and 2008, numerous activities were undertaken to animate the candidates from the national communities to work for the Ministry of Internal Affairs, by means of promotions in the languages of the national minorities (posters, leaflets, radio and TV programmes, advertisements, promotional posters, etc.). In the regions where the members of the national minorities make the majority population, special debates and other relevant events have also been organized. Although there are a lot of activities concerning the employment of the members of the national minorities, it has been noted that they are not interested and not ready to work for the Ministry of Internal Affairs, most probably because they are not very motivated, because the earnings are not high or because of inadequate social status of the police officers. However, the Ministry of Internal Affairs shall continue to apply the same employment policy for the members of the national minorities, because it is of the interest for the Republic of Serbia to maintain its multi-ethnic feature in the police forces, too.

Based on the above mentioned, the authorities of the Republic of Serbia invite the Committee of Ministers not to state the findings on the lack of enough activities that

should make the members of the national minorities be interested in the work with the police forces.

Paragraph 109

A complaint procedure against police abuse was introduced as part of an internal police monitoring mechanism. However, instances of misconduct of police officers, including their excessive use of force, are still frequently reported with allegedly no adequate sanctions taken.

According to the official data of the Ministry of Internal Affairs, two cases of violations of the right of citizen in the course of police procedures have been recorded so far, conditionally having the elements of inter-ethnic incidents. The first case refers to inadequate acting of two traffic policemen at the Belgrade Police Directorate in February 2008, who did not properly and fully rendered aid and legally protected one of the participants after the traffic accident (a person of Roma nationality). Disciplinary proceedings were initiated against these police officers for a severe violation of duty. The second case refers to the event from the same year when a police officer of the Vrbas Police Station, who was not on duty and not wearing the uniform, and who was drunk, verbally insulted a Roma person on national basis. The police officer was deprived of freedom and criminal charges were filed to the competent municipal public prosecution office for the criminal act of causing national, racial and religious hatred and intolerance.

All organizational units and operational lines of the Ministry of Internal Affairs permanently stress the importance of equality and inter-ethnic tolerance, so that this subject is specially treated during the regular educational classes of the police officers. The heads of departments do the same when they see off the shifts to perform their duties and when the policemen return from duty.

Also, at the Ministry of Internal Affairs there is regular supervision of the work of the police officers by their superiors, supervision and control by the Department for the control of legality in performing duties as well as at the level of the Internal Control Sector, as a specialized line of operations.

Paragraph 111

The Advisory Committee is concerned about the fact that the resettlement of the Roma living under the Gazela Bridge in Belgrade, to an area where persons belonging to the Romanian minority live in substantial numbers has reportedly not been preceded by consultation with the local inhabitants concerned. The Advisory Committee notes that as a result, this resettlement has raised considerable resistance by the inhabitants of the area concerned, who have claimed, in the absence of information and consultation, that this resettlement was aimed at altering the ethnic composition of the area where they live in substantial numbers.

The Gazela settlement in Belgrade used to be one of the most non-hygienic settlements where the majority of the inhabitants were Roma. The inhabitants of the settlement who had registered residence in Belgrade were relocated on 31 August 2009 to 13 Belgrade municipalities, and those who had no registered residence were returned by buses to the municipalities they had come from.

In fact, the Gazela settlement included two settlements – one on the left and one on the right bank of the Sava river. The census carried out by the city of Belgrade in August 2007, indicated that 220 families live din two illegal settlements located under and near the Gazela bridge, which should have been relocated, in order to perform the bridge reconstruction works. The census indicated 202 households having 915 inhabitants (465 men and 450 women) on the left bank, in the municipality of Novi Beograd and 18 households having 71 inhabitants (36 men and 35 women) in the municipality of Savski Venac on the right river bank (Stari Grad). A certain number of families moved out in the meantime and according to the latest checking, which was carried out by the City Secretariat for Social Care in November and December 2008, 175 families were identified having residence under the Gazela bridge, 166 in the municipality of Novi Beograd and 9 in the municipality of Savski Venac.

The checking carried out in November and December 2008 established that out of 174 families living under the bridge, 113 of them met the requirements of the city relocation programme, and the remaining 61 families were migrants and seasonal labour who had come to Belgrade from other parts of Serbia. The latest checking, conducted in the settlement by the Ministry of Labour and Social Policy in July and August 2009, identified 53 families having 241 members in total who had registered residence outside the territory of the City of Belgrade. The data about the registered residence were the decisive factor to determine the competence in conducting the procedure of relocation of this settlement. The city authorities are in charge of placement of the families whose members have registered residence in the territory of the city, while the Ministry of Labour and Social Policy is in charge of co-ordination of the placement of families whose members have the registered residence outside the territory of the City of Belgrade.

One of the co-ordinators of the relocation project, the City Secretariat for Social Care, set out as one of its goals to include in the civil society all the persons who found to be in the Gazela settlement and who had proper documents, namely evidence of regulated residence in the territory of Belgrade, at the level of social and health care, education, provision of qualifications and employment and provision of adequate placement for all. For all inhabitants of that settlement having permanent residence in Belgrade, who are mainly displaced persons and returnees from abroad, permanent form of relocation to prefabricated houses was planned. According to the urban planning design, maximum 400 flats should be built in Ovča, out of which 130 flats are intended for the relocated Roma families living in the Gazela settlement, while the remaining 270 flats will be intended for social housing. The flats shall remain the property of the city, and the households shall conclude contracts for the period of five years and pay subsidized rent. The houses for the relocation of the first 130 Roma families are of prefabricated type, made of wood, having the surface of 52 sq. m., while the remaining 270 flats shall have

the average surface of 50 sq. m. each. The number of the Roma families planned to be relocated to Ovča shall in no way cause the change of the ethnic structure of this settlement, and it is neither the objective of the City of Belgrade nor of the Republic of Serbia, but the objective is to place socially handicapped persons.

The concept of placement of the Roma families from the Gazela settlement outside the City of Belgrade, namely to the places where their members have registered residence, rests on the respect for universal and national legal and political treaties governing economic, social and cultural rights of the members of national minorities, primarily of the members of the Roma national minority, or of those who request special actions by the authorities of the Republic of Serbia in such cases. In this context, the concept of placement prepared for the Roma families from the Gazela settlement has been coordinated with the provisions of the International Treaty on Economic, Social and Cultural Rights, especially with the provision of Article 11 and the General Comment No. 7 of the Committee for Economic, Social and Cultural Rights. Also, the concept of placement has been coordinated with the documents adopted within the scope of the Council of Europe, such as the European Social Charter, which, in respect of the rights and obligations of housing, specifies, *inter alia*, the access to adequate and available flat, as well as the equal access of the minorities to social housing and housing benefits, the Guidelines of the Council of Europe on the preparation of the access policy for housing of vulnerable categories of population, specifying the vulnerable groups who are to be rendered support on the occasion of provision of adequate housing conditions and the Recommendation of the Council of Europe to the member states on the improvement of housing conditions of the Roma and the Gypsies in Europe. The concept of placement also rests on the provisions of the Law on Spatial Planning of the Republic of Serbia. The concept of placement has also been complied with the measures contained in the Action Plan in the part concerning housing, which should be implemented by the Strategy on Improvement of the Roma situation, including, in order to bail out the urgent conditions in slums, planned measures to relocate the settlements (slums) where the conditions are extremely bad and which cannot be included in the process of improvement, recovery and building of new flats in adequate locations the Action Plan prescribes that, in order to resolve the housing problems of the Roma by having them settled in deserted villages in Serbia, the measures and actions of relocation of the interested Roma to rural areas should be undertaken. Otherwise, according to the existing legal framework there are no legal obligations to relocate the families living under the Gazela bridge, either at the level of the Republic or at the level of the City, since they are all considered illegal inhabitants, regardless of their origin (they live in illegal houses). The Law on Expropriation, which was amended in 1995 for the last time, permits to the Republic, the city government and to the public companies to expropriate, with the aim to achieve public interest, the land or private property. This law prescribes procedures of forced purchase of land and for compensation to owners. However, this law does not prescribe compensation to non-owners whose houses or households are to be expropriated in the public interest. The Action Plan for the placement is, thus, based on the conclusion of civil law contracts to be included in the action plan and the units of local self-government in order to ensure that all the mentioned international legal standards are respected in this field.

The concept of placement of the Roma families from the Gazela settlement includes admission, acceptance and integration of the Roma families. The admission and the acceptance of these families mean the provision of the housing capacities, as well as the establishment of necessary assumptions to accomplish the fundamental human rights (the right to identity and living) and their efficient legal protection. The integration of the Roma families means a whole series of measures from ensuring employment opportunities, through ensuring access to all rights in the field of social, family, child's and health care, to rendering support in the establishment and implementation of measures at the level of local self-government, in accordance with the possibilities and needs of the local community. Such a concept also includes the following rights whose enjoyment and accomplishment shall be provided by plans of the Roma families – the right to adequate accommodation, namely placement in houses, provision of personal documentation, the rights in the field of the child's and social care, health care, education and employment.

The locations for accommodation of 53 families have been determined according to the place where the families have registered residence. According to the collected data, these municipalities are: Bojnik, Vranje, Kovin, Leskovac, Lebane, Prokuplje and Surdulica.

The placement in houses of the families who have not resolved their housing issues yet, or who have resolved these issues partially, is carried out in three ways: 1. by procurement and assembly of prefabricated houses, 2. by purchase of rural households and 3. by adapting and reconstructing the existing buildings.

Paragraph 121

The Advisory Committee notes that instances of hate speech occur frequently. Non-governmental organisations highlighted that the current criminal legislation does not include a specific provision on hate speech and that the wording of the existing provisions makes it difficult to prosecute such acts.

In respect of criminal legislation in the field of so-called criminal acts of hatred (hate speech) in the Criminal Code, within XXVIII Section – Criminal acts against the constitutional order and security of the Republic of Serbia, there is a separate criminal act in Article 317 – causing of national, racial and religious hatred and intolerance. In the positive legal regulations of the Republic of Serbia, in jurisprudence and the police case-law there is no notion of the so-called criminal acts of hate speech, but potentially similar acts are legally covered in the manner stated above.

The authorities of the Republic of Serbia, aware of the need that criminal acts of hate speech must be defined more clearly and punished more severely, the provisions of Article 174 had been improved and defined more precisely in the Law on Amendments and Supplements to the Criminal Code, which was adopted on 31 August 2009 – Injury to Reputation Because of Racial, Religious, National or Other Affiliation, in the following manner: since now anyone insulting in public a person or a group of persons because of his/her affiliation to race, colour, religion, nationality, ethnic origin or some

other personal feature, shall be fined or sentenced to prison up to one year. In addition, Article 387 of the Criminal Code – Racial and Other Discrimination, has been supplemented with two new paragraphs. According to the first one, anyone disseminating or in other way making available to the public texts, pictures or any other presentation of ideas or theories proclaiming or inciting hate, discrimination or violence, against any person or a group of persons, based on his/her affiliation to race, colour, religion, nationality, ethnic origin or some other personal feature, shall be sentenced to prison from three months to three years. Another person, who threatens in public, to a person or a group of persons, because of his/her affiliation to race, colour, religion, nationality, ethnic origin or some other personal feature, to commit a criminal act for which a prison sentence of more that four years is prescribed, shall be sentenced to prison from three months to three years.

Paragraph 132

Recent reports have evidenced that Serbia, which has been predominantly a country of transit, has become also a country of origin of trafficking in recent years with figures on internal trafficking on the rise. The Advisory Committee notes with deep concern that recent cases included an increased number of children being trafficked, among them Roma children.

The official statistical data of the Administration of the Border Police of the Ministry of Internal Affairs indicate that within several recent years the majority of victims of human trafficking in the Republic of Serbia were the very citizens of it. Accordingly, the in the course of 2008 the police officers of the Ministry of Internal Affairs filed 32 criminal charges against 82 perpetrators in total who had committed criminal acts of human trafficking, of whom 78 were the citizens of the Republic of Serbia. In total, 55 persons were damaged, of whom 48 were the citizens of the Republic of Serbia, 5 citizens of Bosnia and Herzegovina and one citizen from each Romania and Ukraine. Out of the total number of damaged persons, 28 were of age, and 27 persons were under-aged, of whom 15 were teenagers and 12 were children.

The Ministry of Internal Affairs does not keep any special records of the victims of human trafficking based on national affiliation, and the official identification and registration of the victims is made by the Co-ordination Department for Protection of Human Trafficking Victims within the Ministry of Labour and Social Policy. According to the records of this department, in the course of 2008 there were 55 identified victims who were registered (of whom 37 were the victims of human trafficking, and 18 were potential victims). Pursuant to the type of victim exploitation, 22 were sexually exploited, 5 were labour exploited, 3 were exploited for forced marriage, 6 for begging and 1 for adoption attempt. Out of 55 identified victims and potential victims, 48 were of female and 7 of male sex. In respect of age, 30 were under-aged persons and 25 were persons of age.

The strategic subjects of the combat against human trafficking and protection of victims in the Republic of Serbia are the Council for Combat against Human Trafficking, the

Republic Team for Combat against Human Trafficking, consisting of the state authorities, non-governmental organizations and international organizations acting in the territory of the Republic of Serbia, headed by the Co-ordinator for Combat against Human Trafficking and the Co-ordination Department for Protection of Human Trafficking Victims. Within the Republic team there is also the Group for Combat against Children Trafficking. The Government of the Republic of Serbia appointed the new members of the Council for Combat against Human Trafficking on 6 November 2008, the minister of internal affairs as its president, and the members are the minister of finances, education, labour and social policy, health and justice.

On 30 April 2009 the Government of the Republic of Serbia adopted the National Action Plan for combat against human trafficking (hereinafter referred to as the NAP) for the period from 2009 to 2011. In this way, the Republic of Serbia fulfilled one of the technical conditions of further liberalization of the visa regime with the European Union and contributed to a great extent to more successful resistance to human trafficking. Within the NAP, the strategic objectives of the Strategy for Combat against Human Trafficking in the Republic of Serbia were classified to five areas: institutional framework, prevention, support, protection and re-integration of victims, international co-operation, monitoring of enforcement of mechanisms for combat against human trafficking and evaluation of results, and the areas of activities were also classified in compliance with this classification. Special significance has been paid to prevention of human trafficking, including a special review of prevention of women trafficking and children from vulnerable groups and groups under risk, which also include the Roma. The representatives of the Roma community and the representatives of the Roma associations have also been included in the preventive actions.

For illustration purposes, let us mention the preventive actions of the Ministry of Internal Affairs carried out in the course of 2009:

- In June 2009 the media campaign concerning the World University Games in Belgrade was used, as a big sports manifestation of the world importance gathering a large number of young people. A preventive – educational spot against human trafficking has been prepared and broadcast at the most important television stations in Serbia.
- On the occasion of marking the Police Day on 7 June 2009, an exhibition of paintings collected at the tender under the title of *Modern Slavery* was held at the Makiš Sports Centre, which was issued in the course of October 2007, for it was the month of the combat against human trafficking, and the authors of these paintings were also invited as guests of honour. The objective of this manifestation was to raise awareness of the public of the issues of human trafficking, by including school children, primary and secondary school pupils.
- In the course of May 2009 a new Internet presentation of the Ministry of Internal Affairs, suitable to citizens, was prepared. Future users of this website shall be shown the basics of the national mechanism of resistance to human trafficking in the Republic of Serbia, the role of the Council for Combat against Human Trafficking, the Republic Team and the Co-ordinator, the issue of human trafficking shall be explained, preventive actions shall be initiated and implemented, the statistical data of the Ministry of Internal Affairs shall be displayed, the activities of the police officials, etc. In the part of *Advice*

concrete examples of advice are shown as well as suggestions addressed to citizens in order to raise awareness about human trafficking, especially in the function of security culture level of citizens (e. g. Journey abroad, business advertisement, etc.).

- *Facebook* website has an established group under the title of *Stop to Human Trafficking,* whose activities are supported by the Ministry of Internal Affairs and by the Co-ordinator for Combat against Human Trafficking, in order to raise awareness of human trafficking issue among younger population of Serbia.

- In compliance with the agreement reached with the National Bank of Serbia an exhibition of children's paintings having the subject of *Modern Slavery* shall soon be held, and calendars for 2010 containing children's paintings with clear motives and messages against human trafficking shall also be delivered.

Reply to Article 7 of the Convention

Paragraph 138

The Advisory Committee notes with concern that Article 54 of the 2006 Constitution of Serbia limits the freedom of assembly to citizens. As already explained in the context of Article 3 (see above), the Advisory Committee finds that introducing a citizenship requirement constitutes an undue limitation to national minorities' right to assemble and is therefore not compatible with Article 7 of the Framework Convention.

In Article 54 the Constitution of the Republic of Serbia guarantees indeed the freedom of assembly to citizens in the form of gatherings, demonstrations and other gatherings in the open. Such a provision would be an undue limitation to national minorities' right to assemble only if the citizenship would not be one of the criteria to define the notion of a national minority. Since the Framework Convention contains no notion of a national minority and proceeding from the arguments contained in the comments to paragraph 35 of the Opinion, and respecting the European Charter on Regional or Minority Languages in particular, which in Article 1 prescribes that the expression of *minority languages* does not include the languages of the migrants, in other words, the languages of those who are not the citizens of Serbia, the authorities of the Republic of Serbia reiterate that the provision of Article 54 of the Constitution of the Republic of Serbia is in accordance with Article 7 of the Convention and that it is not an undue limitation to national minorities' right to assemble.

Reply to Article 8 of the Convention

Paragraph 142

The Advisory Committee finds that the Law on Churches and Religious Communities which was adopted in 2006 gives rise to a number of concerns. These relate in particular to the obligation for those religious organisations which are not among the seven "traditional churches and religious communities" listed in the law to re-register following a complex procedure which involves the obligation to submit

the names and signature of the members of the religious community concerned. The Advisory Committee further notes that while there is no obligation for churches and religious communities to register, non-registered churches are not able to benefit from certain rights such as the right to acquire legal personality or the right to construct religious buildings. In view of the foregoing, the Advisory Committee finds that the Serbian legal framework raises issues of compatibility with both the principle of free self-identification contained in Article 3 and the right to establish religious institutions enshrined in Article 8 of the Framework Convention.

Proceeding from Article 23 of the Framework Convention, the authorities of the Republic of Serbia pay special attention to the case-law of the European Court of Human Rights within the meaning of Article 9 of the European Convention for Protection of Human Rights and Fundamental Freedoms. In this context, and because of the very case-law of the Court, the Republic of Serbia reiterates that the right of believers to express their religion in community with other people, means they shall be allowed to assemble freely, without any arbitrary by the state.[6] With such expectations, in principle it is not incompatible to impose the request to be recognized by the state. Indeed, according to the case-law of the Court, registration of churches and religious communities is not incompatible with freedom of religion guaranteed in Article 9 of the European Convention for Protection of Human Rights and Fundamental Freedoms. However, the state, according to the opinion of the Court, must keep the position of strictly being neutral, and the procedure of registration of churches and religious communities must protect against discretion authorizations and must not mean arbitrary adoption of decision.[7] The Law on Churches and Religious Communities of the Republic of Serbia does not prescribe and does not foresee the possibility for the state authorities to have discretion authorizations in the procedure of registration, but according to the explicit provision of this law (Article 20), registration of a church or a religious community may only be denied by them if the objectives, teaching, rituals or activities are contrary to the Constitution and public order or if they jeopardize living, health, freedom and rights of another, rights of children, right to personal and family integrity and right to property. The explained provision disables discretion and arbitrary adoption of decisions in the registration procedure, and it especially disables the competent body of the state administration to assess comparative legitimacy of various believes, *a fortiori,* for it is prescribed that the decisions of the European Court of Human Rights shall also be taken into account when deciding on the request for the entry in the register.

The difference existing in the registration procedure in the treatment of traditional churches and religious communities, on one hand, and other religious communities, on the other, is legitimate and has its objective and reasonable explanation. In the first place it is the difference between the existing traditional churches and religious communities and the newly established churches and religious communities, which in the procedure of registration, must submit the documents and the data prescribed by law. It is the very possibility of establishment of new churches and religious communities to renounce the finding of the Advisory Committee stating that the legal framework of Serbia raises the

[6] Metropolitan Church of Bessarabia v. Moldova, no. 45701/ 99 par. 118
[7] Supreme Holy Council of the Muslim Community no. 39023/97 par. 33

issues of compatibility with the right to establish religious institutions enshrined in Article 8 of the Framework Convention. On the other hand, neither the obligation of churches and religious communities that are not among the traditional churches and religious communities to re-register shall effect the freedom of self-identification as contained in Article 3 of the Framework Convention. The re-registration of such churches and religious communities, together with the submission of documents and data prescribed by law, has nothing to do with self-identification of national minorities, and it can neither effect it, but it has been envisaged for other, legitimate reasons.[8] Since such churches and religious communities do not identify essentially any national minority in the Republic of Serbia, the re-registration procedure prescribed by law cannot be considered incompatible with Article 3 of the Framework Convention. The authorities of the Republic of Serbia remind the Advisory Committee of the definition of a national minority contained in Article 2 of the Law on Protection of Rights and Freedoms of National Minorities from which it comes out that religion may also be one of features on which grounds national minorities differ from the majority population[9].

In its first Opinion on the implementation of the Framework Convention in Serbia the Advisory Committee stressed it found positive that this definition covered a large number of groups living in Serbia, also including the groups small in number. Within the meaning of the stated finding of the Advisory Committee, the authorities of the Republic of Serbia express their amazement that the Advisory Committee is of the opinion that re-registration of non-traditional churches and religious communities imposes the issue of

[8] As from 1993 to the adoption of the Law on Churches and Religious Communities in 2006, the legal system of the republic of Serbia contained no general legal document governing the status of churches and religious communities and the relations between the state and the church. In 1993 the Law on the Legal Status of Religious Communities of SR Serbia adopted in 1977 ceased to be valid, which used to prescribe that a religious community was to be established by an application to the municipal administration body in charge of internal affairs. A similar system was also prescribed by the Federal Law on the Legal Status of Religious Communities adopted in 1953. The property of both the laws adopted during the socialistic period was that there were no central registers of entered religious organizations. In view of the fact that pursuant to the law from 1953 certain religious communities had been registered with the municipal administration bodies in charge of internal affairs in other republics, that there was no central register of entered religious communities, that they could perform their activities in the territory of the entire former SFRY, and in the Republic of Serbia as well, that the identical situation of the lack of the central register also existed in the legal system prevailing according to the Law on the Legal Status of Religious Communities from 1977, it is clear that the bodies of the Republic of Serbia, in particular 13 years after the law from 1977 had been repealed, except for traditional churches and religious communities having the historic continuity, had no, and could not have had, a clear picture of the number and the basic data about the churches and religious communities registered pursuant to the laws from 1953 and 1977. Thus, it is clear that the state had a legitimate interest to prescribe different treatment of religious communities, which, in the procedure of (re)registration according to the Law on Churches and Religious Communities, in addition to the documents submitted by the traditional churches and religious communities, together with the request, should also submit other documents including the decision on establishment with information about the founders. The objective to set out a complete and precise register of churches and religious communities may only be accomplished by the procedure of (re)registration and there is no doubt that between the objective set and the foreseen means there must be proportionality, *a fortiori* for the law does not prescribe that the religious communities established according to the previous regulations shall automatically loose legal personality by the adoption of the new law.

[9] As explicitly said in the First Opinion on the implementation of the Framework Convention in FR Yugoslavia – see Article 8 paragraph 3.2.

compatibility with Article 3 of the Framework Convention, since it had been informed, both in the first and the second Periodic Report on the implementation of the Framework Convention in the Republic of Serbia, about religious affiliation of the members of national minorities, which clearly explains that the identity of no national minority in the Republic of Serbia is determined by religions outside the framework of traditional churches and religious communities.[10]

The obligation of churches and religious communities that are not traditional ones to submit the names and signatures of their founders in the procedure of (re)registration does not infringe the principle of free self-identification contained in Article 3. On the contrary, if a new church or a religious community would be established by the members of national minority, the submission of the names and surnames of their founders would mean, except for public expression of their religious beliefs, the accomplishment of the right to establish religious institutions, organizations and associations as well. If the Advisory Committee had a standing that this obligation of non-traditional churches and religious communities infringed the principle of free self-identification contained in Article 3 of the Framework Convention, or the right to establish religious organizations contained in Article 8 of the Framework Convention, due to allegedly larger number of founders required, such a conclusion would not be grounded, either. The law prescribes the submission of the names and surnames of at least 0.001% of the total number of citizens of Serbia who are of age, according to the last census, who have residence in Serbia, or of the same number of foreign citizens who have permanent residence in the territory of the Republic of Serbia. Since the total number of citizens of the Republic of Serbia who are of age amounts to 6,030,728, it is clear that the names and surnames of approximately 60 persons are necessary to be submitted on the occasion of application for the establishment. In view of the definition of a national minority according to the law, which prescribes that a national minority is a group whose number is sufficiently representative, it is clear that the number of approximately 60 founders of a church or a religious community in no way infringes the principle of free self-identification of a national minority, or the right to establish religious organizations.

Paragraph 143

A further complication for those persons belonging to national minorities whose religion is not included among the seven traditional churches results from the provision of the law (Article 21) according to which religious organisations whose name contains the same or part of the name of a church that has already been entered into the register may not be entered into the Register. This provision affects in particular orthodox churches other than the already registered Serbian Orthodox Church. The Advisory Committee notes in particular, that such a provision was invoked, among other grounds, to deny registration of the Montenegrin Orthodox Church. It further notes that in its last decision, dated 18 June 2008, to reject the

[10] For example, according to the census from 2002, a huge majority of the Albanians are Muslims (95.72%), 99,35% of Bosniacs are of Muslim religion, 90.78% of Bulgarians are orthodox, 92.15% of Bunyevtsi are catholic, 98.66% of Vlachs are orthodox, 81.51% of Gorani are Muslim, 89.35% of Hungarians are catholic, 75% of Ruthenians are catholic, 83.27% of Slovaks are evangelican, etc.

application of the Montenegrin Orthodox Church, the Ministry of the Interior referred to the fact that registering the Montenegrin Orthodox Church would entail a territorial overlapping between the Montenegrin and Serbian Orthodox dioceses which would be against Orthodox Church law. The Advisory Committee acknowledges that the Serbian Orthodox Church played a particular role in the history of the country and may therefore have a dominant position. However, the Advisory Committee finds that the authorities should respect all religious communities and churches in line with Article 7 of the Framework Convention and that any restriction to this right should be understood within the limits of Article 9 paragraph 2 of the European Convention on Human Rights.

The authorities of the Republic of Serbia reiterate that according to the results of the latest census from 2002 there is practically no national minority the religion of which is not included in the seven traditional churches, so that the members of national minorities have no obstacles in this context. Moreover, it is possible to establish new churches and religious communities in the Republic of Serbia so that the members of national minorities may establish new churches and religious minorities and freely develop new religious identities they had not expressed until now. It is noted that the Advisory Committee has not properly stated the provision of the Law on Churches and Religious Communities, which does not prescribe that a religious organization whose name contains the same or part of the name of a church that has already been entered into the register may not be entered into the register, but prescribes that a religious organization whose name contains the name or part of the name designating the identity of a church, religious community or a religious organization that has already been entered into the register, or which has earlier filed an application for registration may not be entered into the register. Accordingly, the meaning of the above provision of this law is not to disable the entry of a church or a religious community into the register if it expresses the religious identity the same as the identity of an already registered church or a religious community, but to disable the existence of two or several same churches and religious communities, which would inevitably lead to problems in the legal system (e. g. the issue of the right over property of buildings, the issue of the person authorize to represent, etc.). In other words, the state does not arbitrate in issues of religious beliefs, namely it does not ensure the entry into the register of churches or religious communities belonging to the same religion, but disenables the existence of two or several legal entities among churches or religious communities. To conclude, the state does not protect religious but legal identity of already entered or registered churches and religious communities against attacks and usurpation, especially of their property, by newly established churches and religious communities.

In view of the above mentioned, the authorities of the Republic of Serbia take the view that the Advisory Committee has interpreted wrongly that one incorrectly stated provisions of the law affected in particular orthodox churches other than the already registered Serbian Orthodox Church, because the Serbian Orthodox Church has already been registered. Such reasoning may also be used to claim that incorrectly mentioned provision of the law also affects the catholic churches that are not registered, for the Catholic Church has already been registered! The finding particularly stressed by the

Advisory Committee that such a provision was invoked in the law to deny registration of the Montenegrin Orthodox Church is absolutely untrue and unacceptable. By the decision of 18 June 2008, which is wrongly attributed to by the Advisory Committee to the Ministry of Internal Affairs, and which had actually been adopted by the Ministry of Religion, the registration of the Montenegrin Orthodox Church was denied for several reasons, also including referral to Article 20 paragraph 4 of the Law on Churches and Religious Communities, which is, as stated in the comments to paragraph 142, in accordance with Article 9 paragraph 2 of the European Convention for Protection of Human Rights and Fundamental Freedoms. In the procedure of registration and on the grounds of public statements of its representatives, the Ministry of Religion established that in the course of its activities so far, the so-called Montenegrin Orthodox Church has several times undertaken acts and expressed clear intentions to take over the property and legal identity of the Serbian Orthodox Church, also including deportation of priests and monks of the Serbian Orthodox Church from the religious buildings belonging to it. The very fact that the head of the so-called Montenegrin Orthodox Church has the title of Archbishop of Cetinje and Bishop of Montenegro, which is a title held by the head of one of dioceses within the Serbian Orthodox Church, clearly evidences the intentions of the so-called Montenegrin Orthodox Church to take over the legal identity of the Serbian Orthodox Church. Moreover, in the procedure of registration it was established that that the application of the so-called Montenegrin Orthodox Church to be entered in the Register of Churches and Religious Communities was contrary in full to the provisions of the law. Namely, the request has been submitted by person who had no proper power-of-attorney, nor who was authorized by the founder, the request had attached the decision not adopted by a required number of citizens of the Republic of Serbia, as prescribed by law, or by the same number of foreign citizens having permanent residence in the Republic of Serbia, but it was the decision adopted by an association of citizens from Montenegro, the Statute was adopted six months later in relation to the date of adoption of the decision on establishment, and even four different names were used in the attached documentation (in the request for entry, in the decision on establishment and in the Statute), which are not sufficient to determine clearly what kind of organization it is about.[11] Since the activities of the Montenegrin Orthodox Church up to now impair freedoms and rights, and in particular the property rights of the Serbian Orthodox Church and that a series of irregularities was established in the procedure of registration, the Ministry of Religion denied the entry of this religious organization in the register, which was neither the motive nor the cause of infringement of the rights of the members of the Montengrin national minority to establish religious institutions, organizations and associations.

Paragraph 144

The Advisory Committee received reports from representatives of the Vlach-Romanian minorities that the police interrupted Romanian language services in Romanian Orthodox Churches in the Eastern part of the country. It also notes that

[11] The following names are used: the Montenegrin Orthodox Church, the Montenegrin Orthodox Church in Serbia, the Diocese of the Montenegrin Orthodox Church for Serbia and the Diocese of the Montenegrin Orthodox Church in Serbia.

there have been instances of harassment of priests belonging to the Vlach-Romanian minorities. These reported interferences with the right of persons belonging to national minorities to manifest their religion raise issues of compatibility with Article 8 of the Framework Convention.

Paragraph 144 disturbingly varies from the findings of the Advisory Committee so far and it is not in compliance with the findings contained in paragraphs 39 to 42 of this Opinion. The authorities of the Republic of Serbia stress great dissatisfaction with the opinion of the Advisory Committee which links the Romanian and the Vlach national minority in the Republic of Serbia, contrary to its findings and in spite of essential importance of respect for the right of any person to choose freely to be treated as a member of the national minority. The use of the expression meaning plural is incomprehensible, unnecessary, linguistically unclear and contrary to free self-identification, but it implies equality, cohesion and closeness of two national minorities (the Vlach-Romanian minorities). Moreover, by ambiguous expressions and by mentioning the Romanian Orthodox Church, service in Romanian language, priests belonging to those minorities and alleged cases of interference in the rights of the members to express their religion (one religion, indeed!), the Advisory Committee implies that the Vlachs are worshippers of the Romanian Orthodox Church as well as that the Romanian is their mother tongue, which is not only contrary to free will of the members of this national minority but it is not in accordance with Articles 3 and 8 of the Framework Convention, either. It is neither in compliance with an impartial position the Advisory Committee should have in the process of monitoring the implementation of the Framework Convention.

In the eastern part of the country, in the region of Banat, the Romanian Orthodox Church has been active. Its diocese Dacia Felix including the orthodox worshippers of the Romanian national minority in the region of Banat has been entered in the Register of Churches and Religion Communities as a traditional church on the grounds of the request made by the Romanian Orthodox Church. The services are held in Romanian language at the churches of Romanian Orthodox Church without being disturbed. It is not only that the competent authorities of the Republic of Serbia have never interrupted religious services in Romanian language, or in any other language, but they have never received any objection concerning disturbance of religious services and worshipping or concerning harassment of priests of the Romanian or any other church or religious community. The religious classes for the pupils of orthodox religion who belong to the Romanian national minority are held in the Romanian language within the framework of public education at the schools established by the state.

Paragraph 145

The Advisory Committee further notes that the introduction of religious education in public schools has triggered dissatisfaction among representatives of national minorities. In particular, smaller religious communities with less resources reported difficulties in organising themselves for such teaching, notably in the absence of sufficient teaching staff. The Advisory Committee finds it particularly inappropriate

that religious education is only given in relation to the seven religions considered as "traditional religions" and that classes of religion are only offered as an alternative to civic education. The Advisory Committee regrets that religious instruction in Serbia does not seem to involve teaching of the history and culture of religions, which would contribute to a better understanding and tolerance between the various religious communities. The Advisory Committee was given to understand however from its dialogue with the authorities that it is envisaged to revise the existing arrangements for religious instruction. It therefore expects that the authorities will use this opportunity to introduce the teaching of history and culture of religions.

The opinion and the finding of the Advisory Committee expressed in paragraph 145 give no grounds to conclude that the introduction of religious education has trigged dissatisfaction among the members of national minorities. The introduction of the option to have classes of religion in the system of public education also means financial expenditures for the state, but the state cannot resolve the issue of the lack of teaching staff in small religious communities. The findings of the Advisory Committee are also contradictory – while on one hand it finds particularly inappropriate to have religious education in relation with the traditional religions only, the Advisory Committee stresses on the other hand the difficulties the small religious communities face in the procedure of organization of religious education. The authorities of the Republic of Serbia would also like to take this opportunity to remind the Advisory Committee that the traditional churches and religious communities gather a huge majority of the members of national minorities, so that the findings and concerns of the Advisory Committee that religious education in relation to the traditional religions only is particularly inappropriate, has no grounds within the meaning of Article 8 of the Framework Convention and the rights of the members of national minorities. Moreover, the Advisory Committee finds particularly inappropriate that classes of religion are only offered as an alternative to civic education. The mentioned interpretation is also a wrong interpretation of the legal framework enabling the organization of religious classes in the Republic of Serbia. Namely, pursuant to the provisions of the law, religious instruction and civic education are compulsory but alternatively set school subjects, whereas religious instruction cannot be considered a mere alternative of civic education and *vice versa.* On the contrary, by the option to have alternative civic education classes, the Republic of Serbia has fully acted in compliance with the General Comment No. 22 of the Human Rights Committee of the United Nations and the General Comment No. 24 of the Committee for Economic, Social and Cultural Rights of the United Nations, which take the view that „public education that includes instruction in a particular religion or belief is inconsistent with Article 18 paragraph 4 of the International Treaty on Civil and Political Rights (namely, it is not in accordance with Article 13 paragraph 3 of the International Treaty on Economic, Social and Cultural Rights), "unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians."[12] According to the opinion of the authorities of the Republic of Serbia, the very obligation to set out an alternative has resulted in the possibility to have alternative classes to the subject of civic education. Moreover, in the Republic of Serbia religious instruction is not delivered

[12] CCPR General Comment No. 22

for a particular religion but for seven churches and religious communities having the status of the traditional ones. Finally, the authorities of the Republic of Serbia would also like to take this opportunity to remind the Advisory Committee on its former standpoints and opinions. In its first Opinion on the implementation of the Framework Convention in the Republic of Croatia, the Committee explicitly praised the fact that the attendance of religious instruction was optional.[13] The fact that an identical solution in the legal system of the Republic of Croatia is explicitly praised, while it is considered especially inappropriate in the Republic of Serbia, suggests to the authorities of the Republic of Serbia that is necessary for the Advisory Committee to unify its opinions and practice, which is also explicitly requested from it by the Republic of Serbia.

In view of all the above mentioned, the authorities of the Republic of Serbia expect that the Conclusions and the recommendations of the Committee of Ministers shall not contain the findings that the legal framework of the Republic of Serbia and the practice of the state authorities impose the issue of compatibility with Article 8 of the Framework Convention, namely that they shall not refer to the Recommendations Nos. 147 and 148 of the Advisory Committee.

Reply to Article 9 of the Convention

Paragraph 153

The Advisory Committee notes with concern that Serbian authorities have not taken measures to follow up on its recommendation to exempt explicitly minority language broadcasters from the obligation to have 50% of their broadcasting time in Serbian (Article 73, paragraph 1 of the Broadcasting Law). As mentioned in its first Opinion, the Advisory Committee finds that the application of such a language quota would pose disproportionate obligations to minority language broadcasters operating at local and regional levels.

Article 73 of the Broadcasting Law governs the issues of its own production, which, pursuant to paragraph 3 of that particular Article, include the programmes or broadcasts in which the original audio or video materials and/or copyright part contained in the programme or the broadcasting exceeds 50% in television, namely 20% in the radio programme, namely in the broadcasting. Article 73 paragraph 1 prescribes that a broadcaster is obliged to broadcast, out of the total annual broadcasting time, at least 50% of the programme produced in Serbian language, of which at least 50% of its own production. Paragraph 2 of the same Article prescribes that the broadcasters producing and broadcasting the programmes intended to the national minorities are obliged to broadcast at least 50% of their own production out of the total annual broadcasting time of the programmes in the language of a national minority.

Article 72 paragraph 1 of the Broadcasting Law prescribes that a broadcaster is obliged to produce and broadcast the programme in Serbian language or to ensure that the programmes produced in foreign languages are broadcasted translated into Serbian.

[13] Croatia State Report, ACFC/INF/OPI (2002)003,2002, par. 39.

Article 72 paragraph 2 of the Broadcasting Law prescribes that the obligation to produce and broadcast the programmes in Serbian language does not concern the broadcasters producing and broadcasting programmes intended to the national minorities, as well as that it does not concern to the parts of programmes by the institutions of the public broadcasting service meeting the requirements of the national minorities to obtain information in their mother tongue.

In view of the fact that the above mentioned legal solution clearly excludes the application of language quotas to broadcasting of programmes in the languages of national minorities and that it is fully applied in practice, the authorities of Serbia expect that the Conclusions and the Recommendations of the Committee of Ministers should not contain the findings on the quotas in respect of the programmes that are broadcasted in minority languages.

Reply to Article 11 of the Convention

Paragraph 180

The Advisory Committee notes with concern that no changes to the provision concerned have been introduced. The Advisory Committee maintains that this provision is too restrictive as it may be interpreted as preventing persons belonging to a national minority from displaying certain information of a private nature visible to the public also in a language that is not in official use. It recalls that the expression "of a private nature" in Article 11 of the Framework Convention refers to all that is not official.

In the second Opinion the findings of the Advisory Committee are also grounded on the interpretation of Article 20 of the Law on the Official Use of Language and Script, which are stated in paragraph 180 of the Opinion of the Advisory Committee. The Advisory Committee has analyzed the provision of this law prescribing that the name of a company may be written in Serbian and minority language being in the official use in the location of the seat or the business of the entity and concluded that such a provision of this law was not in accordance with Article 11 of the Framework Convention because it is „too restrictive as it may be interpreted as preventing persons belonging to a national minority from displaying certain information of a private nature, also in a language that is not in official use." Proceeding from the understanding that „the expression of a private nature" in Article 11 of the Framework Convention refers to all that is not official, the Advisory Committee notes that no changes have been introduced to the provision concerned.

As stated in the Comments to the first Opinion, the authorities of Serbia share the opinion of the Advisory Committee in full, but take the view that the findings of the Advisory Committee are not complete. Namely, Article 20 paragraph 3 of the Law on Official Use of Language and Script of the Republic of Serbia also contains the provision prescribing that a company, namely a shop is not obliged to write in Serbian or in the language of a national minority that is in official use, the annotation of the company or its part being used as a trade mark, regardless of the language origin. The stated provision is interpreted

by the authorities as the legal ground enabling the information of a private nature to be displayed in the public in all languages, thus, in the minority languages that are not in official use. This view has been fully confirmed in practice – in the settlements in Serbia, the annotations of companies or shops are written in all the languages and scripts, namely they are written in the same way as the companies and shops have been officially registered.

In view of the above, the authorities of the Republic of Serbia take the view that the Conclusions and the Recommendations of the Committee of Ministers should not contain calls to the Serbian authorities to ensure that Article 20 of the Law on Official Use of Language and Script of the Republic of Serbia is brought in line with Article 11 of the Framework Convention for the Protection of National Minorities.

Reply to Article 12 of the Convention

Paragraph 193

Concerns remain regarding the delays in the printing of some textbooks and their costs.

The textbooks for classes in the mother tongue of a national minority have been prepared by the Textbook Institute (the public publisher), the Creative Centre and Klett (the private publishers). Since the textbook Institute has in the past mostly prepared and printed the textbooks in Hungarian, Slovak, Romanian and Ruthenian languages, the private publishers covered the market of textbooks in other languages of the national minorities. In spite of this, the needs to have the textbooks in the mother tongues of the national minorities have not been satisfied (a small number of translated textbooks into the languages of the national minorities, bad translations and late publishing), for which reason the national councils of certain national minorities imported the textbooks from the countries where these languages are mother tongues (Croatia, Hungary and Bulgaria), and the Albanian community in the south of Serbia has been allowed to use the textbooks from Kosovo and Metohija. The use of the textbooks from the countries where these languages are mother tongues, as a transitional solution, has proved to be a bad solution, as they are adapted to the school curriculum in the Republic of Serbia.

The new Law on Textbooks, which had been prepared in co-operation with the national councils of the national minorities, which was adopted on 31 August 2009, shall resolve the problems of preparation and publishing of the textbooks and other teaching aids in the languages of the national minorities. This law clearly defines that the public publisher, the Textbook Institute, and the private publishers have the same rights and obligations in the field of preparation, approval and publishing of the textbooks. The new Law on textbooks obliges the publishers to publish the textbooks in the language of a national minority simultaneously with the textbooks in Serbian language.

The Ministry of Education has provided free of charge textbooks for the pupils of the first grade in the school year 2009/2010, including the textbooks in the languages of the national minorities.

Paragraph 205

Information received from various sources confirms that drop-out rates of Roma children are still high, especially in the second and third grades as well as a high rate of absenteeism among this group. In addition, the quality of education in classes with a high percentage of Roma children is markedly lower than in classes with a lower percentage of Roma. Discriminatory attitudes from the teaching staff and school administration persist, with a regrettably low awareness of the school inspectorate on the need to address discrimination of Roma pupils (see also Article 4 above). The Advisory Committee regrets the fact that while local authorities are given greater competences in school management under the Law on the Foundation of the Education system, there are hardly any Roma parents participating on school boards.

The authorities of the Republic of Serbia have realized the problem of insufficient inclusion of the Roma parents in the administrative and advisory educational bodies at the local level, so they are going to work actively on the solution of this matter in the forthcoming period, in co-operation with schools administrations. The project implemented by the Roma Democracy Centre, an association of citizens, in co-operation with the town of Valjevo and educational institutions within the period from 2006 to 2008, is an example of good practice related to the participation of the Roma parents, which was also supported by the Ministry of Education. The project was aimed to include the issues of the Roma education in the school development plan and also had an assignment to include the Roma parents into the school structures and transfer the responsibility for the education of the Roma from the Roma organizations to the primary interested ones – the parents and the school. Since the objective of the project was to research and document the methodology of the Roma inclusion in the school structures and the school development planning, the results obtained from its implementation indicated that it was possible to apply a similar model of the Roma inclusion into the school structures and the school development planning in the regions of the remaining school administrations as well.

In addition to the Action Plan for the implementation of the Strategy for the Improvement of the Roma Status, the local actions plans for the Roma, which include education and local action plans for children, have also been adopted in 10 municipalities /towns in Serbia. This strategic documents specifies a more active participation of the Roma parents in school boards. The local action plans are adopted by the units of local self-government, on the grounds of the National Action Plan for the implementation of the Strategy for the Improvement of the Roma Status. The local action plans are a genuine indicator of how seriously the local self-governments make efforts in order to resolve the problems of the Roma communities in the most efficient way, which provide long-term and sustainable integration. It should be noted that the local action plans refer to four

priority areas of the Roma Inclusion Decade: employment, education, housing and health, as well as that they specify the pecuniary resources for the implementation of the mentioned activities. Special attention in the local action plans has been paid to supression of discrimination in the educational system by means of the following measures and activities:

- provision of regulations in the field of professional-pedagogic supervision, to use as compulsory the quality indicators for the activities of the institutions in the process of support to the development of anti-discriminatory culture in educational –upbringing institutions, together with the activities related to the training of the teaching counsellor related to the processes of inclusion and implementation of improved professional-pedagogic supervision according to the requirements;
- respect for diversities and development of multi-cultural values, including special activities related to the development of sensitivity of the professional public and the larger community concerning the needs of the Roma, through information and awareness raising of the larger social public for the educational needs of the Roma and promotion of the policy of the Roma inclusion in the education among the professional public;
- prevention of discrimination in education on the grounds of researches about the status, causes and forms of the Roma discrimination in education at pre-school institutions, primary, secondary and high school institutions, as well as at the institutions for education of adults. It has also been foreseen that the instructions for the relevant institutions shall be prepared to recognize, monitor and act in cases of discriminations at pre-school institutions, primary, secondary and high school institutions, as well as at the institutions for education of adults, as well as the preparation of action plans to foster anti-discriminatory culture and resolve the cases of discrimination, as integral parts of the institution development plan and the annual school curricula. It has also been planned to prepare information booklets for children, young and parents about children's and human rights and their protection pre-school institutions, primary, secondary and high school institutions, as well as at the institutions for education of adults.

Paragraph 207

While recent steps have been taken to extend the existing contracts of Roma teaching assistants, the authorities have not yet taken structural measures to make their posts sustainable and to regulate their status and recruitment. This has occasionally created resistance among the school administration to hire them.

The new Law on Basics of Educational and Upbringing System, which was adopted on 31 August 2009, prescribes the employment of teaching assistants at schools, whose task is to render assistance and additional support to children and pupils, in compliance with their requirements and as assistance to teachers, educators and expert associates in order to improve their activities with children and pupils who need additional educational support. In performing their activities, the teaching assistants co-operate with parents, namely with guardians, and together with the school master they also co-operate with the competent institutions, organizations and associations and the unit of local self-government. The expert teams may be established in the territory of the unit of local self-

government in order to help the teachers to render additional support in teaching, namely in the accomplishment of educational-upbringing activities. To conclude, these are the system measures that have entered the stage of their implementation in the meantime.

On 25 May 2009 the Ministry of Education and the Mission of OESC to Serbia issued a tender for the submission of applications by potential candidates to be recruited as teaching assistants, who shall work with the pupils of the Roma nationality at primary schools requiring additional support and assistance. In this way, support is provided to the activities with the project of *the Roma Teaching Assistants*, which is an international project of *the Roma Inclusion Decade*, to the Strategy for the Improvement of the Roma Status and to the Action Plan in the part dealing with the improvement of the Roma education.

In addition to the support to the activities initiated in the field of education, there has been a simultaneous support to the creation of the conditions ensuring equal availability of quality education for all, especially for the children and the young who, due to their ethnic origin or social deprivation, have been marginalized, discriminated or segregated.

The objective of the tender was to identify and support the school developing the educational practice in accordance with the values of inclusive education, by increasing the number of included Roma children, providing quality inclusion of the pupils of the Roma nationality in the process of education, introduction of novelties into the relevant school documents (for example, the School Development Plan, The Annual Plan of Activities, etc.), creating friendly educational environment for all children, building tolerance between the Roma and non-Roma population, motivating the pupils of the Roma nationality to continue education, building co-operation with the parents and the local community and introducing the new criteria and indicators by analyzing the examples of positive practice. In total, 83 applications by primary schools have been received at the tender, which need teaching assistants and 158 applications for the recruitment as teaching assistants, which indicates great interest in the educational difficulties of the pupils of the Roma nationality in Serbia. After the interviews had been held with all the candidates, the Tender Commission assessing the received applications selected 26 future teaching assistants who should be employed as from 1 September 2009 at 26 primary schools. In August 2009 the selected teaching assistants and primary schools attended the training and the seminar. The second part of this training and the seminar shall be held in the course of October 2009.

Reply to Article 15 of the Convention

Paragraph 232

The Advisory Committee received complaints from national minorities, especially from the Roma and Albanian minorities, regarding the fact that the regulation of the Electoral Commission to reduce the number of signatures required in support of an electoral list from 10 000 to 3 000 signatures was ruled out by the Constitutional Court of Serbia in April 2008. As a result, the 10 000 signatures requirement was

applied to all political parties in the general elections of May 2008. The Advisory Committee notes that such a decision has affected negatively the numerically smaller minorities as they have faced difficulties to meet the required number of signatures. Furthermore, the Advisory Committee notes that this requirement was introduced only a month before the general elections took place. As a consequence, national minority parties were given too little time to adjust to the new conditions, which in the Advisory Committee's view, is not satisfactory.

The condition for a political party of some national minority, as different from other political parties, to have 3,000 signatures required in support of an electoral list instead of 10,000 signatures, was prescribed in the Instructions for the enforcement of the Law on the Election of Representatives to the Parliament, which had been adopted by the Electoral Commission of the Republic of Serbia. The Instructions of the Electoral Commission of the Republic of Serbia is a document of less legal power than the law. Bearing in mind that the Law on the Election of Representatives to the Parliament prescribes that the Electoral Commission of the Republic of Serbia specifies the forms and the rules to perform electoral activities prescribed by the same law (Article 34 paragraph 1 item 5) and that the electoral list is established after it had been signed in support to it by 10,000 voters (Article 43 paragraph 1), The Constitutional Court established that the mentioned provision of Article 34 of the Law on the Election of Representatives to the Parliament, on the grounds of which the impugned Instructions had been adopted, did not contain the authorization for the Electoral Commission of the Republic of Serbia to prescribe the conditions for the accomplishment of electoral rights or to prescribe the number of signatures required in support of an electoral list. To conclude, the decision of the Constitutional Court in this issue was in accordance with the principle of legality and the rule of law and was a consequence of the fact that this document of less legal power than the law altered the contents and the meaning of legal provisions, and had no objective to discriminate political parties of national minorities.

Nevertheless, there have been certain changes in the political system of the country since the adoption of the decision of the Constitutional Court. Accordingly, bearing in mind that it is incomparably and beyond reasonable doubt more difficult for the parties of the national minorities to have 10,000 signatures required in support of an electoral list, the new Law on Political Parties prescribes that it is sufficient to have 1,000 citizens of age and with business capacity to register a political party of some national minority. The above mentioned example clearly indicates the fact that the authorities of the Republic of Serbia have recognized that positive measures in favour of political parties of the national minorities should be foreseen in the political system, not only on the occasion of distribution of mandates, but in other important issues for them such as registration, or signatures required in support of an electoral list before the elections. It is beyond reasonable doubt that in the society and among political actors there is a consent in respect of introduction of such measures, but it is also true there is need that such measures are undertaken in proper manner, which means that the reduced number of signatures required in support of political parties of the national minorities should be also prescribed by law.

Paragraph 253

At local level, the Advisory Committee recalls that the 2002 Law on Local Self-Government provides for the setting up of councils for inter-ethnic relations in municipalities with an ethnically mixed population. The responsibilities of these councils include taking initiatives related to the promotion of equality between persons belonging to national minorities and those belonging to the majority and giving opinions on the proposals of the municipal assembly relating to national minorities (Article 63). The Advisory Committee notes however that, according to the information provided by the State Report, such councils have only been established in 23 of the 68 municipalities concerned. It further notes that those municipalities which have established such councils, have experienced difficulties in relation to the selection of the council members and to the functioning of the council. The Advisory Committee acknowledges that the 2002 Law on Local Self-Government gives municipal authorities a margin of appreciation to decide on the composition, scope of activities and procedures of the council for inter-ethnic relations. It considers however that the problems encountered by the municipalities merit careful consideration by the authorities and further guidance in order for these councils to be able to contribute fully to inter-ethnic dialogue at municipal level.

After the preparation of the State Report, the new Law on Local Self-Government was adopted in 2007, which prescribes in details the issues of establishment and scope of activities, composition and appointment of the councils for inter-ethnic relations in units of local self-government with an ethnically mixed population. The councils for inter-ethnic relations are established in the ethnically mixed units of local self-government, which is a wider expression than a municipality, for pursuant to Article 2 of the Law on Territorial Organization of the Republic of Serbia, the territorial organization of the Republic of Serbia consists of municipalities, towns and the City of Belgrade, as territorial units and autonomous provinces, as a form of territorial autonomy.

Article 98 of the Law on Local Self-Government prescribes that a council for inter-ethnic relations is established in ethnically mixed units of local self-government, as an independent working body, consisting of the representatives of the Serbian nation and national minorities, in accordance with this law and the statute of the unit of local self-government. The ethnically mixed units of local self-government, within the meaning of this law, are considered to be the units of local self-government in which the members of one national minority make more than 5% of the total population or in which the members of all national minorities make more than 10% of the total number of population according to the latest census. The members of the Serbian nation and the members of the national minorities having more than 1% share in the total population of some unit of local self-government may have the representatives in the council for inter-ethnic relations. The council considers the issues of accomplishment, protection and improvement of national equality in compliance with the law and the statute. The scope of activities, composition, appointments of members and method of activities of the councils for inter-ethnic relations are determined by the decision of the assembly of the

unit of local self-government, which is adopted by the majority of votes out of the total number of representatives in accordance with the statute. The method in which the proposals and the appointment of the members of the council for inter-ethnic relations are made, should provide equal representation of the representatives of the Serbian nation and the national minorities, whereas neither the Serbian nation nor any national minority may have the majority of members of the council. In case of national minorities having their elected national councils, the representatives of the national minorities are appointed to the council under the proposal of the national council. The decisions of the council for inter-ethnic relations are adopted in a consensus of the members of the council. The council shall inform the assembly of the unit of local self-government about its opinions and proposals, which is obliged to give comments on them at the first meeting, but not later than within 30 days. The assembly and the executive bodies of the unit of local self-government are obliged to submit the proposals of all decisions concerning national equality for an opinion of the council first. The council for inter-ethnic relations has the right to initiate before the Constitutional Court the proceedings for the assessment of constitutionality and legality of the decision or other general document of the assembly of the unit of local self-government if it finds that it directly violates the rights of the members of the Serbian nation and the national minorities represented in the council for inter-ethnic relations and to initiate, under the same conditions, before the Supreme Court the proceedings for the assessment of compatibility of the decision or other general document of the assembly of the unit of local self-government with the statute.

Paragraph 260

Roma organisations pointed out that although Roma are explicitly referred to as a priority target group in the National Employment Strategy, the specific measures taken so far have not yielded sufficient results in terms of engaging Roma in self-employment projects. Roma persons are still reported to face obstacles in their access to employment, including difficulties in terms of registration in employment services. Furthermore, measures in the field of employment have reportedly lacked clearly defined funding. The Advisory Committee notes with concern that information available indicates that Roma are twice as affected by unemployment than the majority population (51% for the Roma compared to 21% for the majority population), with unemployment rates of Roma women reaching levels as high as 72%. Against this background, the Advisory Committee notes that further measures are needed in the context of the future National Strategy on Roma to tackle the persistent high unemployment of Roma (see also Article 4 above).

The National Employment Agency has taken part in the implementation of the Programme of Functional Primary Education of the Roma, as follows: in 2006 for 59 persons, in 2007 for 140 persons and in 2008 for 101 person of the Roma nationality. The following number of persons were employed to perform public works: in 2007 – 223 persons, in 2008 – 396 persons and in 2009 – 498 persons of the Roma nationality.

In 2008 the branch office of the National Employment Agency in Niš arranged elementary computer training for 20 persons of the Roma nationality. In 2008 the Branch

Offices of the National Employment Agency arranged one day seminars to inform and motivate the Roma to be included in the active measures of employment, which engaged more than 200 persons of the Roma nationality. The Ministry of Economy and Regional Development supported the Roma organization under the name of the Roma Information Centre in Kragujevac in the implementation of the project under the title of *Incitement of Entrepreneurship with the Young Male and Female Roma*, through which at five branches of the National Employment Agency 5 seminars in the field of entrepreneurship were organized and 131 attendee of the Roma nationality was engaged. In order to support the employment of the Roma in 2009 the funds in the amount of 255,000,000 dinars have been provided, as follows: additional education and training for about 1,000 persons- 65,000,000 dinars; subsidies for employment of about 500 persons – 65,000.000 dinars; subsidies for the opening and equipping of new jobs for about 500 persons – 75,000,000 dinars and public works for about 500 persons – 50,000,000 dinars.

Reply to Article 18 of the Convention

Paragraph 265

The Advisory Committee notes that, although negotiations are reported to continue, the bilateral commissions envisaged in the bilateral co-operation agreements with Romania and Croatia have not yet been established. The Advisory Committee finds that this type of commission could have a potentially useful role in finding solutions to issues of common concern, including in the field of education (see also Article 12 above) and that due attention should be paid to finding an agreement on their establishment. It further notes that no bilateral agreements devoted to the protection of national minorities have been concluded as yet with Bosnia and Herzegovina and Montenegro and it considers that the adoption of such agreements could be instrumental to enhancing the protection of national minorities. The Advisory Committee further notes that, as far as bilateral co-operation with Montenegro is concerned, the situation of those persons who have presently both Serbian and Montenegrin citizenships is due to be addressed through a bilateral agreement. It notes that such an agreement has not been signed as yet and it expects that a solution can be found. Such a solution should keep in mind the importance of maintaining a climate of co-operation and taking due account of the situation of the persons concerned and their ties with the two countries.

Concerning the implementation and respect for the concluded bilateral agreements on the protection of rights of national minorities, which ensure preservation and development of national, linguistic, cultural and religious identity of the national minorities, and the activities of the inter-governmental mixed commissions established to monitor the enforcement of the provisions of such agreements, we stress that the Inter-governmental Mixed Committee for Minorities with the Republic of Croatia was established as already as in 2005, and that it had two sessions, on 22 November 2005 in Belgrade and on 22 February 2006 in Zagreb. After both the states had appointed new co-presidents of the committee and the Serbian party appointed the members of its delegation, it is expected that the third session of this committee shall be held at the end of September this year.

We also stress that the Serbian party had initiated the continuation of the negotiations concerning the establishment of the Inter-governmental Mixed Commission with Romania, that the co-presidents of this commission had been appointed in the meantime as well as that it is expected that the first session of this commission shall be held in autumn this year.

The authorities of the Republic of Serbia draw the attention of the Advisory Committee to a well-known fact that Bosnia and Herzegovina consists of two entities: the Federation of Bosnia and Herzegovina and the Republic of Srpska as well as that the Serbian nation is one of the constitutive nations of Bosnia and Herzegovina, thus meaning that the conclusion of a bilateral agreement on the protection of rights of national minorities with Bosnia and Herzegovina would not be expedient.

The conclusion of an agreement on the protection of rights of national minorities with Montenegro is not possible because the status of the persons of Serbian nationality in Montenegro has not been clearly defined, and it is neither acceptable for the Republic of Serbia that the Serbs in Montenegro have the status of a national minority.

IV. REPLIES TO THE CONCLUDING REMARKS OF THE ADVISORY COMMITTEE

Paragraph 279

Minority language education, although well developed, remains an optional subject in the Serbian educational system. Further measures are needed to address the shortage of teachers and increase the availability of textbooks adapted to the Serbian curriculum. The issue of recognition of diplomas from educational institutions from the region has still not been approached in a comprehensive and satisfactory manner.

As it is clearly explained in the State Report[14], the members of national minorities, pursuant to Article 13 paragraph 1 of the Law on the Protection of Rights and Freedoms of National Minorities, *have the right to upbringing and education in their mother tongue* at pre-school, primary and secondary upbringing and education. According to paragraph 2 of the same Article *the state is obliged to create the conditions to organize the education in the language of a national minority*, or to ensure bi-lingual teaching or studying of the language of national minority with elements of national history and culture for the members of the national minority.

Pupils themselves and their parents shall decide whether pupils who are members of national minorities wish to attend all day classes in their mother tongue, or whether they wish to learn their mother tongue as an optional subject, including the elements of national culture, and the state shall enable them to have the conditions for education in their mother tongue.

[14] See Sections 12.1.1, 12.3, 14.1 and 14.2 of the State Report.

Article 4 paragraph 1 of the Law on the Basics of Educational and Upbringing System prescribes that anyone shall have the right to education and upbringing, and paragraph 3 of the same Article that primary education is compulsory and free of charge. Also, Article 3 of the Law on Primary School prescribes that primary education shall last for eight years and that it is compulsory, and Article 4 of the same law that all citizens from seven to fifteen years of age are obliged to attend primary school.

To conclude, it is clear that primary education is compulsory, that the members of national minorities have the option to decide on one particular form of teaching (all day teaching in mother tongue, bi-lingual teaching or studying of subjects in mother tongue with elements of national culture), which clearly shows that teaching in mother tongue is compulsory for those pupils who decide to attend it.

The measures in the field of education related to fostering of culture, history and languages of national minorities involving the study of minority languages with elements of national culture have been prescribed in the relevant provisions on education. Article 5 paragraph 5 the Law on Primary School and Article 27 paragraph 6 of the Law on Secondary Education prescribe that the pupils who are the members of national minorities are enabled to master the school curriculum of the mother tongue with elements of national culture if teaching is performed in Serbian language.

According to Article 69 of the Law on the Basics of Educational and Upbringing System the school curriculum contains compulsory, selected and optional part. The compulsory part of the school curriculum contains basic subjects and compulsory contents for all pupils at certain level and of certain type of education. The selected part of the school curriculum includes selected subjects and contents according to the levels and types of education out of which a pupil must select one or several subjects according to his/her own choice. The optional part of the school curriculum includes the subjects meeting the interests of pupils in accordance with the possibilities of the school, as well as the contents and forms of their free time activities.

Pupils who are members of national minorities have a possibility to study *the selected subject of mother tongue with elements of national culture* (they select it for one year only and not for the entire educational cycle). It means that this *subject is not compulsory*, but a subject selected by pupils, so the finding that „minority language education, although well developed, remains an optional subject in the Serbian educational system".

It is obvious that in its final considerations the Advisory Committee has identified only one of the forms of education of the members of national minorities – study of mother tongue with elements of national culture as an optional subject – with the entire educational system in mother tongues of national minorities, neglecting at the same time the remaining forms of this education (entire teaching in mother tongue and bi-lingual teaching).

Proceeding from the above mentioned, the authorities of the Republic of Serbia invite the Committee of Ministers not to state in its Conclusions and Recommendations that minority language is an optional subject in the educational system of Serbia, since such a finding may only refer to one form of education in minority language – study of mother tongue with elements of national culture.