

## **APPENDIX: GOVERNMENT'S VIEWPOINT**

**The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Serbia.**

ECRI, in accordance with its country monitoring procedure, engaged in confidential dialogue with the authorities of Serbia on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which only takes into account developments up until 7 December 2016, date of the examination of the first draft).

The authorities requested that the following viewpoint be reproduced as an appendix to the report.



**Comments of the competent authorities of the Republic of Serbia  
on the Draft report in the context of the Fifth cycle of monitoring  
of the European Commission against Racism and Intolerance CE (ECRI)**

**GENERAL COMMENTS**

- Serbian authorities acknowledge that ECRI reports are developed on the basis of “analyses based on a great deal of information gathered from a wide variety of sources”, which certainly include a number of interviews during the in situ visit. As stated in the Foreword of the Draft Report “The in situ visit provides the opportunity to meet with the parties directly concerned (both governmental and non-governmental) with a view to gathering detailed information”. Nevertheless, in order to achieve objectivity of findings, we believe that the Report as a whole should reflect the views of all stakeholders involved in the process.
- Proposed Draft report contains a number of conclusions that are not supported by any source and/or relevant facts. We believe that the draft report contains a certain number of views and assessment of a more political nature, through which ECRI transgresses its mandate, and which constitute interference in the political sphere.

Despite the clearly stated mandate of ECRI that “ECRI shall draw up reports containing its factual analyses as well as suggestions and proposals as to how each country might deal with any problems identified” (Article 11 Paragraf 1 Statute of ECRI), the current Draft Report does not sufficiently rely on facts, but rather draws conclusions from sources that cannot be determined and appear to be conjectures and/or subjective impressions. Hence it is not clear what the connection is between the facts and the conclusions stated in the Draft Report.

- Attitude of ECRI on the existence of high level of inherent social distance between certain parts of the population at its base, is perceived as arbitrary by the Serbian authorities, because studies that support this view are not mentioned. This also implies that there should be no "no social distance" that borders on ideological views and attitudes and should not be part of this Report.

Similar unsupported conclusions whereby the authors claim: “entire ethnic communities continue to live in fear of the possibility of a new wave of hate crimes. They also perceive the conduct and behavior of heavily armed military forces near the borders at Preševo as intimidating”. Serbian authorities strongly disagree with such conclusions, and perceive these statements as absolutely arbitrary, given that neither the Draft Report nor the factual situation, provide any evidence for such conclusions.

- In some parts of the draft report, we believe that the terms are not precise enough, so racist war crimes as mentioned. But when it comes to the area of violations of international criminal law, elements of offenses that define protected persons, their characteristics or their existence as conditions for the existence of crime of discriminatory intent to pursue victims on political, racial or religious grounds are regulated by international treaties and represent an obligation of the Republic of Serbia.
- We would like to point out that a large number of senior government officials in their public speeches, calls for tolerance, respect for diversity and respect for the constitutional principle of equality. Also, they make use of every opportunity to indicate the necessity of refraining from violence against vulnerable social groups, particularly towards LGBTI people. The general

attitude of ECRI that public officials use inflammatory speech and incite hatred is unacceptable.

## **INDIVIDUAL COMMENTS**

### **1) Comment on paragraph 1**

We emphasize that the Constitution of the Republic of Serbia, Article 49 prohibits and punishes every inciting of racial, national, religious or other inequality, hatred or intolerance.

Bearing in mind the above provision of the Constitution, we point out that Article 34 of the Criminal Code (incitement) in paragraph 1 and 2 also stipulates that incitement to violence, though not explicitly prescribed as an act of commission, is punishable, if subject to fulfillment of legal requirements.

For the purposes of Art.34 of CC, incitement is always related to a specific crime and must be directed to a specific person or a specific group of persons, however, it is not necessary that the instigator personally know the perpetrator.

Provocation and incitement of hatred, in terms of Art.317 par. 1 CC, primarily implies influencing emotions, and partially the intellect, in that it creates or strengthens a certain feeling and attitude towards a nation or ethnic community, and for a crime it is not relevant whether and which further objective is to be achieved by inducing or fomenting hatred or intolerance, therefore, we may conclude that such a goal can also be violence, except when riots ensue, in this case, a qualified form of the criminal offense of Art.317. par. 3 CC is in question.

### **2) Comment on paragraph 7**

The stated basis of a criminal offense, although not laid down, is included in the National legislation of Serbia. Having in mind that the SFR Yugoslavia has ratified the UN Convention on the Elimination of All Forms of Racial Discrimination (CERD) in 1967. The Republic of Serbia is based on a succession of previous country member of the Convention since 2001. The term "racial discrimination" under Art. 1. UN Convention on the Elimination of All Forms of Racial Discrimination (CERD), refers to any distinction, exclusion, restriction or preference based on race, color, descent, national or ethnic origin which have the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life".

In this regard, we find that the concept of "membership of race, nationality and ethnicity", in terms of Art. 54a of the Criminal Code, may also include skin color and language, as the basis of a criminal offense.

### **3) Comment on paragraph 9**

Action Plan for Chapter 23, in the first and second quarter of 2017, provides for the amendments to the Law on the Prohibition of Discrimination. The definition of indirect discrimination is in the process of harmonization with EU directives.

### **4) Comment on paragraph 12 and 13**

The Law on the Prohibition of Discrimination forbids conspiracy with a view to committing discrimination, i.e. the operation of organizations or groups aimed at the violation of the constitution, the rules of international law and freedoms and rights guaranteed by law or instigating national, racial, religious or other hatred, discord or intolerance.

In accordance with Article 3 of the Labour Law, collective agreement with the employer, in accordance with the law, regulates the rights, obligations and

responsibilities arising from the employment relationship and the mutual relations between parties to a collective agreement, while the labour regulations or the labour contract, in accordance with the law, regulate the rights, obligations and responsibilities arising from employment, if the conditions for concluding a collective agreement have not been met.

We would like to point out that the collective agreement and the labour regulations are general acts in terms of the Labour Law. Article 9 of the Labour Law stipulates that if the general act and some of its provisions stipulate less favorable working conditions than the conditions stipulated by law, the provisions of the law shall apply.

Articles 18 - 23 of the Labour Law prohibit direct and indirect discrimination of persons seeking employment and employees with regard to their gender, birth, language, race, color, age, pregnancy, health condition or disability, national origin, religion, marital status, family obligations, sexual orientation, political or other opinion, social origin, property, membership in political organizations, trade unions or any other personal characteristic.

Article 20 of the Labour Law stipulates that discrimination referred to in Article 18 of this law shall be prohibited in relation to: 1) conditions for recruitment and selection of candidates for a specific job; 2) working conditions and all employment rights; 3) education, training and development; 4) promotion at work; 5) termination of employment. The provisions of the labor contract defining discrimination on any of the grounds referred to in Article 18 of this law are null and void.

According to Article 22, par. 2 of the Labour Law, provisions of the law, general act and the labour contract relating to special protection and assistance to certain categories of employees, especially those concerning the protection of persons with disabilities, women during maternity leave and leave from work for child care, special child care, as well as provisions relating to special rights for parents, adoptive parents, guardians and foster parents - are not considered to be discrimination.

Given the above, if the general acts (collective agreements and labour regulations) contain discriminatory provisions, they shall not apply, and provisions of the law shall apply instead, in accordance with Article 9 of the Labour Law. At the same time, we would like to point out that determining the constitutionality of the law, as well as the constitutionality and the legality of general acts is in the jurisdiction of the Constitutional Court.

#### **5) Comment on paragraph 14**

Regulation on the means of encouraging programs or missing part of funds for financing programs of public interest implemented by associations defines the term "association", which in terms of this Regulation shall mean the voluntary and non-governmental non-profit organization based on the freedom of association of natural or legal persons, established with the aim of achievement and improvement of certain common or general goals and interests, which are not prohibited by the Constitution or by law, which is included in the register of the competent authority in accordance with the law. In this regard, the Business Registers Agency can not register an association through which goals that are prohibited by the Constitution or the law are achieved.

#### **6) Comment on paragraph 16**

According to the Law on the Prohibition of Discrimination, proceedings on complaints submitted to the Commissioner for the Protection of Equality are conducted upon the complaint filed by the person who considers that he has suffered discrimination, i.e. organization dealing with the protection of human rights, or other person. However, many other activities that aim to promote equality, as well

as initiatives for amending regulations, notifications, alerts, recommendations of measures, filing of criminal and misdemeanor charges are realized by the Commissioner for the Protection of Equality on his own initiative. The Law on the Prohibition of Discrimination, Article 37, stipulates that upon receipt of a complaint, the Commissioner shall establish the facts by examining the submitted evidence and taking statements from the complainant, the person against whom the complaint has been filed, and others. The Commissioner has the right to require the submission of the document and to take statements from persons. Seizure of an object is possible in criminal and misdemeanor proceedings.

**7) Comment on paragraph 19**

The sentence "These cases are completed with the pronouncing of verdicts against 21 persons" should be replaced by the data "Convictions were brought against a total of 24 persons for the offenses referred to in Art. 317 CC (3 persons), Art. 387 CC (1 person) and Art. 138 CC (20 persons) committed against the LGBT community via the Internet."

**8) Comment on paragraph 28**

The Commissioner for the Protection of Equality filed 69 complaints in the field of public information and media, indicating personal characteristics (in 4 complaints, personal attribute was not specified), and the listed personal characteristics did not only relate to their nationality or ethnic origin, but also to sexual orientation - 21; gender identity - 17; nationality or ethnic origin - 11, and other personal characteristics are listed in the remaining 20 complaints.

**9) Comment on paragraph 31**

On 27 March and 28 August 2016 in Novi Pazar, a football match took place between the football club "Novi Pazar" and the football club "Red Star", which was attended by 450 spectators (27 March) and 300 spectators (28 August) - the football club "Red Star" fans. The number of football club "Red Star" fans who travelled to Novi Pazar is no different from the number of fans who attend football matches of the football club "Red Star" outside of Belgrade. We would also like to point out that the Ministry of Interior, as well as in the maintenance of all sports events anywhere in the territory of the Republic of Serbia, based on previously composed security assessments, hired the necessary number of police officers in order to maintain a stable state of public order and peace. During the above matches, the number of engaged police officers was close to the number of police officers who are normally engaged during organized departures of football fans of Red Star outside of Belgrade, in order to prevent physical violence at the sports event.

The fans travelled to the football match by buses organized by the football club "Red Star", as agreed upon by the two football clubs and with the number of tickets secured. The police monitored the activities of the fan group, observed the possible venues for gatherings of the football club "Red Star" fans and, in accordance with the security assessment and the well-established procedures, with 50 police officers of the City of Belgrade Police Directorate who took measures to secure the departure of "Red Star" fans for Novi Pazar. We would like to point out that this number of 50 engaged police officers is considerably fewer than the number referred to in the paragraph of the draft, "around 2000".

Regarding the profile of the police forces who were engaged in specific cases, we would like to emphasize that these are regular lines of the Ministry of Interior, which are always engaged during similar public gatherings (police officers of the general police, traffic police, operational security, fire departments, etc.) and not "special police forces" as stated in the aforementioned point of the draft.

We also argue that, in accordance with the legislation of the Republic of Serbia, the matches were attended by representatives of the prosecutor's office who

qualify the existence of a criminal offense in certain events and that police officers only act in accordance with the orders of the competent prosecutor in specific cases, if it is determined that individual behaviors acquire elements of a criminal offense.

After the match, the police worked intensively to identify individuals who threatened the safety of the participants of these football matches and, due to crimes and offenses, police filed criminal charges against 5 persons, and misdemeanor charges against 8 persons.

In connection with the allegations relating to the behavior of a group of spectators at a football match of the Serbian under-20 national football team, we would like to point out that the mentioned football game was played on 11 March 2014 in Modriča, Bosnia and Herzegovina. This sports event did not take place on the territory of the Republic of Serbia, and there are no indications that citizens from the territory of the Republic of Serbia participated in it, i.e. "Serbian hooligans" as stated in the draft.

In connection with a football match between "FC Novi Pazar" and "FC Red Star", played in Novi Pazar on 28 August 2016, after the identification of perpetrators, on 16 November 2016, PD Novi Pazar filed criminal charges against three adults and two minors at the Higher Public Prosecutor's Office in Novi Pazar, on suspicion of having committed a criminal offense defined as Violent behavior at a sports events or public gathering of Art. 344a CC. In relation to minors, the request for preparatory proceedings was submitted to the juvenile judge on 30 November 2016 at the Higher Court in Novi Pazar.

In addition, the prosecution examined one adult as a suspect, who fully admitted committing the crime, and since it was a person who had not been convicted, the order of 12 July 2016 obligated this person to pay an amount of money to the budget of the Republic of Serbia. Two suspects did not respond to calls from the prosecution, due to which order for their apprehension was issued. After their hearing, a decision will be made.

#### **10) Comment on paragraph 37**

Within the IPA project of the Ministry of Culture and Information „Strengthening media freedom“, which lasted from October 2013 to May 2016, numerous activities (workshops, seminars and conferences) were carried out on the implementation of harmonized legal framework for the media adopted in 2014, and in particular topics in the field of public information, discrimination, hate speech, the right to information minorities were discussed and calls for all activities were addressed, inter alia, to all the representatives of journalists' and media associations, as well as regulatory and self-regulatory bodies.

The Ministry of Culture and Information organized and held two activities provided for in the action plan for Chapter 23 - two expert seminars on 29 and 30 March 2015 on discrimination - Prohibition of hate speech for representatives of relevant institutions, professional associations and national councils of national minorities. The seminars were held by the Dutch expert regulatory body, a professor - expert on media law and an expert lawyer of a renowned law firm, so that all participants could interrelate all three dimensions - a review of the relevant EU legislation and case law, as well as the review of national legislation and case law.

#### **11) Comment on paragraph 41**

The Commissioner for the Protection of Equality has no legal authority to impose monetary, or any other penalties. Imposing monetary penalties is in the jurisdiction of the court, and the Law on the Prohibition of Discrimination prescribes the fines which may be imposed in misdemeanor proceedings. The Commissioner may issue a warning, in accordance with Article 40 of the Law on the Prohibition of Discrimination, if the person to whom the recommendation is addressed does not follow the recommendation or does not remedy the violation of the rights. If the person fails to redress the violation within 30 days of the notice, the Commissioner may communicate this fact to the public.

#### **12) Comment on paragraph 42**

Legal guarantees of independence of the Regulatory body for electronic media are given by: determining the status of the controller; method of selection of the regulatory body - the Council of the regulatory body for electronic media, the regulation of termination of the mandate, the regulation of the performance of the function and method of funding of the regulator.

Electronic Media Law stipulates that the Regulatory body for electronic media is an independent regulatory organization with the status of a legal person exercising public authority in accordance with the law. The regulatory body is functionally and financially independent of state bodies and organizations, media service providers and operators.

- The manner of selection of the regulatory body-the Council of the Regulatory body for electronic media

-The Council of the Regulator has 9 members. Council members are elected by the Assembly on the proposal of authorized nominators. Council members are proposed: 1/3 state (National Assembly 2 members and Assembly of the Autonomous Province of Vojvodina 1 member) and 2/3 non-governmental sector.

- Regulation of termination of the mandate

- The mandate of the Council member ceases only for the reasons and in the procedure provided by law (the expiry of time, death, dismissal, resignation). Council members may be dismissed before the expiration of the mandate, only by the National Assembly on the basis of criteria set by the Law;

- Regulation of the performance of functions

Members of the Council do not represent the interests of the authorities or organizations that nominated them, but perform their function independently, to their knowledge and conscience in accordance with the law; No one shall in any way influence the work of the Council members, nor shall they respect anybody's instructions regarding their work, except the decisions of the competent court enacted in the process of judicial review of the Council; The law clearly defines the scope of the Regulatory Body and the Council;

The work of the Council members is public and the Council submits an annual report to the National Assembly on its activities.

- The method of funding the regulator

The Regulator is not financed from the budget, but from the fees paid by media service providers. Decision on fees are brought by the Regulator. The Government approves the decision. Financing of the Regulator is conducted in accordance with the financial plan for each year by the Council of the regulators and approved by the National Assembly. In case of lack of funding, the state is obliged to provide missing funds for the work of the Regulator. The surplus funds of the regulator is paid to the Budget of the Republic of Serbia.

Members of the Council are entitled to remuneration for their work, i.e. the President of the Council shall be entitled to financial compensation in the amount of three times the average of the monthly net salary in the Republic of Serbia and the members of the Council in the amount of double the average of the monthly net salary in the Republic of Serbia.

**13) Comment on paragraph 46**

The Republic Prosecutor's Office has recognized the need to improve the situation of all victims, and to this end, the Information office for injured parties and witnesses in the higher public prosecutor's offices have been established in Belgrade, Novi Sad, Niš and Kragujevac, as well as in the First Municipal Public Prosecutor's Office in Belgrade, while the establishment of these services in all other high public prosecutor's offices in Serbia is underway.

Within the Information office, the injured parties and witnesses receive basic information about their rights in the process, available services, specialized assistance from the state and the NGO sector, ability to receive protection provided by the law and other rights.

It is our opinion that the establishment of these services at full capacity will contribute to improving the situation of all victims of crime, particularly of vulnerable categories, which include victims of crimes committed out of hatred.

**14) Comment on paragraph 50**

The Ministry of Interior appointed eight liaison officers with the LGBTI community in four cities in Serbia. Liaison officer for the LGBTI community Aleksandar Stojmenov was awarded the 2016 "Rainbow" for the fight against homophobia and transphobia that is awarded by the Gay-Straight Alliance.

The national contact person for the fight against hate crimes was appointed in late 2009.

Office for Human and Minority Rights, with the support of the OSCE Mission in Serbia, organizes regular semi-annual meetings of representatives of relevant state bodies of independent state authorities and civil societies which carried out activities in the fight against hate crimes in their work so far. The purpose of these meetings is to share experiences, explore opportunities and mechanisms for the promotion of further cooperation of all stakeholders in the fight against hate crimes and hate criminality in the Republic of Serbia. The intention of the Office for Human and Minority Rights is that in the future, relevant institutions in this area designate an official contact person, in order to improve and increase the efficiency of the above interdepartmental working body.

**15) Comment on paragraph 51**

All the information is available to authorized persons in criminal proceedings in accordance with the law, or to the public in accordance with the regulations governing access to information of public importance. We would like to note that, under the current legal framework in the Republic of Serbia, there is no "settlement with the victim", but the institute of agreement on the plea of the offense between the defendant and the public prosecutor, which is decided by the Court. By accepting the agreement, the court shall find the defendant guilty of a criminal offense which is subject to charges.

The Police Act stipulates that the training of employees in the Ministry of Interior shall be conducted in the organization of organizational units responsible for managing human resources and planned and implemented through professional training and development. Professional training is also realized among others through basic police training, and the training of employees is planned and implemented in

accordance with the program of professional training and within other forms of training.

In the period from 1 January 2011, the competent organizational units of the Ministry of Interior conducted a variety of activities related to the professional training of participants of basic police training, and professional development of employees in the Ministry of Interior. The basic police training is aimed at training participants for lawful and efficient performance of duties and tasks of the uniformed police officer, policeman in the workplace, and it is obligatory for all future police officers, and it is organized before entry into service, or prior to employment in the police.

The field of human rights within the basic police training (which is implemented in a period of 12 months at the Basic Police Training Centre - BPTC) is represented in several subjects and professional modules, including the special role occupied by the subject of "Human Rights and Police Ethics Code", where the following topics are handled: "Human Rights and Fundamental Freedoms of Man"; "Moral and Ethics"; "Deontology" and "Code of Police Ethics". The thematic area of "Human Rights and Fundamental Freedoms of Man" includes separate educational units that carry the title: "The right to life and the inviolability of the physical and psychological integrity," where the provisions of the following are discussed: the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Code of Police Ethics, the provisions of the Constitution of the Republic of Serbia which guarantee the inviolability of the physical and psychological integrity and other legal norms and "Gender equality", where the recommendations of the Committee of Ministers of the Council of Europe on measures to combat discrimination based on sexual orientation or gender identity are specifically implemented.

In addition to this subject, the areas related to the protection of human rights and freedoms are also processed within the course: "Criminal and criminal procedural law", "Police officials: rights, obligations and duties", as well as expert modules: Combating crime, Use of police powers and the use of coercive measures, Community policing.

In accordance with the Curriculum of professional training of participants of the basic police training, in the period from 1 January 2011 until now, nine classes have successfully completed training, i.e. 1,684 female and male participants (374 female participants and 1,310 male participants). In addition, we would like to note that training of a class (end of training set for January 2017) and 258 male and female participants (73 female participants and 185 male participants) is underway. In the course of their schooling, all female and male participants had the opportunity to acquire the necessary knowledge and develop the necessary attitudes regarding respect for human rights and freedoms and preventing torture and ill-treatment by the police, as well as respect for diversity of people of other sexual orientations and gender identities.

Professional training of staff in the Ministry of Interior of the Republic of Serbia represents the continuous improvement and development of acquired knowledge, skills, attitudes and behaviors, as well as the adoption of new ones arising from the practice of scientific research and new legal arrangements, with the aim of lawful, efficient and safe performance of tasks and it is mandatory for all employees in the Ministry.

Professional training is organized and implemented by the Ministry in accordance with the program of professional training, which is adopted annually by the Ministry of Interior.

In the period from 1 January 2011 to date, through the professional training of employees in the Ministry - not only through the program of professional training, and other activities carried out on this program, but also in cooperation with other bodies and organizations, various forms of professional training (obligatory lectures, seminars, instructive seminars, seminars, training of trainers, etc.) were realized, which are aimed at fostering and developing the acquired knowledge, skills, attitudes and behaviors, as well as the adoption of new ones, in the area of recognizing and responding to discrimination and the protection of human and minority rights, in relation to the following topics: Police work with marginalized, minority and socially vulnerable groups; Police ethics - for the preservation of personal and professional integrity; Police treatment of juvenile offenders and damaged minors; Commission for the implementation of standards of police action in the field of prevention of torture; Implementation of anti-discrimination policies; Constitutional protection of human and minority rights; Domestic violence and institutional protection; Police actions in accordance with a special protocol on police action in cases of violence against women in the family and in intimate partner relationships; Legal provisions that regulate the issues of human trafficking, illegal migration and trafficking in human beings; Functioning of an asylum system in the Republic of Serbia; Course for combating trafficking in human beings; Taking measures and actions by police officers against migrant workers in the Republic of Serbia in the state of increased influx of migrants; Training in the field of equality and non-discrimination.

**16) Comment on paragraph 55**

Ministry of Interior of the Republic of Serbia, in cooperation with relevant government authorities and other entities, with the obligation to recognize the needs of joint operation and responsible participation, continuously undertakes a series of measures and actions in order to effectively combat violence and misbehavior at sports events. Also, aware of the fact that effective opposition to violence at sports events can be achieved through appropriate social reaction, primarily on normative and operational levels, close cooperation with relevant state institutions (prosecution, courts, misdemeanor bodies, centers for social work, Ministry of Youth and Sports) and organizers of sports events is initiated and realized.

**17) Comment on paragraph 56**

Ministry of Interior of the Republic of Serbia is dedicated to the fight against racism and racist behavior at sports events and fully supports the position of the European Commission against Racism and Intolerance that persons who exhibit such behavior have no place at sports events. In this regard, we indicate that the members of the Ministry of Interior, during taking measures of securing all sports events held in the territory of the Republic of Serbia, continuously undertake a series of measures and actions in order to identify the perpetrators of crimes and offenses, i.e. in order to collect the available evidence for the prosecution of these offenses, in line with the fact that since 2010, a total of 348 offenses of Art. 317 of the Criminal Code have been identified, which were carried out by 193 natural persons, of which 30 criminal offenses are "Inciting national, racial and religious hatred and intolerance" committed at sports events. Also, the Ministry of Interior, consistently and with maximum engagement of available capacities, undertakes legal proceedings and actions aimed at preventing violence and misbehavior at sports events, and to this end, among other things, implements security measures/prevention measures of "Prohibition of attending certain sports events", which are handed down through final judgments by the competent courts to the perpetrators of crimes and offenses in connection with sports events, which prevents their presence at sports events in a given period of time. Conducting the institute "Prohibition to attend certain sports events", is one of the mechanisms of state authorities to exclude persons who have been identified by the law and convicted through a legal procedure from sports events in the timeframe prescribed by the competent court.

**18) Comment on paragraph 58**

Instead of "32 cases in 2013, a slightly higher number in 2014", write "In 2013, 24 cases were recorded, and in 2014, 32 cases were registered."

Data source in footnote 73: NDI 2015: 11 not available to the public.

**19) Comment on paragraph 59**

During 2014, 2015 and 2016, activities were undertaken and followed daily by all the electronic and print media, internet portals, communication with LGBTI activists was achieved and information was collected from other state bodies, international police organizations and foreign police services of all information on security and other preparations for the organization of security of the public gathering in motion "Pride Parade", "Trans Parade," "Pride of Serbia" and "Pride Week".

Two Pride Parades in 2014 and 2016 took place calmly and without incidents. In 2015, within Pride Week, which lasted from 14 to 21 September in Belgrade, a series of cultural and artistic events were held, as well as a discussion on topics that are relevant to the LGBTI community in Serbia. Pride walk and the first gathering of Trans\* Persons Pride was held on 20 September 2015, without incident, while in 2016, Trans Pride took place without any incidents and with minimal security measures. Representatives of international organizations and national institutions were also present. The Government has in this way shown willingness to provide freedom of movement, and the events were an opportunity for Serbia to show devotion to the ideas of tolerance and respect for diversity. It is estimated that these meetings and conferences in motion were attended by: in 2016 - 1,200 participants (Pride Parade and Pride Serbia); in 2015 - 1100 participants (Pride Parade and Trans Parade) and in 2014 - 1,000 participants (Pride Parade).

Practice also shows professional progress of the police members regarding the protection of LGBTI people from violence, as well as employees in social welfare centers that are adequately trained in the handling of LGBTI people and their families. Implemented trainings were attended by 1,000 employees from 146 centers for social work. Advanced training continued in 2015 and 2016, and it was attended by approximately 600 employees in centers for social work and over 200 LGBTI people. A publication was also made entitled "Recommendations for an adequate answer of the social protection system to the needs of LGBT persons and their families." The trainings were conducted by the Association Rainbow and the Office for Human and Minority Rights with the support of the Council of Europe and the British Embassy in Belgrade and training was conducted in the centers for social work throughout Serbia in order to increase staff capacity to provide services to LGBT persons and their families.

**20) Comment on paragraph 61**

We note that drone which flew over the Stadium during the game of national teams of the Republic of Serbia and Republic of Albania had a flag of so called "Great Albania", non-existent State and not the flag of the Republic of Albania, which constitutes a direct provocation, which has not been concluded in ECRI's report.

The Police officials, following the football game of the national teams of the Republic of Serbia and Republic of Albania in Belgrade, has as of 17<sup>th</sup> October 2014 taken all the necessary activates to protect the facilities owned by minority communities trough constant presence in the near vicinity of the facilities and trough increased patrol and officers operative actions.

During the second half of October 2014 there was a total of 23 interethnic cases reported for the damages inflicted to the persons of Albanian and Turkish nationality and Goranci: nine cases have been registered in PU (police unit) in Novi Sad, 7 damages inflicted by the stoning of the facilities (“Vojvođanka”, „Aspek“, „Evropa“, „Baš Čevap“, „Šar“, „Telep“ and „Has Plus“) and two verbal conflicts (both in front of the bakery „Fulji“). The total of 9 incidents resulted in criminal charges filed by the police officials for 7 criminal acts:

- instigating national, racial and religious hatred and intolerance - 5,
- preventing an official in discharge of duty of public security and keeping of public peace - 1,
- destruction and damaging another's possessions - 1.
- four criminal acts have been clarified: instigating national, racial and religious hatred and intolerance - 3 and preventing an official in discharge of duty of public security and keeping of public peace - 1 and against 11 persons of Serbian nationality criminal charges have been filed. Furthermore, offense charges have been filed against two persons of Serbian nationality.
- five cases have been registered in PU in Pančevo - damages to the bakery “Banatski klas” and “Sofra” - one each and “As Pek” - 2 and one graffiti directed against a person of Albanian nationality. All cases are not clarified so far and related to the damages to bakery “Sofra” in Jabuka police officials have gained information on possible perpetrators who have been served summons to PU in Pančevo.
- three cases have been registered in PU in Zrenjanin - damages to the bakery “Plavi Jadran”, “Zrenjaninka” and “Zlatni klas senior”. The police officials have filed criminal charges for the total of three incidents for:
  - instigating national, racial and religious hatred and intolerance - 1.

This criminal act has been clarified and the criminal charges were filed against a person of Serbian nationality. Furthermore, the criminal charges for two criminal acts of destruction and damaging another's possessions were registered in the auxiliary registry. Likewise, the charges for offense have been filed against persons of Serbian nationality.

Two cases have been registered in PU in Sremska Mitrovica, the damages to the bakery „Arena“ for which the criminal charges for destruction and damaging another's possessions were filed against a person of Serbian nationality. The second incident, for activating an explosive device, the criminal charges for causing general jeopardy has been filed.

Two cases have been registered in PU in Sombor for damaging the bakery „David“, which resulted in criminal charges against a person of Serbian nationality for act of instigating national, racial and religious hatred and intolerance. For the second incident of activating explosive devices in two bakeries „Milenijum AS“ criminal charges were filed against unidentified perpetrator for causing general danger.

Two cases were registered in PU in Subotica - Palić on 15<sup>th</sup> October 2014, offending the Albanian owner of the bakery “Elita” by unidentified person and damages to the facility of the Islamic Religious Community on 19<sup>th</sup> October 2014 in Subotica when unidentified persons set fire to the residential area of this religious facility and damaged the door.

Police officials have clarified the incident of damaging the facility of the Islamic Religious Community and have filed criminal charges against three persons of Serbian nationality for criminal act of instigating national, racial and religious hatred and intolerance.

The total of 23 incidents which, in the broadest sense, may be classified as interethnic and interreligious conflicts, criminal charges were filed for 12 criminal acts: instigating national, racial and religious hatred and intolerance (9) and one for each of the following: criminal act of causing general danger, destruction and damaging another's possessions and preventing an official in discharge of duty of public security and keeping of public peace. Out of the total 12 criminal acts, 9 has been clarified and against 18 persons criminal charges have been filed.

The offense charges against three persons were filed for three committed offenses defined in the Law on public peace and order.

#### **21) Comment of paragraph 64**

Public Prosecutors Offices dedicated great attention to trainings related to hate speech.

The cooperation of the Judicial Academy and Office for human and minority rights with the support of the OEBS Mission in Serbia, at the end of 2015, resulted in the commencement of the pilot program „The crimes of hate - training for representative of justice“, which is a part of continuous training of judges and public prosecutors and prosecutors assistants. The basic objective of the training is mastering the special skills related to the introduction of the definition of hate crimes including among other relevant international legal specifics of the hate crime as well as the practice of the European Court of Human Rights and UN Committee. The seminars have been held in April 2016, within the project, in Niš, Novi Pazar and Kragujevac while the final seminar was held on 12<sup>th</sup> May 2016 in Belgrade. The specific attention was dedicated to the application of the Article 54a of the Criminal Code.

Furthermore, at the seventh Coordination meeting aiming for the establishment of the fight against hate crimes in the Republic of Serbia, held on 1<sup>st</sup> and 2<sup>nd</sup> December 2016 organized by the Office for human and minority rights of the Government of the Republic of Serbia and OEBS Mission in Serbia it has been agreed to compose the Manual for public prosecutors and investigation of committed criminal acts of instigation of hate, that would promote the conducting of investigation, legal qualification and efficiency of criminal prosecution of the perpetrators of such criminal acts with the support of OEBS Mission in Serbia by the end of the first half of 2017.

#### **22) Comment of the title of the Chapter: Office of the War Crimes Persecutor**

We believe that the title of this Chapter due to its content is not adequate considering that the information noted in the following paragraphs is not within the full competence of the Office of the War Crimes Prosecutor and the recommendations for the implementation do not apply to the Office of Public Prosecutor.

**23) Comment on paragraph on 68**

National Assembly has, on 31<sup>st</sup> March 2010 adopted the Declaration of the National Assembly of the Republic of Serbia condemning Srebrenica Massacre (“Official Gazette of RS”, no. 20/10) noting “The National Assembly of the Republic of Serbia strongly condemns the crime against Bosnian population in Srebrenica in July 1995 in the manner determined by the ruling of the International Court of Justice as well as all social and political processes and phenomena that lead to the consciousness that the fulfilment of one owns national goals can be achieved by the use of armed forces and physical violence against members of another nations and religion, expressing thereby the condolences and apologizes to the victims’ families for what has not been done to prevent this tragedy.” Bearing in mind the above mentioned we propose to reformulate and precise the quotes of the Draft Report in line with the mentioned Declaration.

Serbian Government considers such recommendation as mostly of political nature and it represents the interference in the political sphere whereby ECRI exceeds its mandate. In this context, it is important to bear in mind that the decision of the International Court of Justice on Srebrenica “speaks for itself” and that the politicians’ statement cannot effect the modification of the Court decision.

**24) Comment on paragraph on 69.**

According to the Census in 2011, 83% of the population are Serbs, 12,9% are members of different national communities, while remaining 3,8% are in total persons who replied to the question of nationality declared their regional or local affiliation (e.g. Šumadinac, Vojvođanin, Nišlija etc), persons who used their Constitutional right and possibility not to declare themselves and persons who replied in the sense that it does not represent the declaration of nationality (e.g. alien, cosmopolite, Red Star etc).

It is not correct that there are “21 different ethnic groups” in Serbia, but 21 national councils of national minorities. In the census registered no. 1 “Nationality”, the data on number and territorial layout of 21 ethnic communities not exceeding the number of 2.000 members, while the data on the members of other ethnic communities are presented in summation (the fact indicated in the Foreword). In addition to the data published in the book 1, Statistical Office of the Republic of Serbia has published data on 24 ethnical communities with less than 2.000 members.

Furthermore, the precise data on Bosnian and Rumanians are not declared. Namely, in line with the Census 2011 there are 145.278 Bosnians and 29.332 Rumanians living in Serbia.

The last sentence in paragraph 69: “Up to the end of 2011, 17,590 foreigners obtained temporary residence and up to September 2016 less than 100 persons obtained refugee status or subsidiary protection”<sup>87</sup>, should be separated from the previous text since it does not relate to the Census 2011 (proposition - new paragraph).

In the footnote no. 86 it is stated: “The number of registered Roma in line with the Census 2011 is significantly higher than in the previous one due to the engagement of the Roma interviewers who carried out the census in a large number of, but not all Roma settlements.” The proposition is to omit the footnote no. 86 or to reformulate it to read: “The number of persons declaring themselves Roma in the Census 2011 is higher than in the previous Censuses.”

Namely, in the Census 2011 beside regular interviewers, persons of Roma nationality being among them, in cooperation with the National Council of Roma Minority around 700 additional Roma interviewers and coordinators were engaged who assisted (provided logistical support) regular interviewers during population census in the areas with relatively high number of Roma. Along this action, a lot has

been done with the media promotion of the Census and Roma representatives were affiliated members of the interview committees in Municipalities and Cities. Bearing in mind the above mentioned, it cannot be stated that the number of Roma in Census 2011 is higher than in earlier Censuses solely due to the engagement of Roma interviewers who carried out the census in a large number of Roma settlements and that the number of Roma would be even higher provided the Roma interviewers have been engaged in all Roma settlements.

In the footnote no. 87 it is stated that: "Due to the boycott of the Census 2011 among Albanian population the actual number might be significantly higher. The previous Census 2002 noted 61.647 persons declaring to be of Albanian origin." Such a formulation is not acceptable considering that the Census has been boycotted by Albanian population only in Municipalities Bujanovac and Preševo and the statement that the actual number of Albanians might be significantly higher is not supported by any data. Furthermore, the Census 2002 has not registered data on the origin of population but on their national and ethnical affiliation.

It is proposed that the footnote no. 87 reads: "The Census 2011 has been boycotted by the majority of Albanian population in the Municipalities Bujanovac and Preševo. In the Census 2002 61.647 persons declared to belong to the Albanian national community."

#### **25) Comment on paragraph on 74.**

By the application of "Strategy for the improvement of the status of Roma 2009-2015" numerous results have been achieved: by amendments to the Law on extra-judicial proceedings the supplemental registering in the birth register for the persons not registered in the birth register and the procedure for exercising this right have been prescribed. Thus the issue of personal documents for more than 25.000 persons of Roma nationality has been resolved; during the previous two years more than 1300 Roma have enrolled in pre-schooling system; the coverage of Roma children by primary education has increased and affirmative measures have been established for the enrolment of the pupils and students of the Roma nationality in high schools and universities; Roma high graders and students are motivated to continue schooling; the mentor system has been established to monitor the attendance; the approach of the access to the exercise of certain rights has been improved by introduction of Roma representatives in the process of public policies (pedagogical assistants, healthcare mediators, coordinators for Roma issues)<sup>1</sup>; as of the commencement of the implementation of the Strategy more than 30.000 Roma children have been vaccinated, the death rate of Roma children has decreased by 50%; the health insurance cards were issued for 16.330 citizens, 28.003 has selected physician, 11.177 women have selected gynaecologist, 1144 mammography have been done, total of 460.125 visits to the families, members of the families in a need of assistance and visits to implement healthcare training trough planned discussion, lectures, workshops have been conducted.

In the "Strategy for Social Inclusion of Roma 2016-2025", the funds for realization, liability of responsible parties and monitoring the implementation are emphasized as the key preconditions for exercising strategic goals. Currently, the production of the Action Plan for Social Inclusion of Roma is in its final phase. The realization of the activities and measures in the Action Plan shall be provided for trough regular budget funds and with the support of IPA Funds and donations. The production of the financial plan, that is, the budget for Action Plan has been realized by the intensive participation of the representatives of competent Ministries, including political, operational and financial level of deciding. Following the adoption of the Action Plan, the regular coordination meeting of the projects for Roma inclusion shall be organized in cooperation with the Office for European Integration and Team for social inclusion and decrease of poverty of the Government of Republic of Serbia aiming to the development of the cooperation with the

donation community in implementation of the Action Plan. Furthermore, following one year of implementation, the revision of the Action Plan is planned to assess the effects and further improvement.

The Strategy stipulates that, in accordance with the Operative conclusions and Action Plan for Chapter 23, the Government of the Republic of Serbia incorporated Coordination authority for social inclusion of Roma that shall be responsible for coordination of all activities related to the inclusion of Roma defined in the Action Plan, for the implementation of the Strategy, for ensuring the establishment of sustainable normative and institutional conditions for the implementation of the strategic measures and for the management of the Strategy. The Draft Decision on incorporation of the Coordination Authority has been produced that shall be adopted during the following period. The Office for Human and Minority Rights and the Team for social inclusion and decrease of poverty shall support the Coordination Authority in monitoring and reporting on implementation of the Strategy and accompanying Action Plan.

In accordance with the Operative conclusions of the seminar on social inclusion of Roma in the Republic of Serbia (June 2015) the European Commission has committed itself to co-finance the implementation of the Strategy.

**26) Comment on paragraph 77**

Internally relocated persons from Kosovo and Metohija, have been acknowledged as multiple vulnerable category of Roma communities affiliates in the Strategy and Action plan for social inclusion of Roma in the Republic of Serbia. The Action plan, as regards housing, stipulates the solutions for internally relocated Roma from Kosovo and Metohija by financing programmes for improvement of the living conditions of internally relocated persons, including Roma. Related to the employment, the organizations of civil society are encouraged to develop programmes of agro-developments for internally relocated Roma who wish to engage in agriculture and/or cattle breeding. It is important to mention, as significantly important measures of improvement of the position of internally relocated Roma, the development of the system of free legal aid which is also accentuated in the Strategy and accompanying Action Plan.

**27) Comment on paragraph 80**

The term school mediator is not usual in the terminology of the educational system of the Republic of Serbia and should be replaced by the term “pedagogical assistants”.

**28) Comment on paragraph 82**

Trough the EU project “European support for Roma inclusion” supported by IPA 2012, 583 informal settlements in Serbia occupied by Roma communities has been mapped and Geographical-information system has been incorporated for monitoring and improvement of the housing conditions. The housing components of the project set as its main objective the preparation of 20 pilot Municipalities for application for grants anticipated in the scope of IPA Funds 2013 and directed towards the construction of the necessary infrastructure and improvement of the individual housing facilities in informal Roma settlements. Trough this project the total of 13 urban plans in 11 Municipalities have been constructed.

During 2017 the project for improvement of the sustainable housing conditions shall be realized with the support of IPA 2013. The upcoming IPA programmes focus on housing area both as regards to the production of necessary technical documentation as the precondition for sustainable housing and as regards to the improvement of the infrastructure and construction of facilities. It is also important that IPA 2017 currently in the programming process focuses on the area of social housing.

### **29) Comment on paragraph 84**

The Law on housing and building maintenance has been adopted in December 2016 in accordance with the highest international standards in the area of human rights. Among other, the Law defines that the competent unit of local self-government in the course of preparing the draft decision on the necessity of the relocation with the relocation plan shall do so consulting and cooperating with the persons being relocated and organizations for the protection of human rights. The conclusions of the consultations are an obligatory integral part of the draft decision on the necessity of the relocation with the relocation plan. The self-government unit where the relocation is being conducted as well as other subjects competent to participate in this procedure shall individually or in cooperation with other competent authorities and subjects being relocated provide: fulfilment of basic needs for the period of maximum one month as of the date of relocation (basic rations and drinking water); adequate access to health and social care; access to the sources of income and potential place of employment or working arrangement; access to inclusive education system.

The relocation procedure cannot lead to the separation of the members of the family or household unless it has been so requested by the persons being relocated.

In this regard, apart from the mentioned mapping the adoption of this Law is of significant importance. Besides regular coordination meetings of the project for Roma inclusion, other activities shall be conducted with the objective to collect additional funds to improve the housing conditions. It is important to note that IPA 2017 program currently being programmed is focused on the area of social housing.

The Action Plan for Social Inclusion of Roma in the Republic of Serbia anticipates the funds from the budget of the Republic of Serbia, budget of the local self-government units and donations for realization of the measures and activities anticipated by this document.

### **30) Comment to paragraph 85**

Having in mind that the field of Roma employment was separately discussed within the Strategy for Social Inclusion of Roma in the Republic of Serbia 2016 - 2025, and that measures stipulated by this document are focused on inclusion of Roma in working age to formal labour market, increase of employability and economic empowerment, particularly of Roma belonging to categories of multiple hard to employ persons, the adoption of the National Action Plan of Employment for 2017 is significant.

The employment policy in 2017 will focus on support to private sector and fostering of employment of primarily less employable persons from the records of the National Employment Service (youth 30 years of life, redundant staff, older than 50, persons without qualifications and with low qualifications, persons with disabilities, Roma, beneficiaries of financial social assistance of working age, long-term unemployed, youth with the status of children of fallen soldiers, youth who had/have the status of children without parental care, human trafficking victims and domestic violence victims).

According to data of the National Employment Service, as of 31 October 2016, there were 25,578 persons in the records of unemployed persons who declared themselves as members of the Roma minority (out of which 11,834 women) - share of 3.72% in the total registered unemployment. From January - September 2016, 2,870 unemployed persons, members of Roma national minority, were included in measures of active employment policy. During the first ten months of 2016, 2,412 members of Roma national minority from the records of the National Employment Service were employed.

The Roma belong to one of the six categories of less employable persons, for the employment of whom an employer may obtain corresponding subsidies. In 2015, 249 private entrepreneurs with Roma employees were recorded and supported by IPA 2012 funds, along with 17 Roma companies employing about 60 Roma, out of which more than 50% are owned by Roma women.

Activities are ongoing on preparation of the Draft Law on Social Entrepreneurship, and it should contribute to improvement of living standard of citizens and reduction of unemployment through performing activities of public interest, as well as activation of special categories of the unemployed persons (Roma, persons with disabilities, persons older than 50, long-term unemployed, etc.), beneficiaries of rights and services of social protection in the working age. Harmonization of position with the Ministry of Finance on financial incentives and support measures in the field of social entrepreneurship is expected in the coming period, along with harmonization of the Draft Law text with social partners and other competent ministries and bodies, and drafting of the final text of the Draft Law.

Pursuant to the applicable constitutional provisions, there is no obligation of declaring the ethnicity. Based on voluntary declaring, we hereby inform you that there are three Roma employees in the Office for Human and Minority Rights only. Six consultants for Roma inclusion are hired by five government bodies dealing with policies for promotion of the status of Roma.

At the local level, in Serbian towns and municipalities, there are more than 300 members of Roma national minority working in the local government units - 64 coordinators for Roma issues, 175 teaching assistants in schools and preschool institutions, 15 teachers teaching Roma with elements of national culture in primary schools; 70 health mediators are working in healthcare. Office for Human and Minority Rights prepared harmonization and standardization of job descriptions for coordinators for Roma issues. Some of the coordinators' tasks concern communication and mediation between Roma community and local administration, providing support to civil society organization dealing with inclusion and promotion of Roma community at the local level, enhancement of intersectoral cooperation of teaching assistants, health mediators with the representatives of Centres for Social Work, National Employment Service branches and civil society organizations, as well as support to local governments in development and implementation of policies and programmes for Roma inclusion in accordance with the national and local strategic framework.

The Ministry of Public Administration and Local Self-Government prepared the Draft Law on Amendments to the Law on Protection of Minority Rights and Freedoms. The Minister of Public Administration and Local Self-Government formed a working group that prepared the Draft Law on Amendments to the Law on Protection of Minority Rights and Freedoms. Article 4 of the Draft Law stipulated amendments to Article 4 of the Law. First amendment is the amendment to paragraph 1 of that Article by which beneficiaries of measures for promotion of full and effective equality and conditions for undertaking such measures are determined in accordance with the relevant constitutional solutions. The same Article stipulates language corrections in paragraph 2, whereby the substantial amendment of paragraph 3 stipulates that measures for promotion of full and effective equality in employment, and/or benefits in case of termination of employment in public sector at all levels of territorial organization, stipulated by provisions of separate laws governing legal employment status of public sector employees, are not to be considered as discrimination if such measures apply until a corresponding representation of members of national minorities laid down in those laws is achieved. The mentioned provision creates legal base for further legal regulation of measures for promotion of full and effective equality in order to achieve the corresponding representation of the members of national minorities in the public sector, whereby it is clearly stated that these measures will be temporary, or that they will apply until the

corresponding representation is achieved, as defined by provisions of those law. This Article amends Article 4 of the Law by adding the new paragraphs 4 and 5, which, pursuant to the Constitution, generally stipulate that the Republic of Serbia, in accordance with the law, will provide conditions for efficient participation of members of national minorities in political life, representation of representatives of national minorities in the National Assembly of the Republic of Serbia and proportional presentation of national minorities in assemblies of autonomous provinces and local self-government units, as well as undertake corresponding measures for promotion of economic status of underdeveloped areas in which members of national minorities traditionally live.

Within Action Plan for exercise of minority rights, chapter VIII - Corresponding representation of members of national minorities in public sector and public enterprises, the Report of the Ministry of Public Administration and Local Self-Government, based on the Registry of employees, elected, nominated, appointed and hired persons at the beneficiaries of public funds.

Full name of the Law should be entered into footnote 104: the Law on Protection of Minority Rights and Freedoms.

In its daily work, the Ministry of Internal Affairs uses anti-discrimination policies and work programmes, fully aware of the significance of respecting the rights of disadvantaged, minority and socially vulnerable social groups and it implements the anti-discrimination policies. That is why, over the past several years, there have been substantial efforts aimed at suppressing all forms of discrimination, not only through training for police officers in the field of anti-discrimination which is integral part of educational activities of the Ministry of Internal Affairs and which is recognized as priority in the field of professional capacity building and training, but also through preventive measures aimed at including and motivating members of national minorities and women in deciding to become police officers.

Upon proposal of the Commissioner for Protection of Equality, the Ministry of Internal Affairs, in cooperation with the Organization for Security and Co-operation in Europe (OSCE) Mission to Serbia, delivered training for police officers in recognizing and fighting discrimination. One-day training sessions took place between 19 April and 23 June 2016 in seven cities in Serbia (Belgrade, Novi Sad, Niš, Kragujevac, Novi Pazar, Subotica and Vršac) , and were attended by 140 police officers. Also, the same training sessions were delivered on 5 and 6 December 2016 to 39 police officers from the following district police departments: Zrenjanin, Kikinda, Sremska Mitrovica, Šabac, Valjevo, Čačak, Užice, Požarevac, Smederevo and Jagodina.

In 2016, “Manual for capacity building of police officers on the concept of, recognizing and responding to discrimination” was also prepared as the basic textbook for theoretical classes in this field which will be compulsory classes for all the police officers, according to the Curriculum for professional training of police officers of the Ministry of Internal Affairs for 2017.

Basic Police Training Centre - BTPC, has implemented numerous activities regarding professional informing between 2011 and 2016, along with several promotional campaigns, workshops and roundtables the purpose of which is integration of women and members of national minorities into the security sector of the Republic of Serbia.

Numerous advertising activities were organized with support from OSCE Mission to Serbia, aimed at promoting the police profession and basic police training among members of minority national communities in the Republic of Serbia - BTPC shared brochures “You can do it, too” in Serbian (both Cyrillic and Latin) and languages of national minorities. Since 2011, 29 advertising roundtables have been held during which the interested candidates, members of minorities, were introduced to the

police profession, conditions for applying and enrolment, as well as the training in BTPC. Preparations for the interested members of national minority communities are organized every year, as well as 11 Open Days.

The Serbian Ministry of Internal Affairs announced a competition for enrolment of 460 trainees for the Basic Police Training Centre, according to the needs of Police Administration for the City of Belgrade, Police Administration in Zrenjanin, Police Administration in Pančevo, Police Administration in Zaječar, Police Administration in Niš and Police Administration in Pirot. The text of the competition was published on the web page of BTPC: [www.copo.edu.rs](http://www.copo.edu.rs), in Serbian and in languages of national minorities present on the territories covered by the competition (Bulgarian, Hungarian, Roma, Romanian, Slovak and Czech). The “European Roma Police Officers” association held a press conference on 5 January 2017, and together with the representatives of national councils of national minorities in the Republic of Serbia and the representatives of the Ministry of Internal Affairs, invited the members of all national minorities who meet the conditions of the competition to apply. At the end of February 2017, the Serbian Ministry of Internal Affairs will organize three two-day preparatory workshops for taking the entrance exam at BTPC in Sremska Kamenica, in cooperation with the Office for Human and Minority Rights, “European Roma Police Officers” police association, national councils, supported by OSCE Mission to Serbia.

We would also like to emphasize that the Article 23 of the Rulebook on criteria for selection of candidates for professional capacity building (‘Official Gazette of the RS’, number 97/2015) stipulates the following: “In accordance with territorial needs and the principle of national representation of the employees of the Ministry, the minister may adopt a decision to receive the additional number of trainees to the basic police training, provided that they meet the conditions stipulated in Article 3 of this Rulebook and that they passed the entrance exam”.

When establishing the employment relationship with the Ministry of Internal Affairs, the candidates are neither obliged nor required to submit data on religious, national or racial affiliation, pursuant to the provisions on prohibition of discrimination of the Serbian Constitution, stipulating in Article 21 that all people are equal before the Constitution and the law. The primary criterion for establishing the employment relationship is the fulfilment of conditions laid down by the Law on Police and Rulebook on internal organization and systematization of jobs in the Ministry of Internal Affairs.

Please note that there is a job position of specialist for development of equal opportunities in HR policies in the Department for HR Strategies and Policies, Metrics and IT Support, HR Sector, Ministry of Internal Affairs, as the policy equal opportunities is recognized as priority in all aspects of HR management.

### **31) Comment to paragraph 87**

Official statistical data on the unemployment rate are obtained from surveys - Labour Force Survey, conducted by the Statistical Office of the Republic of Serbia. The lowest territorial level that may provide reliable data for this survey is the level of district, and not municipality. Data on the numbers of unemployed persons at the municipal level may be obtained only from the National Employment Service, whereby the unemployment rate is calculated exclusively based on data from Labour Force Survey, everywhere in Europe and around the world.

Having in mind paragraph 87, and the fact that the Report does not mention source of data on the unemployment rate, we believe it is a free estimate or approximate number, without methodological support.

Table 1 is a part of the annual newsletter of the Statistical Office of the Republic of Serbia and provides rates of activity, employment, unemployment and inactivity from the Labour Force Survey for 2015, on national level and district level.

The unemployment rate was 17.7% in the Republic of Serbia in 2015.

The Albanian population is mostly present in Pčinja District, whereas the share of Bosniac population is the highest in Raška District. Table 1 clearly indicates that unemployment rates in Pčinja and Raška Districts are not substantially different from the unemployment rates in other parts of the Republic of Serbia.

**Table 1 - Rates of activity, unemployment and inactivity for the population aged 15 and older, per district, in 2015**

	Activity rate	Employment rate	Unemployment rate	Inactivity rate
<b>Serbia - total</b>	<b>51.6</b>	<b>42.5</b>	<b>17.7</b>	<b>48.4</b>
City of Belgrade	52.5	42.7	18.8	47.5
North Bačka District	51.1	45.6	10.7	48.9
Central Banat District	49.8	42.8	14.1	50.2
North Banat District	47.6	40.5	14.9	52.4
South Banat District	48.6	38.4	20.9	51.4
West Bačka District	47.9	38.2	20.3	52.1
South Bačka District	52.9	44.5	15.9	47.1
Sremska District	49.7	40.6	18.3	50.3
Mačva District	55.0	46.3	15.7	45.0
Kolubara District	59.4	51.5	13.2	40.6
Podunavlje District	50.2	40.7	18.9	49.8
Braničevo District	52.2	46.4	11.0	47.8
Šumadija District	51.3	41.0	20.0	48.7
Pomoravlje District	47.3	38.3	19.0	52.7
Bor District	45.5	37.8	16.9	54.5
Zaječar District	42.9	36.3	15.5	57.1
Zlatibor District	53.7	45.6	15.0	46.3
Moravica District	55.3	47.7	13.6	44.7
<b>Raška District</b>	<b>51.8</b>	<b>40.6</b>	<b>21.6</b>	<b>48.2</b>
Rasina District	55.1	46.7	15.2	44.9
Nišava District	50.4	38.0	24.7	49.6
Toplica District	52.8	43.5	17.5	47.2
Pirot District	49.8	39.4	20.9	50.2
Jablanica District	55.6	45.0	18.9	44.4
<b>Pčinja District</b>	<b>43.2</b>	<b>36.3</b>	<b>15.8</b>	<b>56.8</b>

Source: Statistical Office of the Republic of Serbia.

### **32) Comment to paragraph 89**

We proposed to amend the sentence “At the same time, it encourages the government to support economic activities in these fields, attract employers to these municipalities and recognize diplomas obtained in the neighbouring countries and Kosovo” with the sentence: “At the same time, it encourages the government to support economic activities in these fields, attract employers to all the municipalities and continue recognizing diplomas in accordance with the stipulated standards”

### **33) Comment to paragraph 90**

The National Assembly of the Republic of Serbia adopted the Law on Employees in Autonomous Provinces and Local Self Government Units in March 2016, the enforcement of which started on 1 December 2016.

For the first time, the Law comprehensively governs the system of labour relations in autonomous provinces and local self-government units. The purpose of this Law is to establish the fundamental principles of civil service system, based on standards accepted in contemporary comparative legal systems, thus meeting the basic assumption for full professionalization and depoliticization of staff in autonomous provinces and local self-government units.

The Law lays down the principle of equal availability of jobs. Article 19 paragraph 3 stipulates that national composition, gender representation and number of persons with disability should reflect composition of population among staff during employment, to the greatest extent possible.

Article 47 paragraph 2 stipulates that the Government will govern the details of the criteria for classification of job positions and criteria for job descriptions for civil servants, whereby it will take into account knowledge of language and scripts of national minorities, as a special condition for performing tasks required by those jobs that are of significance for exercising the citizens’ rights to official use of language and scripts of national minorities. When stipulating the criteria for classification of jobs and job descriptions for civil servants, the Government will particularly take into account the national composition of population and corresponding representation of members of national minorities, in order to achieve full equality among members of national minority and citizens belonging to the majority (paragraph 3). The same solution is stipulated for state employees (Article 185 paragraphs 1 and 2 of the Law).

Article 101 paragraphs 2 and 4 of the Law stipulate that the Government will adopt the Regulation governing the procedure for internal and public competition for filling of job positions, as well as which professional competences, knowledge and skills will be evaluated in the selection procedure, manner of their testing and criteria for selection for job positions, and by which criteria for selection for job positions will be established stipulating preference for equally qualified candidates - members of national minorities, in order to achieve equality among members of national minority and citizens belonging to the majority.

Article 190 of the law stipulates keeping of HR records, within which, among other, data pertaining to native tongue will be recorded (paragraph 2 point 2), whereby these data are recorded in HR records with written consent of staff, without declaring obligation of the staff (paragraph 5). Apart from the mentioned data, the same Article stipulates recording data pertaining to language in which primary and secondary schools and universities were attended (paragraph 2 point 3). The same Article (paragraph 4) also stipulates that the HR records should contain information about national affiliation of civil servants and state employees, pursuant to the regulation governing the registry of employees in public administration in the Republic of Serbia, whereby the information about national affiliation of civil

servants and state employees is recorded in the HR records with written consent of staff, without declaring obligation of the staff (paragraph 6).

In order to implement the Law on Employees in Autonomous Provinces and Local Self Government Units, the Serbian Government adopted the Regulation on criteria for classification and description of jobs of civil servants in autonomous provinces and local self-government units and Decree on criteria for classification and description of jobs of state employees in autonomous provinces and local self-government units. The mentioned bylaws stipulate that in an autonomous province, local self-government unit or a city municipality in which the use of official language and script of a national minority is established, the job positions including direct oral and written communication with the citizens will have a special requirement of knowledge of language and script of national minorities. The Serbian Government also adopted the Regulation on internal and public competition for filling of job positions in autonomous provinces and local self-government units, stipulating, among other, that if there is a need for employing members of national minorities who are insufficiently represented among staff, the advertisement will specify that those national minorities will have priority during selection and in case of equal evaluation of the qualified candidates.

It is also stipulated that if an executive job position is being filled, with a special condition regarding knowledge of language and script of national minorities, the advertisement will specify this condition, as well as possible written verification of its fulfilment.

We believe that this Law and the accompanying bylaws stipulate the affirmative measures pertaining to employment of national minorities, including Roma, giving high priority to their employment in public administration.

#### **34) Comment to paragraph 91**

The Law on Primary Education and the Law on Secondary Education stipulate the following: "For members of national minorities, teaching shall be delivered in language and script of a national minority, and/or bilingually, if at least 15 pupils decide to attend those classes during the enrolment into the first grade there. When teaching is delivered in a language and script of a national minority, the school shall provide lessons of Serbian for a pupil. When teaching is delivered in Serbian, lessons in the language of national minority with elements of national culture as elective course will be organized for a pupil - member of the national minority."

In this regard, in the school year 2016/2017, classes in languages of national minorities with compulsory studying of Serbian as non-mother tongue were organized on the territory of the Republic of Serbia. Classes in 9 languages (Albanian, Bosniac, Bulgarian, Hungarian, Romanian, Ruthenian, Slovak, Serbian and Croatian) are attended by 561,502 children in 1,367 primary schools (out of which 526,762 pupils attend classes in Serbian).

Regarding the education of pupils with developmental disabilities, classes are attended by 4,987 pupils - 4,508 in Serbian, 432 in Hungarian, 39 in Slovak, six in Ruthenian and two in Albanian.

For pupils - members of national minorities attending classes in Serbian, classes of elective course Mother tongue with elements of national culture are also organized. Mother tongue with elements of national culture is realized as an elective course in primary schools in the Republic of Serbia in 14 languages of national minorities, for 11, 509 pupils.

Elective course Mother tongue with elements of national culture is realized in almost 90% of local self-government units in the Republic of Serbia and in almost 30% of primary schools.

Classes in Serbian (including Serbian-English, Serbian-Italian, Serbian-German and Serbian-French), Hungarian, Hungarian-German, Albanian, Bosnian, Slovak, Romanian, Croatian, Bulgarian and Ruthenian are attended by 253,273 pupils in 100 secondary schools.

Secondary school for pupils with developmental disabilities - special classes are attended by 2,136 pupils - 2,062 in Serbian and 74 in Hungarian.

During school year 2016/2017, the Ministry of Education, Science and Technological Development will make it possible for all the interested pupils in the Republic of Serbia to have the opportunity to study languages and culture of national minorities through various forms of extracurricular activities and additional classes (summer and winter schools, workshops...) or other forms of work. In June 2016, parents of primary school pupils filled in questionnaires about their interest in organizing such kind of studying of language and culture of national minorities. The results of the survey will define numbers and manners of realization to start during the school year 2016/2017.

**35) Comment to paragraph 97**

The Law on Prohibition of Discrimination stipulates that terms "discrimination" and "discriminatory treatment" stand for every unwarranted discrimination or unequal treatment, or failure (exclusion, limitation or preferment), of persons or group as well as members of their families, or persons close to them, in an open or covert manner, based on sexual orientation, among other personal features. In performing their duties, executive authorities apply provisions of the Law on Prohibition of Discrimination.

**36) Comment to paragraph 102**

The source mentioned by ECRI: NDI 2015: is not available to the public and the source of information cannot be verified.

**37) Comment to interim additional recommendations**

Election and termination of mandate of MPs established by the Law on Election of MPs ('Official Gazette of the RS' Nos 35/00 ... 28/11 - CC, 36/11), pursuant to the Constitution of the Republic of Serbia ('Official Gazette of the RS' No 98/06).



