



GOVERNMENT OF THE REPUBLIC OF SERBIA

Negotiating position of the Republic of Serbia for Inter-governmental Conference on
accession of the Republic of Serbia to the European Union
For Chapter 23 Judiciary and Fundamental Rights“

Belgrade, 2016.

I. INTRODUCTION

Republic of Serbia accepts the EU *acquis* with respect to Chapter 23 Judiciary and Fundamental Rights as it stands on 1 January 2016 and will be in the position to implement it fully by the time it accesses to EU membership.

Republic of Serbia will have implemented any outstanding *acquis*, by the date of accession, subject to the outcome of the negotiations under this chapter.

Republic of Serbia stands aware of the financial burden arising from the commitments in this Chapter and is willing to undertake these obligations.

Republic of Serbia does not request specific adaptations under this chapter.

II. Review of the alignment status /Legislative and institutional framework 1.

Judiciary

Serbia has demonstrated a high degree of awareness of the EU's strategic and policy framework in this area and has undertaken important reforms to align itself with the *acquis* and meet the European standards. However, further efforts are needed, in particular in fully ensuring judicial independence, impartiality, competence and efficiency.

The legislative framework regulating judiciary in the Republic of Serbia encompasses: National Judicial Reform Strategy for the period 2013-2018 ("Official Gazette of the RS", No. 57/13); Action plan for the implementation of the National Judicial Reform Strategy for the period 2013-2018 ("Official Gazette of the RS", No. 71/13 and 55/14); The Constitution of the Republic of Serbia ("Official Gazette of the RS", No. 98/06); Law on the Constitutional Court ("Official Gazette of the RS", No. 109/07 and 99/11); Law on the High Judicial Council ("Official Gazette of the RS", No. 116/08, 101/10, 88/11 and 106/15); Law on Judges ("Official Gazette of the RS", No. 116/08, 58/09 - decision of the Constitutional court, 104/09, 101/10, 8/12 - decision of Constitutional court, 121/12, 101/13, and 106/15); Law on Organization of Courts ("Official Gazette of the RS", No. 116/08, 104/09, 101/10, 31/11 - state law, 78/11 - state law, 101/11, 101/13 and 106/15); Law on the State Prosecutorial Council ("Official Gazette of the RS", No. 116/08, 101/10, 88/11 and 106/15); The Law on Public Prosecutor's Office ("Official Gazette of RS", No. 116/08, 104/09, 101/10, 78/11 - state law, 101/11, 38/12 - decision of the Constitutional court, 121/12, 101/13 and 106/15); Law on the Seats and Territorial Jurisdictions of Courts and Public Prosecutors' Offices ("Official Gazette of the RS", No. 101/13); Law on the Judicial Academy ("Official Gazette of RS", No. 104/09, No. 32/14 - decision of Constitutional court and 106/15); Criminal Procedure Code ("Official Gazette of the RS", No. 72/11, 101/11, 121/12, 32/13, 45/13 and 55/14); Civil Procedure Law ("Official Gazette of the RS", No. 72/11 49/13 - decision of Constitutional court, 74/13 - decision of Constitutional court, 55/14); Law on Non-Contentious Proceedings ("Official Gazette of the RS", No. 25/82 and 48/88 and "Official Gazette of the RS", No. 46/95 - state law, 18/05 - state law, 85/12, 45/13 - state law and 55/14); Law on Enforcement and Security ("Official Gazette of the RS", No. 106/15); Law on Public Notaries ("Official Gazette of the RS", No. 31/11, 85/12, 19/13 and 55/14 - state law and 106/15); Law on Mediation ("Official Gazette of the RS", No. 55/14); Law on the Bar Exam ("Official Gazette of the RS", No. 16/97); Law on Misdemeanors ("Official Gazette of the RS", No. 65/13 and 13/16); Law on the Public Attorney's Office ("Official Gazette of the RS", No. 55/14); Court Rules of Procedure ("Official Gazette of RS", No. 110/09, 70/11, 19/12, 89/13, 96/15, 104/15 and 113/15); Rules of Procedure of the High Judicial Council ("Official Gazette of the RS", No. 29/13 and 4/16); Rules of Procedure of the State Prosecutorial Council ("Official Gazette of the RS",

No. 55/09, 43/15 and 4/16); Rules on the Administration in Public Prosecution ("Official Gazette of the RS", No. 77/04, 52/07, 2/08, 11/09 and 44/09); Code of Ethics of Judges ("Official Gazette of the RS", No. 96/10), Code of Ethics of Public Prosecutors and Deputy Public Prosecutors of the Republic of Serbia ("Official Gazette of the RS", No. 87/13); Code of Ethics for members of the State Prosecutorial Council ("Official Gazette of the RS", No. 60/14); Rules of procedure on disciplinary procedure and disciplinary accountability of judges ("Official Gazette of the RS", No. 71/10); Rules on disciplinary procedure and disciplinary accountability of public prosecutors and deputy public prosecutors ("Official Gazette of the RS", No. 64/12, 109/13 and 58/14); Rulebook on the criteria for transfer of a judge to another court in the case of the abolition of the substantial part of the jurisdiction of the court to which he was elected ("Official Gazette of the RS", No. 105/13); Rules of Procedure on the criteria and standards for performance appraisal of public prosecutors and deputy public prosecutors ("Official Gazette of the RS", No. 58/14) -Rules of Procedure are experimentally implemented in 18 public prosecutors' offices in the period from June 18th until December 15th 2014. Upon completion of the experimental implementation, the State Prosecutorial Council will analyze and compile report on the implementation of the Rules of Procedure, stating whether it is necessary to amend it; Rulebook on the criteria, standards, process and bodies for performance evaluation of judges and court presidents ("Official Gazette of the RS", No. 81/14, 142/14, 41/15 and 7/16);Uniform backlog reduction program in the Republic of Serbia, which has been in implementation since January 1st 2014 (Supreme Court of Cassation Court adopted Uniform program on December 25th 2013); Rules of Procedure on public notary exam ("Official Gazette of the RS", No. 71/11, 81/11, 3/12, 78/12 and 31/13); Initial training program for candidates for exercise of the profession of public notaries for 2014 (adopted on April 7th 2014); Rules of Procedure on temporary number of public notaries' positions and the official seats of public notaries and public notaries' positions for which a competition will be announced for the first 100 public notaries ("Official Gazette of the RS", No. 31/12 and 57/14); Rulebook on determining the number of bailiff/enforcement officers ("Official Gazette of the RS", No. 61/14).

National Assembly of the Republic of Serbia enacted the National Judicial Reform Strategy (NJRS) for the period 2013-2018 on July 1st 2013, which has determined priorities, strategic goals and strategic guidelines of reform measures. The Government adopted an Action plan for implementation of the National Judicial Reform Strategy for the period 2013- 2018 on July 31st* which envisages concrete measures and activities for implementation of strategic objectives, defines the deadlines and competent authorities for its implementation and financial sources. National Judicial Reform Strategy for the period 2013-2018 envisages mechanism to monitor the implementation of reform measures, in the form of Commission for Implementation of the National Judicial Reform Strategy for the period 2013-2018, with the composition of 15 members who are representatives of all relevant stakeholders in the reform process. The Strategy envisages independence, impartiality, competence, accountability and efficiency of the judiciary, as five basic principles and defined priorities, strategic objectives and strategic guidelines of reform measures. Considering that National Judicial Reform Strategy for the period 2013-2018 has been developed as a result of general consent of all relevant subjects in the field of judiciary, during the process of drawing up the Action Plan for Chapter 23 particular attention was given to take into account crucial activities envisaged in the Action plan for the implementation of the National Judicial Reform Strategy for the period 2013-2018. In this way, higher degree of coherence between these two documents is achieved and supervision over reform implementation is facilitated. In addition, activities envisaged in the Action plan for negotiations represent "road map" of the reforms, whereas Action plan for the implementation of the National Judicial Reform Strategy for the period 2013-2018 includes broader scope of detail activities. In order to achieve complete cohesion of two documents (particularly concerning deadlines), revision of Action plan for the implementation of the National Judicial Reform Strategy for the period 2013-2018 has been conducted by the end of 2015.

Since the World Bank conducted a detailed assessment of the Serbian Judiciary - the Functional Review - recommendations and proposals given by this document have been included in the cases covered by screening recommendations.

The institutional framework encompasses: Constitutional Court, the High Judicial Council, the State Prosecutorial Council, Ministry of Justice, Judicial Academy, Supreme Court of Cassation, four appellate courts, 25 higher courts, 66 basic courts with 25 court units, Misdemeanor court of appeal with three departments, 44 misdemeanor courts, Commercial Court of Appeal, 16 commercial courts, Administrative Court with three departments, the Republic Public Prosecutor's Office, four appellate public prosecutors' offices, 25 higher public prosecutors' offices, 58 basic public prosecutors' offices. The judicial system in the Republic of Serbia, as of January 1st 2016, encompasses 2793 judges, 58 public prosecutors and 621 deputy public prosecutors. Other vacancies still have acting public prosecutors.

The Basic Courts act as first instance bodies regarding criminal cases where the prescribed punishment is less than 10 years of imprisonment or in labor and civil cases where the value is less than EUR 40.000. They also deal with enforcement proceedings. Higher Courts act as the first instance in criminal cases where the punishment is imprisonment of 10 years and more and in civil cases with a value above EUR 40.000. Higher Courts act as a second instance regarding some interim rulings of Basic courts. The Commercial Courts act as courts of first instance on commercial matters. The four Appellate Courts, within their respective geographic territory act as second instance courts for decisions of Basic and higher courts. They also resolve conflicts of jurisdiction between Basic Courts, High Courts and Commercial Courts. The Misdemeanor Court of Appeal and the Commercial Court of Appeal decide on appeals against decisions by respectively Misdemeanor and Commercial Courts. The Administrative Court has jurisdiction to decide on administrative disputes. It also decides in administrative procedures about legality of final administrative and individual acts on rights, obligations or statutory interest, subject to any other court protection stipulated by law.

The Supreme Court of Cassation is the highest court in Serbia. It decides on extraordinary legal remedies instituted against final decisions of Appellate courts and on other issues prescribed by the law. Equally, it decides on conflicts of jurisdiction between the courts and the transfer of jurisdiction of courts.

The Constitutional Court decides on the conformity of laws with the Constitution of the Republic of Serbia and with ratified international agreements. It has jurisdiction over various types of conflicts of jurisdictions between state bodies. It decides Constitutional Appeals for alleged violations of human rights and freedoms. It is competent for electoral disputes in case the court jurisdiction was not established. It also acts as the appeal body against certain decisions of the High Judicial Council and the State Prosecutorial Council. The Public Prosecution Service broadly follows the structure of the court system. The structure consists of basic, higher and appellate prosecution offices as well as the Republic Public Prosecutor's Office. The specialized prosecution offices are the War Crime Prosecution and Organized Crime and corruption Prosecution.

The Republic of Serbia has established system of bailiffs since 2012. Currently there are 204 bailiffs appointed on 308 vacancies.

The public notaries have started its work since September 1st 2014. Since the beginning of organizing of notary exam a total of 275 candidates have passed the notary state exam while 140 notaries have been appointed.

Independence

Independence of the judiciary is guaranteed by articles of the Constitution of Republic of Serbia and

further more by the Law on the Judges. Articles 4 and 149 of Constitution of the Republic of Serbia stipulate the separation of the power and explicit independence of the judges limited only by the Constitution of the Republic of Serbia and the law. First time judges are elected for the period of three years, by National Assembly upon proposal of the High Judicial Council (Article 147), afterwards High Judicial Council appoints them to a permanent function. Dismissal of judges is as well in competence of the High Judicial Council (Article 154). Judges can be removed from office only by judicial decision, when they reach the age of retirement stipulated by the law and at their own request (Article 146). President of the Supreme Court of Cassation and court presidents are elected, for non-renewable period of 5 years,, and dismissed of the duty by National Assembly upon proposal of the High Judicial Council (Articles 144 and 154).

The Constitutional Court consists of 15 judges who are elected and appointed for period of nine years. By the Article 172 of the Constitution of the Republic of Serbia, five members of the Constitutional Court are elected by National Assembly among 10 candidates proposed by President of the Republic, another five are appointed by the President of the Republic from the list of 10 candidates proposed by National Assembly and another five are elected at the general session of the Supreme Court of Cassation from the joint list of 10 candidates proposed by High Judicial Council and State Prosecutorial Office. President of Constitutional Court is elected in a secret ballot among Constitutional court judges, president is elected for a three years mandate.

Article 156 of the Constitution of the Republic of Serbia stipulates that Prosecution is an independent state body which performs its function on the basis of the Constitution, Law, ratified international treaty and regulation passed on the basis of law. Article 162 of the Constitution of the Republic of Serbia guarantees functional immunity for all prosecutors. National Assembly elects the Republic Public Prosecutor of the Republic of Serbia for a mandate of six years, and can be re-elected, on the proposal of the Government, after obtaining the opinion of the competent committee of the National Assembly. Deputy public prosecutors are elected, when elected for the first time on the 3 years period, by the National Assembly on proposal of the State Prosecutorial Office. Public prosecutors are elected by National Assembly at the proposal of the Government, for a six years mandate and may be re-elected (Article 159).

The High Judicial Council consists of 11 members three of which are ex officio members and other eight elected by National Assembly for a period of a 5 years. Ex officio members are the President of the Supreme Court of Cassation, the Minister of justice and the President of the Parliamentary Committee for Judicial Affairs. Six of eight elected members are judges elected after a secret ballot among judges, and two respected and prominent lawyers who have at least 15 years of professional experience, of which one is a lawyer and second is law school professor, both proposed by their chambers. In the terms of administrative capacity, the High Judicial Council has 34 staff members (18 vacancies).

The State Prosecutorial Council, as well has 11 members. Three ex officio members of the State Prosecutorial Office are Republic Public Prosecutor, Minister of Justice and the President of the Parliamentary Committee for Judicial Affairs. The National Assembly elects, upon proposal of State Prosecutorial Council, six public prosecutors or deputy public prosecutors and two prominent lawyers for five year period. The Administrative office of the State Prosecutorial Office is composed of 18 staff members (7 vacancies).

Authority competent for dismissal of an elected member of the Councils is the National Assembly as stipulated in both Laws on the High Judicial Council and the State Prosecutorial Council. Jurisdiction for proposing and allocating the budget for courts and prosecutorial offices is divided between the High Judicial Council and the State Prosecutorial Council, on the one hand, and the Ministry of Justice, on the other hand. Elected members of the Prosecutorial Council may continue to work as public or deputy

public prosecutors, except in the case when they are dismissed of their duty by decision made by State Prosecutorial Council.

The internal independence of judges is guaranteed by Article 71 of the Law on the Organization of Courts, which forbids interfering with the autonomy and independence of judges and courts. Nevertheless, court administration of a lower instance court can be supervised by the President of a higher court, immediately issuing instructions or requesting information regarding the application of regulations, progressions of proceedings and managing related data. When parties in proceeding addresses president of the court with complaint, the court president is obligated to notify not just the complainant but also the president of a directly higher court on acceptability and follow up on the case. The president of directly higher court can order inspection of the lower court if related to the length of proceeding.

Although the Constitution of the Republic of Serbia provides the independence of the judiciary existing regulation frame creates risk for political influence over the judiciary, having on mind the role of the National Assembly in the election and dismissal of six of the eleven members of the Council, judges and heads of prosecution offices and deputy public prosecutors.

The lack of independence of judges and excessive political influence over prosecutorial careers is recognized by the 2013 Judicial reform Strategy and its action plan, therefore a working group was set to propose amendments to the Constitution of the Republic of Serbia in order to change the relevant legislative to achieve judicial independence, in parallel, considering the means to minimize the risks of political interference.

Until 2015, there were no clear and transparent criteria for evaluation and promotion of judges and prosecutors which affects the career of judges and prosecutors at every level. National Judicial Reform Strategy and its Action plan defines measures and activities aiming to ensure new performance and evaluation system to be based on clear and transparent criteria without any external and potential political influence. New system should not be perceived as a mechanism of subordination of lower court judges to superior court judges and should be supervised by responsible body within the respective Councils. With respect to the role of Ministry of Justice in the process of monitoring the work and performance of court including collecting, analyzing and evaluating statistical data, it is required to clarify competences.

Within the NJRS legal measures related to budget and financial responsibilities of the Councils have been defined that should enhance their independence and autonomy. In that regard two Councils should strengthened their capacities with particular focus on strategic planning. According to the foreseen activities both Councils should be tasked with competences that will enable management of the whole judicial system. In that respect their composition needs to be reexamined. Effective functioning of both Councils with the view receiving new competences needs to be coordinate in terms of sufficient administrative capacities and own budgetary resources. Anyhow Serbia should make certain that at least half of the members should be elected among judges and prosecutors. It is required to have comprehensive analysis of the Constitution of the Republic of Serbia and legal framework which will address all possible weaknesses with respect to independence, impartiality and efficiency. Amendments should revise the election of judges and prosecutors, the grounds for dismissal of judges, the probation period of three years for candidate judges, the rules on the disciplinary responsibility of judges, the rules for terminating the mandate of Judges of the Constitutional Court, the role of the Ministry of Justice in the administration of justice. The Law on Judges, the Law on the Organization of Courts, the Law on the Prosecutor's Office, the laws on the two Councils and the Law on the Judicial Academy which specifies Constitutional provisions, will have to be further amended aiming to avoid inconsistency, once Constitutional changes adopted.

Constitutional and legal changes need to be subject of broad consultations and discussion in order to have largest possible degree of ownership within the justice system. Those changes should lead to stability within the judicial system opposite to current situation where frequent changes create feeling of insecurity among judges influencing their independence. The full respect of the independence of the judiciary also implies abstaining from commenting court decisions, in particular by politicians.

Due to length and complexity of amending the Constitution of the Republic of Serbia, a series of *interim measures* had been undertaken aimed at strengthening the independence of the judiciary through amendments to the judicial laws within the provisions of the Constitution of the Republic of Serbia. In the first two years of implementation of the National Judicial Reform Strategy for the period 2013-2018 set of judicial laws has been amended and judicial independence has been strengthened with these interim measures, within the framework of the current Constitution of the Republic of Serbia. At the same time, work has commenced on an analysis of the provisions of the Constitution of the Republic of Serbia and on the identification of necessary amendments in the part relating to the judiciary. Presidents of the courts of all levels have been appointed. It

remains to finalize the election of a president in four courts, out of the total of 91 basic and higher courts. The appointment procedure for the rest positions is currently ongoing. The High Judicial Council and State Prosecutorial Council adopted criteria and standards for the performance appraisal of judges, presidents of courts, public prosecutors and deputy public prosecutors. The State Prosecutorial Council has adopted the Rules on the criteria and standards for the evaluation of qualification, competence and worthiness of candidates for election process of holders of prosecutorial office (Criteria for election to office) on its' session held on May 14th 2015. High Judicial Council has commenced preparing the detailed criteria and standards for appointment to judicial offices in line with amendments on laws on Judicial Academy, judges and public prosecutor's offices (adopted on December 18th 2015 to align provisions of these laws with Constitutional Court decision on the position of the Judicial Academy as an entry point for judiciary) that has established clear criteria for appointment of judicial holders. Amendments to the Law on the High Judicial Council and State Prosecutorial Council significantly improved transparency in the work of the Councils, through the introduction of mandatory public sessions, an obligation to provide rationale for the decisions of the councils, and publish them on its website. Introduction of program budgets has commenced and capacities of the administrative offices of the High Judicial Council and State Prosecutorial Council have been strengthened through the various activities, including adopted a training plan for all employees in the Administrative office adopted by High Judicial Council in the fourth quarter of 2014. Activities aimed at building capacity within the IPA 2013, strengthening the strategic and administrative capacities of HJC and SPC (such as various trainings, workshops and study visits) have started. The High Judicial Council and the State Prosecutorial Council monitor the results of implementation of judicial laws that are currently on the force and prepare quarterly reports on implementation of judicial laws.

Impartiality Accountability

According to the article 32 of the Constitution everybody has the right to a public hearing before an independent and impartial tribunal. Judges are obliged to conduct proceedings impartially according to their Code of Ethics (adopted in 2010), The requirement of impartiality for prosecutors is defined in Article 46 of the Law on the Public Prosecutor's Office, according to which the public prosecutor's function must be performed in the public interest, to ensure application of the Constitution and law, and respect for together with protection of human rights and fundamental freedoms. During 2013 a Code of Ethics was adopted stipulating that public prosecutors and deputy public prosecutors are obliged to act impartially in conducting proceedings or decision-making. The Court Rules of Procedure regulate the random allocation of cases in courts. Although all courts in Serbia are provided with automated case processing software only 60 courts are using them which cause that allocation of cases happens manually using alphabetical order and workload, urgency and type of procedure. This also has to be in accordance with an annual schedule established by the court president. The president may derogate from the order of case allocation in justified cases, such as temporary inability to work or absence of a judge, in accordance with the law. The distribution of cases is done by the court registry based on the aforementioned rules and supervised by the president of court, secretary of court and court registry manager. Regulations on conflicts of interest and rules on disqualification are in place. The Constitution of the Republic of Serbia (Article 152) sets that a judge shall not be allowed from engaging in political activities. The Law on Judges (Articles 30 - 31) provides the rules on the relation between other jobs, services and actions and the judicial function and

8

commends a procedure for deciding on the incompatibility, it also makes conflicts of interest subject to disciplinary proceedings. By the Civil and Criminal Procedure Codes a judge may be disqualified if certain circumstances are raising a doubt on his/her impartiality. There is obligation both for judges and

8

prosecutors to declare their assets and income to the AntiCorruption Agency. The disciplinary accountability of judges is defined by the Law on Judges (Article 99). A disciplinary offence is defined as neglectful performance of the judicial function or behavior inappropriate for the judicial function. The types of disciplinary offences and disciplinary sanctions (i.e. a public warning, salary reduction up to 50% for a period not exceeding one year, and prohibition of promotion in the duration of three years) are prescribed by the Law. The High Judicial Council appoints the Disciplinary Commission which conducts disciplinary procedure and can impose a disciplinary sanction or initiate a dismissal procedure. The respective judge can appeal against Disciplinary Commission decision with the High Judicial Council and the decision of the High Judicial Council can be challenged before the Administrative Court. Same, disciplinary proceedings against (deputy) public prosecutors are also conducted before Disciplinary Commission who notifies the State Prosecutorial Council of its decision. This decision can be appealed before the State Prosecutorial Council and the latter's decision can be challenged before the Administrative Court, or before the Constitutional Court in case of dismissal. Functional immunity is guaranteed by the Constitution of the Republic of Serbia (Article 151) and the Law on Judges (Article 5) in a sense that a judge may not be held accountable for an expressed opinion or voting in the process of rendering a court decision, except in cases when he/she committed a criminal offence by violating the law. In addition to that a judge may not be deprived of liberty in legal criminal proceedings initiated for a criminal offence committed in performing the judicial function, without previous consent of the High Judicial Council. Comparable provisions apply to prosecutors (Article 162 of the Constitution of the Republic of Serbia).

NJRS and its Action plan foresees measures and activities related to the adoption and implementation of an integrity plan, specialized training and development of methods to better measure adherence to integrity standards, which should strengthen the integrity of judges and prosecutors and for promoting ethical standards. Court rulings are made publicly accessible through periodical publications and on the web-site of the courts. Furthermore, the Supreme Court of Cassation made publicly available on its website the decisions important for the practice of courts as well as all general legal views. According to the Article 70 of the Law on the Organization of Courts the Ministry of Justice is responsible for the supervision of the work of courts which includes controlling the performance of the court administration, collecting data, approving internal staffing plan, supervising proceedings on statutory time limits and on complaints and petitions, proposing budget for court staff and operational expenses as well as for investments, securing working conditions, premises and equipment, IT system for courts, supervision over financial management in courts and in High Judicial Council. Additionally, the Ministry of Justice is responsible for internal organization and operation of courts, court expert witnesses and interpreters. Nevertheless Article 71 of the Law proscribes safeguards against interfering with the autonomy and independence of courts and judges stipulating nullity of any such act, jurisdiction on determine this is on the Administrative Court

Impartiality of judges and public prosecutors is guaranteed by the Constitution of the Republic of Serbia, the Codes of Ethics, the Law on Public Prosecution, the Law on Judges and other numerous provisions. The effective implementation of conflict of interest and disqualification

rules are cause of concern. Notwithstanding "conflict of interest" rules require judges and prosecutors to provide asset statements, there is no suitable instrument for effective check on assets, what significantly hinders the impact of these rules. So far there is no effective mechanism to monitor compliance with codes although Codes of ethics for judges, prosecutors and lawyers were adopted. The awareness-raising and reporting is at an early phase. Although prescribed provisions for random allocation of cases do not fully guarantee genuinely random allocation of cases, especially in courts where automated case management system is not used. Even in courts using this system the random character of case allocation exists. There is a need for more guarantees for the integrity and transparency of the system of case allocation throughout the judiciary (including in prosecution offices), in order to ensure that Court Presidents and heads of prosecution offices are fully accountable for all decisions to diverge from the random allocation system. More precise and transparent rules for applying the system should be applicable to all courts in addition to this the rules and conditions for taking away of case from judges and prosecutors should be defined. Furthermore accountability remains an issue of concern, bearing on mind that mostly disciplinary proceedings result in mild disciplinary sanction and therefore fails to produce preventive effect. Regarding dismissal procedures, the grounds for dismissals requires further valuation. Fair trial principle could be endangered given that procedural rules are not comprehensive such as the double competence of the Disciplinary Commissions in investigating and deciding on disciplinary proceedings. There is strong requirement to strengthen the capacity of disciplinary bodies. Only 1 judge and 1 public prosecutor were dismissed so far, while few others received disciplinary sanctions. It is necessary that Serbia establishes a well-functioning, clear and impartial disciplinary procedure to detect and solve irregularities through ensuring a consistent disciplinary practice. Aiming to ensure all above mentioned as well as independence and decreasing potential risk of external influence, Ministry of Justice should avoid interfering of its inspection services in the considerable work of courts. Bearing that in mind both Councils need to establish inspection capacities on clear rules which provide powers to act ex officio or on indications from citizens, state bodies or other legal entities related to among other questions of integrity or professional failure. Provisions and the procedures defining removal of functional immunity requires revision in order to enable full accountability of judges and prosecutors under criminal law. Further steps are required to make sure an appropriate publication and easy access to court decisions in order to ensure the harmonization of judicial practice and consistent approach to the law and to guarantee impartiality.

The National Judicial Reform Strategy for the period 2013-2018 stipulates implementation of measures aimed at improvement of impartiality, ethics and integrity of the judicial office holders as well as at the alignment and complete accessibility to the case law and the full realization of the right to the natural judge. In this regard, the High Judicial Council and the State Prosecutorial Council have established boards of ethics in 2015. The Code of Conduct for members of the Government had been adopted on the beginning of 2016. Improvement of operation of disciplinary bodies of the High Judicial Council and State Prosecutorial Council is set forth in the National Judicial Reform Strategy for the period 2013-2018. The program for judicial office holders on integrity rules and ethics is developed in IV quarter of 2014 High Judiciary Council adopted on May 2015. Rules on procedure for determining disciplinary responsibility of judges and court presidents by which the existence of a double-track procedure for "ordinary" and "serious" disciplinary offences have been eliminated. The short status of limitation periods for disciplinary offences has been extended, which also explains the limited numbers resulting in a final decision.

Professionalism Competence Efficiency

The Judicial Academy is an independent institution responsible for initial and continuous training of members of judiciary and candidates for judges and public prosecutors. The Law on Judicial Academy stipulates 2 years duration of the initial training. During this timeframe candidates are selected, they receive training, take part in final examinations and are individually evaluated. Number of initial trainees

is decided for each year by the High Judicial Council and State Prosecutorial Council. First they have to pass the bar exam as well as to satisfy general conditions for employment in state authorities and to pass the entrance exam for initial training. Except in cases when it is obligatory due to decision of High Judicial Council and State Prosecutorial Office or stipulated by the law, continuous training is freewill. Comparing Report on the work of all courts in Serbia from 2013 with 2.874.782 unresolved cases and Report form 2012 with 3.158.401 unresolved cases, there was decrease of nearly 9 %. According to the Report for 2015 number of unresolved in all Serbian courts cases was 2.874.782. With regards to this, the National Judicial Reform Strategy emphasized the need for adoption of a backlog-clearance programme. Supreme Court of Cassation adopted the Uniform backlog reduction program in 2014, whereby all courts should send quarterly report to the Supreme Court of Cassation regarding progress, results and issues during overcoming backlog. Rationalization of court network was applied some years ago, but so far impact on effectiveness on judicial system has been incomplete. At January 2014 a new court network became functional. National Judicial Reform Strategy for the period 2013-2018 sets as a priority rationalization of the courts and prosecution offices network. Prioritization is based on the grounds that (a) there remains a substantial inequity in the workload among existing courts and prosecution offices throughout the country, leading to delays procedures in some instances and (b) it is necessary to ensure an optimum allocation of the magistrates to tackle this problem, balancing their individual requests and constitutional rights not to be moved from one place to another without their consent, with the needs of the entire judiciary in terms of access and proximity. As a part of solution for inefficiency, Serbia has established a central case law and legislation database as part of a legal information system. Additionally, it is intention to roll out a system of automated case processing within the courts which should result in all courts in Serbia using an electronic case management system

For the purpose of aligning with EU standards in the area of competence and efficiency, it is necessary to reform the concept and capacities of the Judicial Academy in order to become an appropriate entry point to judicial profession through the use of quality control mechanism. So far regular assessment of the professional performance of judges and prosecutors has not been put in place, which should enable more systematic evaluation of training needs. Furthermore it is necessary to provide dedicated training courses for managers (court presidents and heads of prosecution offices).

Before taking next steps in reforming court network it is necessary to make prior comprehensive analysis on costs, efficiency and access to justice. An appropriate system is required to enable measuring workload and more equal allocation of cases. Incentive-based measures could be considered in order to contribute to the voluntary mobility of judges and prosecutors and

strengthening of overburdened courts or prosecution offices. Most of the European Court of Human Rights judgments related to Serbia, refer to violation of the right to a fair trial due to the length of the proceedings and unsatisfactory enforcement of domestic judgments. Therefore, Serbia should develop and implement a Backlog reduction programme. Reduction of case backlog in all civil and commercial cases could be achieved by using alternative dispute resolution methods (i.e. mediation), services of public notaries and bailiffs. Additional efforts are required for setting up an effective enforcement of court decisions. Improvement of Information and Communication Technology in courts and public prosecutors' offices has continued, however there is still a problem with the parallel operation of multiple incompatible systems, making it difficult to monitor the statistical parameters of judicial efficiency, the exchange of information between courts and public prosecutors' offices, parties' insight into the status of the case, as well as the duration of proceedings. This status of Information and Communication Technology has a negative impact on the automatic case management, which should also be improved regarding the introduction of a case weighting system. The Serbian judiciary would benefit from further improvement of the ICT system, therefore Serbia plans to develop an e- Justice system based on current capacities and in accordance with clear and objective Guidelines that were drafted at the end of 2015. This should also include the creation of a consistent system for data collection on complete court performance statistics including the duration of trials and the human and financial resources assigned. As part of the effort to reduce backlogs, an automated system for monitoring the length of trials should be introduced in the courts. More efforts should be put in modernizing the facilities (infrastructure) where courts and prosecution offices are seated.

Serbia has undertaken numerous measures aimed at improvement of the competence and efficiency of the judiciary in last few years.

Analysis of the Judicial Academy was prepared at the end of 2014 consisting of substantial number of recommendations including amendments to the Law on the Judicial Academy which will allow training for notaries and bailiffs and amendments to the Laws on Judges and on Prosecutors so as to respond to a Constitutional Court decision requiring clear rules for the first election of judges and prosecutors. Some of the recommendations have been already implemented. The new, improved Annual curriculum of training that covers all areas of law (including EU law and human rights) has been adopted by HJC on April 21st 2015 and SPC on May 15th 2015 and it is being successfully implemented. Activity regarding the development of monitoring system concerning quality of initial, continuous and specialized training that implies bidirectional evaluation system that would allow the assessment of the results of training or degree of advancement of knowledge of the participants, as well as the assessment of the quality of the program and trainers has being successfully implemented. Cooperation with the Institute for quality assurance of education only asserted belief that it is necessary to well determine strategic planning regarding training improvement. Both initial and continuous educations are conducted at the Judicial Academy since its establishment. At initial education, candidates are evaluated by mentors and at the end of education they are passing the final exam, simulation of trial, evaluated by the commission. Continuous education is being evaluated through standard questionnaires, evaluating the following aspects, quality of lecturers and conditions of work. Implementation of the activities was initiated by the establishment of the Program group for improving the evaluation of training within the Judicial Group, consists of two judges of SCC, two judges from Court of Appeal, one judge from Higher Court, one deputy public prosecutor

12

from Republic Public Prosecutor's Office and two university professors specialize for pedagogy and andragogy. This group will be administered by the Head of Department for monitoring and evaluation of the Judicial Academy. This group will work on enhancement of continuous and initial training, enhancement of mentor and lecturer work, as well as on enhancement of educational programs. System of

progress monitoring after seminars, at the level of knowledge of judges and prosecutors shall be introduced, through testing. Monitoring and evaluation enhancement shall be achieved through introduction of e-learning system, enabling more precise and complex measurement of different aspects of education process. Adequate building for permanent accommodation of the Judicial Academy was obtained on 9th April 2015 by Serbian Government and reconstruction has started.

Taking into account the fact that inefficiency has been the greatest long-standing problem of the Republic of Serbia judiciary, the National Judicial Reform Strategy for the period 2013 - 2018 has envisaged a series of measures aimed at improving efficiency, commencing from improving of procedural laws, establishing an e-justice system, as well as the monitoring and correction of the functioning of the judicial network. Alleviation of the workload of courts is also envisioned through the introduction of a system of enforcement agents, notaries and mediation in disputes resolution, which would, along with the swift resolution of case backlog and infrastructure investments achieve shorter duration of court proceedings and improve access to justice. From January 1st 2014 a new judicial network has entered into force with an increased number of courts and public prosecutors' offices, which should reduce expenses and contribute to easier access to justice. There have been considerable investments in infrastructure that already, by the end of 2014, supposed to lead to a significant increase in the number of courtrooms, especially in Belgrade, where this problem has existed for decades. The Supreme Court of Cassation has adopted a Uniform backlog-reduction program in the Republic of Serbia in December 2013 that stipulates gradual reduction of backlog of cases with 80% by 2018. Although the envisaged goal of 20% backlog reduction which was prescribed in Uniform BRL Program has not been achieved during 2014, it is necessary to point out that new courts network has been established as of January 1st 2014, and this slowed down the work of courts during January and February of 2014. It was necessary to establish newly-formed courts and transfer respective cases to them. Furthermore, following the decision of the Bar Chamber of Serbia, attorneys did not participate in court trials for at least four months (September - December 2014, and several days during June 2014). Those were objective circumstances that prevented courts from working in full capacity. These arguments are confirmed by the fact that appellate courts reduced number of old cases by 25%, the Administrative Court by 52.38%, the Commercial Appellate Court by 78.75% (cases pending for more than 10 years from filing an initial act) and by 81.77% (cases pending for more than five years from filing an initial act) while there are no cases older than two years. Furthermore, the Misdemeanor Appellate Court received 2,198 old cases - which resulted from changed jurisdiction that became effective on March 1st 2014, and closed 93% of those cases. Listed courts suffered the least impact from attorneys' non-participation in trials. The presented trend was the very intention of the National BLR Program, and it was not reached because of the mentioned objective reasons, hence prescribed goals were not met in basic and higher courts since their work is "linked" to the attorneys' participation in trials to a highest degree. In spite of that, it is worth noting that percentage of cases solved on merits in higher courts is high - 75.60%, which represents 1.40% increase compared to 2013 which leads to the conclusion that courts worked on solving "old cases". In basic courts, number of unsolved cases is reduced by 3.06% compared to 2013, and such trend of reduction of unsolved cases is present also in the courts of special jurisdiction which is obvious from already presented statistical data. All the courts in Republic of Serbia adopted backlog reduction programs by which they envisaged forming of the backlog reduction teams. Teams in charge of reduction of backlogged cases were established in all courts. These teams are specialized for analyzing causes of long trial durations and finding adequate solutions for tackling all the identified issues. This practice has yielded very good results in 10 pilot courts that cooperated with USAID Separation of Powers Program. Based on courts' reports, these teams are currently working in all the courts and actively contribute to solving systematic, as well as concrete problems relating to courts' efficiency and backlog reduction. Numerous memoranda of cooperation were signed between the presidents of courts of all levels and authorized representatives of the relevant departments and institutions during 2014. This should

contribute to better inter-institutional communication and more effective coordination of activities between various institutions that participate or contribute to court proceedings in some way, such as for example better service of process through police and post office. The memoranda prescribe numerous commitments for the parties with the aim to increase court efficiency. This practice has yielded very good results in 10 pilot courts that cooperated with USAID Separation of Powers Program.

Furthermore, significant steps have been made towards the relief of courts by using the system of bailiff/enforcement officers. For the purpose of improvement of efficiency of the enforcement system, the Ministry of Justice's Law on Enforcement and Security Working Group has extensively continued to worked on the text of the draft law, supported by the Rule of Law and Enforcement Project (RoLE; IPA 2013/324-223), with the delivery of its Report and Overall Assessment of the Enforcement Regime of Civil Claims, as well as with expert advice. The analysis has shown a need for a comprehensive reform of the procedural law, taking into account the national legal and institutional framework, the EU acquis, international standards and best practice. In December 2014, in order to improve the efficiency of the procedure and considering the findings and recommendations contained in the Assessment Report, amendments to the Law were enacted which provided for jurisdiction of the enforcement agents according to residence or seat of the enforcements debtor as well as relating to the need for a more uniform distribution of utility and similar cases to enforcement agents, through the Chamber of Enforcement Agents ("Official Gazette of RS", no. 139/14). Subsequently, the new Law on enforcement and security has been adopted. Further, a Memorandum on Cooperation was signed between the Judicial Academy and the Chamber of Enforcement Agents for the purpose of training of enforcement agents at the First Annual Consultations of Enforcement Agents in March 2015. Amendments to the Law on the Judicial Academy have been adopted in the end of 2015 to allow JA to train bailiffs as well. Based on results of the Overall Assessment of the Enforcement Regime of Civil Claims, the Parliament adopted a new Law on Enforcement and Security in December 2015. In the ordinary course of monitoring and control of the work of enforcement agents by the Ministry of Justice, during the reporting period the following activities have been conducted:

- 4 on-field oversights were performed in bailiffs' offices;
- 140 new complaints and petitions have been received and answered; daily informative activities with citizens (about 10 calls a day).

Additional reports were provided during summer 2015 at the request of the Ministry, whereby the enforcement agents provided statistical reports on six-month work during the period 1.01.2015.30.06.2015 (regular annual reports on their work in 2014 were submitted at the beginning of 2015).

A decision on the dismissal of an enforcement agent was issued in September 2015 by the Disciplinary Commission. In the period from October to November the Ministry of Justice filed to the Disciplinary Commission 1 proposal for initiation of disciplinary proceedings while the Chamber filed 6 proposals. By the middle of November 2015 11 disciplinary proceedings initiated against enforcement agents (including the disciplinary proceedings initiated during September and October 2015) concluded and 11 sanctions have been imposed (1 monetary fine and 10 disciplinary reprimands).

Pursuant to the Law on the Notaries, the first 93 notaries were introduced into the Serbian legal system as of 1 September 2014, for the territory of 32 basic courts. The Founding Assembly of the Notary Chamber of Serbia was held on 15 August 2014, on which occasion the Chamber enacted legislation necessary for the start of the profession. The Chamber and the Ministry of Justice have subsequently enacted other necessary acts, which are unaffected by the amendments to the laws from 21 January 2015. The establishment of a high quality, efficient notary system which will be able to prevent and reduce the

excessive workload in the courts through preventive justice and taking over of further competences requires a well-functioning professional body which will monitor and control the work of its members, set professional standards and discipline when necessary, for which reason further work on these acts is necessary. Based on an analysis of the application of the law, on 5 November 2014 ("Official Gazette of RS", no. 121/14) amendments and supplements to the Law on the Notaries and Law on Real Estate Conveyance have been enacted, which ended the two-month long exclusivity of notaries to conclude contracts on the transfer of real estate through a notary record. Likewise, certain provisions of the Notarial Tariff were amended and certain fees reduced ("Official Gazette of RS", no. 103/14 and 138/14). Through a further analysis of implementation of the laws, and upon conducted negotiations with the Bar Association of Serbia, an agreement was signed, based on which amendments to the Law on the Notaries, the Law on Real Estate Conveyance, the Law of Succession, Family Law and the Law on Non-Contentious Proceedings were adopted on 21 January 2015 ("Official Gazette of RS", No. 6/15), reducing the number of legal matters which must be concluded in the form of notary record while increasing cases of solemnization, introducing more detailed procedures for solemnization as well as judicial protection in the cases in which a notary issues a decision on the refusal of performing notarial acts. The Rulebook on the Number of Notaries' Positions and the Official Seats of Notaries and the 100 Notaries' Positions for which a Public Call will be Announced ("Official Gazette of the RS", No. 31/12 and 57/14), provides for 371 notary positions to be established. Since the beginning of organizing of notary exam a total of 275 candidates have passed the notary state exam while 140 notaries have been appointed. Ad hoc seminars and workshops in cooperation with GIZ Program for Legal and Judicial Reform and the Foundation for Continental Law have continuously been implemented. To ensure the sustainability of training of notaries, a working group comprising of the Ministry of Justice, the Judicial Academy and Chamber of Notaries was established to develop the programs of initial and continuous training and a Professional Council has been established on 9 February 2015, consisting of professionals from jurisprudence and judiciary with the aim of harmonizing practice and a tendency to be transformed into a Notary Academy. In the intermediary period, a Memorandum on Cooperation with the Judicial Academy has been signed in order to provide training. Moreover, a Memorandum on Cooperation with the High Notarial Council of France was concluded on 7 November 2014 while GIZ has adopted a Plan of Support for 2015 aimed at providing continuous trainings for notaries during 2015. By the end of 2015 amendments to the Law on the Judicial Academy have been adopted to allow it to also train notaries. In December 2015, the Parliament adopted Law on Amendments to the Law on Notary System, taking into account the remarks of notaries of difficulties in the implementation of certain parts of the Law on Notary System, particularly concerning Title V, which lays down rules on the notary books and records. The working group addressed technical problems in the practical application of the law, which needed to be rectified in order to ensure its effective and uniform application as well as improved oversight and monitoring over the work of notaries by the Ministry of Justice and the Chamber.

The Law on Mediation in Dispute Resolution has become applicable on 1 January 2015 and the Ministry of Justice has passed all by-laws necessary for the implementation of the law in the period from December 2014 to April 2015. A novelty of the Law on Mediation in Dispute Resolution is licensing of mediators and keeping a register of mediators as a public central electronic database. On 6 February 2015 the Ministry of Justice announced a public call for granting licenses for mediation and has published the register on its website on 15 May 2015. Registry of Mediators is publicly available: <http://www.mpravde.gov.rs/intermediaries.php>. On 2 November 2015 a total of 204 mediators have been registered. The total number of applications for mediation licenses on 16 November 2015 was 253.

The law also envisages establishing an effective system of training for mediators. Two organizations have been granted status of accredited institutions responsible for the implementation of basic training. One of these organizations has also submitted programs for four types of specialized trainings for which it has

received approval. All relevant information on the establishment of the system of mediation is published on the website of the Ministry.

From October 1st 2013 the implementation of the Criminal Procedure Code from 2011 has commenced in all courts and public prosecutors' offices of general jurisdiction, which has introduced prosecutorial investigation as the most important novelty. Despite initial obstacles in implementation, there has been a significant increase in the percentage of proceedings completed by applying the principle of opportunity in criminal prosecution and plea bargain.

When it comes to the measures undertaken to improve e-justice system, the comprehensive analysis of hardware and software supported by USAID and the Ministry of Justice is completed as of February 2015, and by the end of I quarter of 2016 it is planned to implement a detailed analysis of the technical and human resources as well as the quality of data in the system, conducted by the Ministry of justice- ICT Sector.

Regarding the improvement of court practice uniformity, the first phase of the Analysis of the normative framework which regulates: the issue of binding of jurisprudence, right to legal remedy and jurisdiction for deciding on legal remedy; publishing judicial decisions and judicial reasoning taking into account the views of the Venice Commission is completed. The second phase of the analysis of the constitutional provisions is in progress, and subsequently, with the support of experts, consideration of potential changes of the constitutional and legal framework will be possible.

In order to improve access to regulations and case law, a special law establishing Legal- information system of the Republic of Serbia enabled the public enterprise "Official Gazette", to make available the following, free of charge to all Internet users: unofficial consolidated versions

of existing regulations at the national level, the original official publications in PDF format which involve the basic texts of regulations and official gazettes in which their amendments are published. Hence in this way it enabled free access to the complete basis of all daily updated and consolidated regulations at the republic level. In addition, as of January 1, 2014, the Official Gazette made case law database available free of charge (in order to fulfil this obligation 496 free access codes were open with over 4,800 access session).

The Comprehensive electronic database of the case load of the European Court of Human Rights has been formed within Judicial Academy.

Redesigned web site of the Supreme Court of Cassation has a comprehensive case-law database, which contains decision of the current courts, as well as the decision of earlier Serbia Supreme Court. The database contains approx. 4,500 decisions which are all anonymized in accordance with Court Decisions Anonymization Act. On August 21, 2015 the SCC entered Memorandum of cooperation with the Judicial Academy, which regulates exchange of decisions in their respective databases - the SCC and the JA. SCC plans to expand its database with appellate courts' and state courts' decisions (Administrative, Misdemeanor Appellate and Commercial Appellate Court), and with support of DOJ office within US Embassy in Belgrade. The SCC also plans to establish database of courts' decisions with the purpose of horizontal and vertical exchange between the courts which use SAPS (the SCC, Administrative Court and appellate courts).

Regarding the capacity strengthening and improvement of efficiency of operation of departments for jurisprudence in Supreme Court of Cassation some steps were undertaken and activity is being successfully implemented. In mid-2014, capacities were strengthened by the engagement of one judge and an advisor in the field of practice and protection of the right to trial within a reasonable time. Since March 2015 a consultant in the field of jurisprudence is engaged. Beside earlier mentioned activities, at this moment, the Supreme Court of Cassation carries out the numerous following activities aimed at unification of court practice: - Supervises implementation of the Joint Activity Plan of Appellate Courts on Organization, Timing and Venue of appellate courts' joint sessions: it takes part in the meetings, it collects and systematizes disputed legal issues, legal standpoints and conclusions of appellate courts; discusses them in its departments' sessions; publishes them on its website - Harmonizes case-law in the area of protection of the right to a trial within reasonable time; organizes meetings and conferences of educational nature, in order to secure unified application of the Law on Courts' Organization, European Convention on Human Rights, and the case-law of European Court for Human Rights; it regularly publishes legal sentences from this area of law and distributes them to all judges who deal with this type of cases. - Harmonizes case-law in the area of enforcement: by answering disputed legal questions; initiating different forums for experience exchange and exchange of disputed issues between basic and commercial courts, as well as between the courts and enforcement agents. Organizes training for legal advisors and assistants of state-level and appellate courts which are related to organization of case-law departments in these courts, nomenclature of decisions, techniques of decision registering, and operations of these departments. In line with the recommendation of the National Judicial Reform Strategy Implementation Commission 2013-2018 the task of the Commission for monitoring the implementation of Criminal Procedure Code has been renewed and it assumes the role of a unified multi-institutional mechanism for supervision over the implementation of the Criminal Procedure Code. This activity is carried out under the auspices of the Case-law Harmonization Activity Plan which the SCC adopted in April 2014, as well as of the Agreement of the Presidents of Appellate Courts' Presidents on the Organization, Venue and

17

Timing of Joint Appellate Courts' Sessions, which was concluded on the initiative and under supervision of the SCC. In 2015 SCC Case-Law Department was strengthened by additional judicial assistants - advisors which take part in the work of the Department and implement its decisions. In June 2015,

supported by the CoE Belgrade Office and MDTF-JSS, the SCC organized the first workshop for judicial assistants and advisors of case-law departments in state level and appellate courts, which aim to strengthen capacities of these departments regarding respective laws and bylaws (which refer to the work of these departments), and different skills (communication, case management, reporting). The SCC continued these activities through a December 2015 workshop which also encompassed case-law departments of all higher courts. The reduction of court staff planned under the Law on salary system of the employees in the public sector (RS Official Gazette, No. 18/16) may seriously affect the realization of all case-law activities.

Domestic handling of War crimes

The normative framework for investigating and prosecuting war crimes in the Republic of Serbia comprises:

Law on Organization and Jurisdiction of Government Authorities in War Crimes Proceedings (RS Official Gazette, Nos. 67/03, 135/04, 61/05, 101/07, 104/09, 101/11 oth.law and 6/15.) establishing the institutional framework for the prosecution of war crimes. In addition to the mentioned law, the currently applicable normative framework in the area of prosecution and punishment of those accused of war crimes in the Republic of Serbia includes: the Criminal Code (RS Official Gazette, No. 85/05, 88/05- corr, 107/05- corr., 72/09, 111/09, 121/12, 104/13 and 108/14); the Criminal Procedure Code (RS Official Gazette, Nos. 72/11, 101/11, 121/12, 32/13, 45/13 and 55/14); the Law on Mutual Assistance in Criminal Matters (RS Official Gazette, No. 20/09); the Law on the Protection Programme for Participants in Criminal Proceedings (RS Official Gazette, No. 85/05); the Law on Cooperation with the International Criminal Tribunal for the Former Yugoslavia (FRY Official Gazette, No. 18/02 and SaM Official Gazette, 16/03); Law on Migration Management (RS Official Gazette, no. 107/2012); Decision on the establishment of the Commission for Missing Persons of the Government of the Republic of Serbia on 8 June 2006 (RS Official Gazette, Nos. 49/06, 73/06, 116/06, 53/10 and 108/12); Memoranda of Understanding concluded between the competent authorities of the Republic of Serbia and the competent authorities of the countries in the region (Croatia, Bosnia and Herzegovina, Montenegro) and the Protocol on Cooperation with EULEX, which are aimed at establishing direct cooperation and more efficient exchange of information on war crimes and their perpetrators.

The institutional framework and the current capacity of the authorities responsible for investigating and prosecuting war crimes in the Republic of Serbia comprises: ¹

Department: six judges, one preliminary proceedings judge; 5) Court of Appeal in Belgrade, War Crimes Department; 6) Service for Assistance and Support to Victims and Witnesses: the number of employees - three. 7) Commissariat for Refugees and Migration, the Sector for Reception, Accommodation and Sheltering, Readmission and Durable Solutions, Department for Missing Persons (as administrative and technical support to the Commission for Missing Persons): the number of employees - three.

Pursuant to Article 2 of the Law on Organization and Jurisdiction of Government Authorities in War Crimes Proceedings, the jurisdiction for war crimes in the Republic of Serbia includes:

1) The criminal offenses referred to in Articles 370 to 386 of the Criminal Code; 2) Serious violations of

1 Ministry of the Interior, War Crimes Investigation Service: Head of Service, Deputy Head, two department heads, four section chiefs, 43 members of the Service; 2) Ministry of the Interior, the Protection Unit; the Section for Assistance and Support to Victims and Witnesses: the number of employees - three 3) Office of the War Crimes Prosecutor: the Prosecutor, six Deputy Prosecutors, two Advisors, three Assistants; 4) Higher Court in Belgrade, War Crimes

international humanitarian law committed in the territory of the former Yugoslavia since 1 January 1991 in accordance with the Statute of the International Criminal Tribunal for the Former Yugoslavia; 3) The criminal offense defined in Article 333 of the Criminal Code - aiding an offender after the commission of the offense, if committed in connection with criminal offenses set out in items 1) and 2) of Article 2 of the Law on Organization and Jurisdiction of Government Authorities in War Crimes Proceedings.

Direct cooperation and exchange with EULEX was established in 2008 to support Kosovo^{1*} in the rule of law area. EULEX has both executive (for example in cases dealing with war crimes, fight against high level organized crime and corruption) and advising tasks. Through its expertise in the rule of law, EULEX assists Kosovo^{2 3*} on its path towards European integration, including in supporting information regarding war crimes and perpetrators. Trials for war crimes are separated from the regular criminal legislation in Serbia because of special needs for witnesses and victims.

The handling of war crimes is based on a solid procedural legal framework to investigate, prosecute and adjudicate war crime cases. There is good and effective cooperation of the Serbian War Crimes Prosecution Office with prosecution authorities in all jurisdictions in the region and with the International Criminal Tribunal for the Former Yugoslavia. However, the performance as regards war crimes' trials requires particular attention. This includes strategic approach to the improvement of the war crime proceedings to ensure that all allegations are properly investigated and subsequently prosecuted and trailed; ensuring proportionality of sentences and equal treatment of suspects, including in cases of high level officers allegedly involved in war crimes; stepping up security of witnesses and informants; improving witness and victims support services; better ensuring the confidentiality of the investigation including witness and informant testimonies. This also implies adequate judicial and prosecutorial resources.

Upon the completion of mandate of Tribunal in the Hague, the responsibility for the prosecution of war crimes is fully transferred to the Republic of Serbia, which must demonstrate that its institutions are dedicated and administratively able to responsibly process all remaining war crimes suspects and to contribute to the process of transitional justice.

During the cooperation with the ICTY, Serbia handed over 46 suspects to International Criminal Tribunal for the former Yugoslavia (ICTY). Serbia has daily cooperation with the ICTY prosecutor's office. It should be noted that the Residual Mechanism of the ICTY (pursuant to the Completion Strategy of the ICTY) started functioning on July 1st 2013 and that certain problems arose with transferring evidence from the ICTY to the War Crime Prosecutor's Office. Namely, redacted witness statements given to investigators of the ICTY are transferred but disclosure of witness identity to the Serbian War Crime Prosecutor's Office is lacking. Currently, the War Crime Prosecutor's Office receives scarce number of statements on a case by case basis but still without the ones that could identify the perpetrators. Serbia is committed to ensure prosecution and trials of high level perpetrators regardless of their ranks.

The new Criminal Procedure Code (CPC) was introduced in War Crime proceedings since January 15th 2012 and has enabled prosecution control/administration over the investigative phase of the proceedings and has introduced new relations with State authorities and their duties in criminal proceedings. According to new CPC the prosecutor office is leading the preinvestigation proceedings and conducting investigation (possibility to conduct investigation against unknown person). Prosecutor's office has

² This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

³ This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

jurisdiction to instruct the police to conduct certain measures while police has obligation to act and to inform prosecutor's office upon their requests. New CPC has given wider jurisdiction for prosecution in collecting evidence during the investigation and elevated responsibility for the legality in obtaining of evidence. It has been widely agreed by the international observes and organizations that the courts processes cases more efficiently and the judges perform better under new procedural rules.

In domestic trials, 184 people were indicted, currently there is 12 ongoing cases in 1st instance (against 45 defendants) in comparison to 10 cases against 34 defendants in the screening report. As regards regional cooperation, Serbia at this moment has 347 exchanges of information and evidence related to 173 cases with Croatia, 56 with Bosnia and Herzegovina, 14 with Montenegro and 104 with EULEX and the United Nations Interim Administration Mission in Kosovo * (UNMIK).

During the 2015 the Working group established by the Minister of Justice (consists of representatives of Higher and Appellate Court, WCP, WPU, WCIS, Ministry of Justice, professional organizations, Bar Association and academic community) has drafted the National Strategy for prosecution of war crimes and organized the wide public debate. At the same time, the first Draft of Prosecutorial Strategy for investigation and prosecution of war crimes in Serbia had been prepared and delivered to the Working group for drafting the National Strategy for the investigation and prosecution of war crimes, with idea of achieving alignment with Draft National Strategy. The Government adopted National strategy on its session held on February 20th 2016 and WCPO has started alignment of draft Prosecutorial Strategy with the final National Strategy. Serbian authorities have started preparatory activities for establishing the nationwide network of victims and witness support services to improve position of victims and witness in the war crime as well as in other criminal proceedings. The expert meeting related to improvement of the penal policy in war crime proceedings was held on December 11th 2015, and conclusions from the meeting are currently being drafted. ⁴

⁴ This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

2. Fight against corruption

The legislative framework regulating and implementing anti-corruption in Serbia encompasses:

National Anti-Corruption Strategy for the period 2013-2018 (“Official Gazette of RS“, No. 57/13); Action plan for the implementation of the National Anti-Corruption Strategy for the period 2013-2018 (“Official Gazette of RS“, No. 71/13, 55/14); Financial Investigations Strategy (“Official Gazette of RS“, No. 43/15); Law on Financing Political Activities (“Official Gazette of RS“, No. 43/11); Law on Anti-Corruption Agency (“Official Gazette of RS“, No. 97/08, 53/10, 66/11-CC, 67/13-CC and 8/15-CC); Criminal Code (“Official Gazette of RS“, No. 85/05 88/05, 107/05, 72/09, 111/09,121/12, 104/13); Law on Free Access to Information of Public Importance (“Official Gazette of RS“, No. 120/04, 54/07, 104/09 and 36/10); Law on Whistle-blowers protection (“Official Gazette of RS“, No. 128/14), Law on Public Procurement (“Official Gazette of RS“, No. 124/12); Law on Privatization (“Official Gazette of RS“, No. 83/14, 46/15, and 112/15); Criminal Procedure Code (“Official Gazette of RS“, No. 72/11, 101/11, 121/12, 32/13, 45/13 and 55/14); Law on Seizure and Confiscation of the Proceeds from Crime (“Official Gazette of RS“, No 32/13); Law on ratification the UN Convention against Corruption (“Official Gazette of Serbia and Montenegro - international contracts“, No. 12/05), Law on organization and jurisdiction of government authorities in combating organized crime and corruption and other severe criminal offences (“Official Gazette of RS“, No. 42/02, 27/03, 39/03, 67/03, 29/04, 58/04 - other law, 45/05, 61/05, 72/09, 72/11 - other law, 101/11 - other law and 32/13), Bearing in mind that anticorruption is horizontal, crosscutting issue and no direct *acquis* covers the fight against corruption, the EU and international anticorruption standards apply.

The Republic of Serbia has ratified all major international instruments in the fight against corruption. Generally, laws and regulations are partially aligned with accepted international standards. To identify deficiencies in the legislative solutions, the representatives of the Republic of Serbia are actively involved in the compatibility assessment conducted by European and international organizations, such as the evaluation by the Group of States against Corruption (GRECO) and the UN Office on Drugs and Crime. Plan to align the internal legal system with the EU *acquis* for the period 2013-2018, has been determined in the National Program for the Adoption of the *Acquis*. Basic guidelines for planning the necessary legislative changes used to represent the measures previously identified in the Action Plan for the National Anti-Corruption Strategy for the period 2013-2018.

The Anti-Corruption Strategy and the accompanying Action Plan also provide a range of concrete measures against corruption in the vulnerable areas such as: health care, taxes, education, police, customs and local self-government. Practical implementation of planned measures shall represent an indicator of progress in the fight against corruption in these particularly high-risk areas. Therefore, it is necessary to collect relevant data on the extent and manner of implementation of the measures envisaged, in order to determine their effect and anticipate next steps for continuing the fight against corruption in high-risk areas. A large part of the necessary reforms is related to the establishment of an appropriate legal, institutional and administrative framework. Upon the establishment of the above key foundations for the fight against corruption in high-risk areas,

21

relevant indicator of progress will be consistent implementation of the established mechanisms in practice.

UN Convention against Corruption, Merida 2003 is ratified by the Law on Ratification of the UN Convention against Corruption. The Convention is implemented domestically through a series of provisions of the Criminal Code, but also in other regulations and policy/sectorial action plans for areas particularly vulnerable for corrupt practice, such as public procurement.

Council of Europe Criminal Law convention on Corruption, opened to signature on 27 January 1999 is

21

ratified by the Law on Ratification of the Criminal Law Convention on Corruption (Official Gazette of FRY - International Treaties, no. 18/05) as well as by the Law on Ratification of Additional Protocol to the Criminal Law Convention on Corruption (Official Gazette of RS - International Treaties, no. 102/07)

Council of Europe Civil Law convention on corruption, opened to signature on 4 November 1999 is ratified by the Law on Ratification of the Civil Law Convention on Corruption (Official Gazette of RS - International Treaties, no. 102/07). GRECO concluded that Serbia has implemented satisfactorily fourteen of the fifteen recommendations contained in the Third Round Evaluation Report. Only one recommendation remains partly implemented.

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism is ratified by the Law on Ratification of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (Official Gazette of FRY - International Treaties, no.7/02; 18/05).

The legal basis for the protection of the financial interests of the EU, envisaged by Convention of 26 July 1995 on the protection of the European Communities' Financial Interests JO C 316 of 27 November 1995, with First and Second Protocol to the Convention in the legal system of the Republic of Serbia is ensured through the inclusion of EU financial assistance into the category of public revenues, which constitute the budget of the Republic of Serbia, which is used to finance the constitutional competencies of the Republic of Serbia. Articles 14 and 23 of the Budget System Law introduce the EU financial assistance into the legal system of the Republic of Serbia. Article 68b of the Law on Budget System envisages that the Ministry of Finance shall coordinate the activities for the prevention of irregularities and fraud in dealing with the financial resources of the European Union, support the work of the network for the prevention of irregularities and fraud, and coordinate legal, operational and technical cooperation with the European Anti- Fraud Office and other competent bodies and the European Commission. All relevant regulations through which the misuse of the budget of the Republic of Serbia are sanctioned, are equally applicable to EU financial assistance and assure the minimum protection of the financial interest of the EU which is equal to the protection that is ensured for the national budget. The Criminal Code contains provisions which clearly comply in content with the definitions included in the articles of the Convention on Protection of the European Communities' financial interests and its protocols. In addition to the Criminal Code, there are regulations set out in relevant national regulations related to the protection of the financial interests of the European Union, specifies the individual work and supplement the general provisions contained in the Criminal Code. The issue of protection of the financial interests of the European Union is presented in detail in the negotiating position of the Republic of Serbia for the Intergovernmental Conference on the Accession of the Republic of Serbia to the European Union for Chapter 32 - Financial Control, which was adopted on 31 July 2014.

Legislation of the Republic of Serbia is aligned with OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, of 17 December 1997 (through Articles 103-108 CC, Law on tax on profit of legal persons ("Official Gazette of RS", no. 25/01, 80/02, 80/02 -oth.law, 43/03, 84/04, 18/10, 101/11, 119/12, 47/13, 108/13, 68/14 - other law, and 142/14,91/15 and 112/15), Law on Tax Procedure and Tax Administration (Official Gazette of RS, Nos. 80/02, 84/02 - correction, 23/03 - correction, 70/03, 55/04, 61/05, 85/05 -oth. law, 62/06 - oth. law, 61/07, 20/09, 72/09 - other law, 53/10, 101/11, 2/12 - correction, 93/12, 47/13, 108/13, 68/14, 105 / 14, 91/15, 112/15 and 15/16), Law on Accounting ("Official Gazette of the RS", No. 62/13), Law on Auditing ("Official Gazette of the RS", no. 62/13), Banking Law ("Official Gazette of the RS", no. 107/05, 91/2010 and 14/15), as well as through tax-related criminal offenses provided by the CC. Article 9 of the Convention is implemented through the Law on mutual legal assistance in criminal matters ("Official Gazette of the RS", no. 20/09). Article 10 of

the Convention relating to the extradition procedure provided for by the Act on Mutual Legal Assistance in Criminal Matters (Art. 18-37).

Legal framework of the Republic of Serbia is aligned with Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector OJ L 192, 31.7.2003, p.54. Bribery in the private sector is criminalized in its active form under article 368, paragraph 5 CC and in its passive form under article 367, paragraph 6 CC. 3. Article 2 of this framework decision is criminalized through Articles 33, 34 and 35 CC. Paragraph 3 of Article 4 is implemented through Article 79 CC, which predicts measures of security. National Assembly adopted in 2008 Law on liability of legal persons for criminal offenses ("Official Gazette of RS" No. 97/08) in order to align with Articles 5 and 6 of the abovementioned Framework Decision. Article 7 of the Decision is fully implemented through Article 6 CC which predicts applicability of criminal legislation on the territory of the Republic of Serbia.

UN Convention against Transnational Organized Crime, Palermo December 2000 is ratified by the Law on ratification of the UN Convention against Transnational Organized Crime (Official Gazette of FRY - International Treaties, no.6/01) and additional protocols as well as on the Criminal Code.

The legislative framework regulating prevention of corruption in Serbia encompasses:

Law on Anti-Corruption Agency Law on Financing Political Activities, Law on Free Access to Information of Public Importance Law on Public Procurement Law on Privatization ("Official Gazette of RS", No. 83/14).

The adoption of the Law on Financing Political Activities the Republic of Serbia has significantly improved the legal framework in this area and fully implemented the recommendations of GRECO. The Anti-Corruption Agency, on May 31st 2013, presented the First report on the control of costs of political entities - the election campaign after the elections in 2012, followed by additional two reports. Law on amendments and supplements of the Law on Financing Political Activities ("Official Gazette of RS", No. 123/14) introduced certain novelties in this area: political parties now have the opportunity to buy real estate from the budget sources with condition that real estate is used only for purposes of performing political activities; annual financial reports are now submitted to the Anti-Corruption Agency instead to the Official Gazette; sources for financing of regular activities of political subjects are now used also for financing costs of election campaign.

Law on the Anti-Corruption Agency provides a wide range of responsibilities of the Agency, such as resolving the incompatibility of public offices and conflict of interest, controlling the assets of public officials and keeping a register of public officials, their property, income and gifts; controlling the financing of political subjects, addressing the complaints, the analysis of regulations, monitoring the implementation of integrity plans, introduction of training in the specific field, international cooperation, and so on.

The right of citizens to access information of public importance has been established by the Law on Free Access to Information of Public Importance. Despite the fact that the current law is based on high international standards of exercising the rights from the perspective of methods for the protection of the rights, authorities coverage, the number and nature of exceptions to the principle of free access to information and similar criteria, nine-year old practice of application of this law shows that improvements are necessary.

Positive legal framework of the Republic of Serbia provides adequate protection for persons reporting suspicions of corruption or any other illegal actions (whistleblowers) as they may suffer some consequences and often the ones that affect their employment status. The main aim of the law is to

establish an efficient and effective protection of whistleblowers. In addition to establishing an adequate legal framework, a series of measures for the effective implementation of regulations in practice and awareness raising about the importance and methods to protect whistleblowers are envisaged.

The Law on Public Procurement provided a series of measures to strengthen control and supervision over its implementation. There are special provisions on the prevention of corruption and conflict of interest, as well as greater transparency in public procurement procedures.

New Law on Privatization was adopted in order to improve the legal provisions of the privatization process and eliminate the deficiencies that have led to numerous abuses. The adoption of the new law represented the beginning of implementation of the Action Plan for implementation of the Strategy, which provides a number of other measures to improve this area.

The legislative framework regulating repression of corruption in Serbia encompasses: Financial Investigations Strategy 2015-2016, Criminal Code of Serbia, Criminal Procedure Code, Law on Seizure and Confiscation of the Proceeds from Crime, Law on organization and jurisdiction of government authorities in combating organized crime and corruption and other severe criminal offences.

The key measure in the field of repression of corruption is the adoption of the Financial Investigations Strategy 2015 - 2016. This Strategy is an integrative document for the largest number of anti-corruption repressive measures. The Financial Investigations Strategy prescribes specialization in economic crime matters in police, public prosecutors' offices and four appellate courts, advanced trainings in cooperation with the Judicial Academy of judicial officers (in four Appellate courts) who handle financial investigations, establishment of task forces comprised of police officers and officers of other relevant government authorities, appointment of liaison officers for contact with the public prosecutor's office and the police in every authority which comes across facts connected to financial crimes.

Criminal Code prescribes following criminal offenses relevant to anti-corruption: active and passive bribery, bribing national and international public officials, embezzlement, misappropriation or other diversion by a public official, trading of influence, abuse of office, bribery and embezzlement in the private sector, money laundering, concealment, obstruction of justice.

Criminal Procedure Code establishes rules whose aim is to prevent the conviction of any innocent person, and enabling a perpetrator of a criminal offence to be sanctioned in accordance with conditions envisaged by the Criminal Code, based on lawfully and fairly conducted proceedings. It also provides special investigative techniques that are used to facilitate tracking of the proceeds from crime.

Law on Seizure and Confiscation of the Proceeds from Crime is the law impacting significantly the suppression of economic power of organized crime. Also, the Criminal Procedure Code provides for special investigative techniques that are used to facilitate tracking of the proceeds from crime.

Law on organization and jurisdiction of government authorities in combating organized crime and corruption and other severe criminal offences prescribes institutional design in terms of establishing special departments in police, public prosecutors' office, courts and detention units, dealing with high-level corruption.

Institutional framework

The institutional design in implementation of anti-corruption measures encompasses:

Coordination body for the implementation of the Action plan for the Implementation of the National

Anti-Corruption Strategy in the period 2013-2018 (Coordination Body), AntiCorruption Agency (ACA), Anti-Corruption Council (Council).

The system for coordination and monitoring the implementation of anti-corruption documents has been established for effective implementation of strategic documents in the field of anticorruption.

Coordination of measures from anti-corruption strategies shall be performed by the Coordination body. The Ministry of Justice (MOJ) shall provide administrative support to the Coordination body through the Group for Coordination (the Group). The Council and MOJ shall participate in the process of coordination.

As the fight against corruption represents one of the key priorities, the Government adopted the Decision on the establishment of the Coordination Body on August 7th 2014. The head of the Coordination Body is the Prime Minister. Members of this body are: ministers in charge of judiciary and finance and one member of the Anti-Corruption Council. Ergo, coordination is performed at the highest political level. The Prime Minister holds meetings at least once in six months. Competencies of the Coordination body shall be extended by amending the Decision on the establishment of the Coordination Body to also include the implementation of the Action Plan for Chapter 23, subchapter fight against corruption.

On the political-technical level, the State Secretary in charge for anti-corruption (at the MOJ) shall participate in the work of the Coordination body through coordination of the state bodies. Each state body responsible for the implementation of the Action plan shall determine one contact person for the communication with the State Secretary in charge of anti-corruption at the MOJ. Also, Office for Cooperation with civil society shall determine one contact person for the communication with the State Secretary in charge of Anti-corruption at the MOJ. State Secretary in charge of anti-corruption, with the support of the Group, shall maintain bilateral and multilateral meetings with other state authorities, stakeholders of the Strategy and Action Plan. State Secretary in charge for anti-corruption at the MOJ shall hold quarterly meetings with all stakeholders of the Strategy and Action Plan. The State Secretary in charge for anti-corruption at the MOJ and the Group shall represent a link between all state authorities - stakeholders of the Strategy and Coordination body.

The task of the Anti-Corruption Council as an expert advisory body of the Government is to: review the activities in the field of fight against corruption, to propose to the Government measures to be taken in order to effectively fight against corruption, and to monitor their implementation, and to take initiatives for the adoption of regulations, programs, and other acts and measures in this field. As an advisory body of executive power, Anti-Corruption Council used to regularly prepare and submit reports and initiatives to the Government on the phenomena of corruption, systemic corruption, but there was lack of interactive relation between the two bodies. The part III below includes the envisaged measures, which implementation, will ensure that the Government and competent state authorities systematically review reports and initiatives of Anti-Corruption Council during implementing measures in the field of fight against corruption.

The Anti-Corruption Agency (the Agency) is an autonomous and independent state authority, which reports only to the National Assembly. Law on the Anti-Corruption Agency prescribes a wide range of responsibilities of the Agency such as: resolving the incompatibility of public offices and conflict of interest, controlling the assets and income of public officials; keeping relevant registries; controlling the financing of political subjects, addressing the complaints of citizens, the analysis of regulations, monitoring the implementation of integrity plans, introduction of training in the specific field, international cooperation and so on. Though the Agency has shown some results in the discharge of their competencies, the need for a redefinition of responsibilities and strengthening the capacities of the

Agency has been identified, in order to ensure greater efficiency.

Specialized institutions in the field of repression of corruption are:

Prosecutor's Office for Organized Crime - public prosecutor's office of special jurisdiction, established for the territory of the Republic of Serbia, which, besides criminal offences related to organized crime, also proceeds in criminal offences related to corruption.

Special Department of the High Court in Belgrade - first instance court for processing criminal cases referred to in Article 2 of the Law on organization and jurisdiction of the state authorities in combating organized crime, corruption and other severe criminal offences.

Special Department of the Appellate Court - second instance body for processing criminal cases referred to in the aforementioned Article 2 of the Law on organization and jurisdiction of the state authorities in combating organized crime, corruption and other severe criminal offences.

Section for Combating Corruption, as part of the Department for Combating Organized Financial Crime, within the Service for Combating Organized Crime, in the Crime Investigation Police Department of the Ministry of Internal Affairs.

Internal Control Sector within the Ministries of Interior, according to the Law on Police, monitors the legality of work of the police officers and other employees in the ministry and reports to the Minister of Interior.

The most significant interim measures undertaken after the screening include the adoption of the Financial Investigation Strategy and the new Law on Whistle-blowers ("RS Official Gazette, No. 128/14), together with all accompanying by-laws. Moreover, the role of Anti-Corruption Council in legislative procedure concerning regulations is strengthened, since the members of the Council are taking active role in the operation of working groups (e.g. working group for drafting Criminal Code, Law on organization and jurisdiction of state authorities in combating corruption and organized crime).

Analysis of the need for alignment of the Criminal Code with the EU standards and the case study of the implementation of the chapter on criminal offenses against the economy is conducted. Analysis of the organizational structure, capacity and powers of state bodies in the fight against organized crime and corruption in order to achieve efficiency and strengthen the independence of all relevant institutions is also conducted.

Software for reporting on National Anti-Corruption Strategy and Action plan for its implementation as well as software for integrity plans are developed. These softwares enable easier monitoring and reporting on the activities prescribed in National Anti-Corruption Strategy and Action plan for its implementation.

CSOs are actively involved in the process of monitoring of the above-mentioned strategic documents through alternative reporting, in order to achieve more objective and transparent picture of the achieved results.

Law on Public Procurement is amended to enable better implementation of public procurement principles, as well as further harmonization with the EU acquis, in line with the Public Procurement Development Strategy in the Republic of Serbia for the period of 2014 - 2018 ("Official Gazette of the RS", No. 122/14) and the Action Plan for its implementation. Public Procurement Portal is improved by introducing new features to further enhance the transparency of public procurement procedures and advance public participation in monitoring budget spending.

Capacities of State Audit Institution have been strengthened for control of operations of public enterprises and for efficient implementation of audit of parliamentary parties via implementation of public announcement of competitions of hiring new staff.

Raising awareness campaign about the importance of whistle-blowers and use of channels for reporting illegal actions is continuously performed. So far, nearly 50 professional trainings for judges of all higher courts have been conducted, for the territory of four Appellate courts in Serbia.

Serbia is committed to ensuring full coherence and complementarity between the Action Plan for Chapter 23 and the National Strategy and Action Plan on the fight against corruption, which is currently in phase of revision.

3. Fundamental Rights

Protection of human and minority rights is guaranteed by the Constitution of the Republic of Serbia („Official Gazette of the RS“, no. 98/06). Pursuant to Article 18 of the Constitution of the Republic of Serbia, human and minority rights guaranteed by the Constitution shall be implemented directly. Also, the Constitution guarantees that human and minority rights guaranteed by the generally accepted rules of international law, ratified international treaties and laws shall be directly implemented. The Serbian Constitution stipulates in Article 16 that generally accepted rules of international law and ratified international treaties shall be an integral part of the legal system in the Republic of Serbia and shall be applied directly. The Part Two (Articles 18 to 81) of the Serbian Constitution is devoted to the protection of human and minority rights and freedoms, and this matter covers more than a third of the Constitution of the Republic of Serbia.

Serbia fully accepts all values and principles of the Charter of Fundamental Rights of the EU.

All public authority bodies participate in the protection and promotion of human rights, within their competence. The institutional framework for the protection of fundamental rights in the Republic of Serbia includes the following bodies:

- National Assembly (Parliamentary Committee for Human and Minority Rights and Gender Equality, Commission for the control of enforcement of Criminal Sanctions);
- Government bodies for the promotion and protection of human rights: the Office for Human and Minority Rights, the Commissioner for Refugees and Migration, Republic Secretariat for Legislation, and Office for Cooperation with Civil Society;
- Relevant ministries: the Ministry of Justice, Ministry of Labor, Employment, Veterans and Social Affairs, the Ministry of Education, Science and Technological Development, the Ministry of Public Administration and Local Self-Government, Ministry of Culture and Information, Ministry of Health, Ministry of Interior, Ministry of Foreign Affairs;
- Advisory bodies of the Government: the Council for Children's Rights, the Coordination Body for Gender Equality, Council for Persons with Disabilities, Government Council for Combating

Trafficking in Human Beings, Council for National Minorities, the Council on Improving the Situation of Roma and the implementation of the Decade of Roma Inclusion, SIPRU - Team for social inclusion and poverty reduction etc.

- Independent state bodies for protecting and promoting human rights: the Ombudsman, the Provincial Ombudsman, the ombudsmen at the local level, the Commissioner for Equality, the Commissioner for Information of Public Importance and Personal Data Protection.

- Competent provincial authorities: Provincial Department of Education, Regulations, Administration and National Communities, Provincial Secretariat for Economy, Employment and Gender Equality, Provincial Secretariat for Health, Social Policy and Demography, Provincial Secretariat for Culture and Information.

Protection of human and minority rights in the Republic of Serbia is ensured before regular courts and the Constitutional court.

Human dignity

Human dignity is protected in the Article 23 of the Constitution of the Republic of Serbia, which states that human dignity is inviolable and everyone is obliged to respect and protect it.

Right to life and personal integrity

Article 25 of the Constitution of the Republic of Serbia states that the physical and mental integrity is inviolable, while the Criminal Code ("Official Gazette of the RS", No.85 / 05 88/05, 107/05, 72/09, 111/09 and 121/12) devotes a separate chapter to the protection of life and physical integrity (Articles 113-127) and the chapter on criminal offences against humanity and other goods protected by international law (Articles 370-393a).

Prohibition of torture and other inhuman or degrading treatment or punishment

Regulatory framework that guarantees the prohibition of torture and other inhuman or degrading treatment or punishment consists of the following legislation: the Constitution of the Republic of Serbia the Criminal Procedure Code, the Criminal Code, the Law on Enforcement of Criminal sanctions ("Official Gazette of the RS", no. 55/14), the Law on Police ("Official Gazette of the RS", no.6/16), the Law on the Protection of Persons with Mental Disabilities ("Official Gazette of the RS", no. 45 /13).

Reconstruction of existing institutions in accordance with European standards is being successfully implemented. So far, one block was renovated and inhabited in the Belgrade District Prison, as well as in the Special Prison hospital in Belgrade. Pavilion was built for persons sentenced with the measure of compulsory psychiatric treatment. Concurrently, one block was renovated and inhabited and works are in progress for the second block in the Criminal Correctional Facility Valjevo, whereas project documentation is completed for the renovation of the Correctional Facility for Women Pozarevac. Construction of new buildings and departments in order to improve living conditions in prisons has initiated. With regard to the construction of a new prison in Pancevo, the building permit is obtained, and the Loan Agreement between the Development Bank of the CoE and the Republic of Serbia for the construction of prisons in

Pancevo passed; the tender for selection of contractors for construction is currently in progress. Construction of a new prison complex in Kragujevac is progressing, and the adoption of the Framework Loan Agreement is expected in the first half of 2016.

In order to ensure more effective judicial review and supervision over the rights of individuals deprived of liberty, the Law on Enforcement of Criminal Sanctions and the Rulebooks governing the status of persons deprived of liberty are printed and distributed. In addition, a Manual and a Handbook for prisoners and detainees, as well as forms for the complaints and appeals are printed and distributed.

Nationwide network of offices for alternative sanctions has been established by opening the remaining nine offices for alternative sanctions thus completing the network of 25 offices. Setting up of network of offices for alternative sanctions has been accompanied by continuous training for holders of judicial functions and new commissioners for alternative sanctions. Draft Rulebook governing enforcement of alternative sanctions was adopted in autumn 2015 in line with Rulebook procedures for the work of the commissioners for alternative sanctions. For the purpose of strengthening cooperation and establishing conditions for successful social reintegration of convicted individuals upon release, two protocols on cooperation of the offices for alternative sanctions and local self-government units have been signed in Valjevo and Nis.

Prohibition of slavery, servitude, and forced or compulsory labor

Slavery or positions similar to slavery and forced work are prohibited in accordance with the Article 26 of the Constitution of the Republic of Serbia. The right to work and free choice of employment are guaranteed by Constitution of the Republic of Serbia. *Chapter 19 - Social Policy and Employment* regulates aspects related to labor law; aspects related to trafficking in human beings are being part of *chapter 24 - Justice, freedom and security*.

Respect the right to privacy of home, family life and communication

The Constitution of the Republic of Serbia in the Article 40, Article 41 and Article 42 of the Law envisages inviolability of the home, the right to privacy of correspondence and other methods of communications and protection of personal data. The following laws specify these rights: Law on the Protection of Personal Data ("Official Gazette of the RS", no. 97/08, 104/09 - other Law 68/12 - Decision and 107/12), the Law on Free Access to Information of Public Importance ("Official Gazette of the RS", no. 120/04, 54/07, 104/09 and 36/10), the Family Law ("Official Gazette of the RS", no. 18/05, 72/11 other law and 6/15) Article 2, Paragraph 1, Article 61, Article 61, Paragraph 5, Articles 206, 323, 328, Articles 311-315, Articles 320 and 321 and Articles 323 and 324, 331, Criminal Code Articles 139 - 146 regulate actions sanctioning violation of the right to privacy and inviolability of one's home, illegal search, unauthorized disclosure of secrets, breach of the secrecy of letters and other mail, unauthorized interception and recording, photographing, unauthorized disclosure of other people's writings, recordings, or reflections, unauthorized collection of personal data and the disclosure of personal and family life (Article 172) and the Criminal Procedure Code, contains provisions on the search of the apartment and persons.

The right to marry and to found a family

The Constitution of the Republic of Serbia provides in Article 62 that everyone has the right to freely enter and dissolve a marriage, while Article 63 provides that everyone has the right to decide on birth freely. Family Law regulates in detail the issues of marriage and family in the Articles 15-41, while the Criminal Code contains offenses against marriage and family in Chapter 19

Freedom of thought, conscience and religion

Freedom of thought, conscience and religion is guaranteed by Article 43 of the Constitution of the Republic of Serbia, while Article 44 states that churches and religious communities are equal and free to

regulate their own internal organization, religious affairs, to perform religious rites, to establish and maintain religious schools, social and charitable institutions, in accordance with the law. Article 45 of the Constitution of the Republic of Serbia guarantees the right to conscientious objection and stipulates that no person shall be obliged to perform military or any other service involving the use of weapons if this opposes his religion or beliefs. The following laws specify and additionally guarantee the rights protected by the Constitution: the Law on Churches and Religious Communities ("Official Gazette of the RS", No. 36/06), the Law on the State and Other Public Holidays in the Republic of Serbia ("Official Gazette of the RS", No. 43 / 01, 101/07 and 92/11), the Law on the Army of Serbia ("Official Gazette of the RS", no 116/07, 88/09 and 101/10 - other laws, 10/15 and 88/15 - decision CC) - Article 25 of the Criminal Code in Article 131 provide the legal protection of freedom of thought, conscience and religion.

Normative framework for the protection of these freedoms is completed by the following Regulations: the Regulation on the organization and implementation of religious education and alternative subject in primary and secondary schools ("Official Gazette of the RS", No. 46/01); Regulation on Religious service in the Army of Serbia ("Official Gazette of the RS", No. 22/11); Regulation of payment of contributions for compulsory pension and disability insurance, and health insurance for priests and religious officials ("Official Gazette of the RS", No. 46/12); Regulation on the Office for Cooperation with churches and religious communities ("Official Gazette of the RS", No. 75/12); Rulebook on contents and manner of keeping the Register of Churches and Religious Communities ("Official Gazette of the RS", No. 64/06).

Institutional framework for the protection of freedom of thought, conscience and religion is comprised of the Ministry of Justice, which is responsible, *inter alia*, for the maintenance of the Register of Churches and Religious Communities and the preparation of regulations on churches and religious communities. Also, Department for Cooperation with churches and religious communities is within the Ministry of Justice. The Ministry of Defense and the Serbian Army are responsible for the organization of religious services and exercise of the freedom of religion of the Army of Serbia.

Legal experts from University of Belgrade, Faculty of Law have started performing comparative legal analysis regarding the regulation of the status of churches and religious communities in order to establish specific criteria aligned with best practices of the EU member states in the region, and analysis will be submitted by the end of II quarter of 2016.

Freedom of expression, including freedom and pluralism of the media

Freedom of opinion and expression is guaranteed by the Article 46 of the Constitution of the Republic of Serbia and it may be restricted by the law if necessary to protect rights and reputation of others, to uphold the authority and impartiality of the court and to protect public health, morals of a democratic society and national security of the Republic of Serbia.

According to the Article 50 of the Constitution of the Republic of Serbia there is no censorship in Serbia. Everyone is free to establish newspapers and other media, as provided by the law. The competent court may prevent the dissemination of information and ideas via the public media only when this is needed in a democratic society to prevent inciting to violent destruction of the constitutional order or to prevent violation of territorial integrity of the Republic of Serbia, to prevent propagation of war or instigation to direct violence, or to prevent advocacy of racial, national or religious hatred that constitutes incitement to discrimination, hostility or violence.

In August 2014, the National Assembly adopted a new set of media laws: the Law on Public Information and Media ("Official Gazette of the RS", no. 83/14 and 58/15), the Law on Electronic Media ("Official Gazette of the RS", no. 83/14 and 6/16 - oth.law) and the Law on Public Service Media ("Official Gazette of the RS", no. 83/14 and 103/15). The Criminal Code contains provisions on criminal offenses against honor,

dignity and safety of journalists. In accordance with the amendments to the Criminal Code, in December 2012, prison sentences for defamation have been abolished, and violation of honor was decriminalized, whereas hate speech has been recognized as an aggravating circumstance. Strategic framework for the development of the media in Serbia consists of the Strategy for the Development of Public Information System in the Republic of Serbia ("Official Gazette of the RS", no. 75/11") for the period from 2011 to 2016.

Institutional framework for the protection of freedom of expression with the pluralism of the media consists of the Ministry of Culture and Information, which performs state administration in the field of media, Regulatory Body for Electronic Media, which is an independent regulatory body, the Council for Press as a self-regulatory body that supervises the Code of Ethics of Journalists in Serbia in the printed media and decides on complaints by individuals and institutions with regard to the specific content of the press. The Press Council has a role of a mediator in cases of conflict.

Implementation of a new set of media laws started. A conference was organized to promote new media laws and raise awareness among the stakeholders. Moreover, the Ministry of Culture and Information conducted series of trainings for judges engaged in media law, associations of journalists and the media, focused on the implementation of new media laws, promotion of best practice and European standards. The Register of media services has been established and is operational. An efficient, comprehensive and transparent Registry of the media was established in 2015.

State Prosecutorial Council adopted the Communication Strategy of the State Prosecutorial Council and the Republic Public Prosecutor for the period 2015-2020, aimed at defining relationship, methods and scope of mutual communication as an effort to prevent media leaks regarding criminal investigations. Concurrently, the Commission for consideration of the facts obtained during the investigations conducted on the killings of journalists continued to work and provides relevant institutions with its key findings.

Freedom of assembly and association, including the freedom to form political parties and the right to form unions

The Constitution of the Republic of Serbia regulates freedom of assembly in the Article 54 where it provides that citizens may assemble freely and assembly held indoors shall not be subjected to permission or registering. The Constitution of the Republic of Serbia further provides that gathering, demonstrations and other forms of assembly held outdoors shall be reported to the state body, in accordance with the law and that freedom of assembly may be restricted by the law only if necessary to protect public health, morals, and rights of others or the security of the Republic of Serbia.

National assembly adopted the Law on Public Assembly on January 2016 ("Official Gazette of the RS", no. 6/16), which regulates freedom of assembly in accordance with the EU acquis. This Law, inter alia, regulates methods to register gatherings, reasons for limitation of freedom of assembly, location and timing of the gatherings, and the like.

Article 55 of the Constitution of the Republic of Serbia guarantees freedom of association, including forming political parties or unions. Secret and paramilitary associations are prohibited. It is in the competence of the Constitutional Court to prohibit only associations whose activities are aimed at violent takeover of constitutional order, or are directed to violation of guaranteed human or minority rights or provoking racial, national and religious abhorrence. The legislative framework governing freedom of association is composed of the following laws: the Law on Associations ("Official Gazette of the RS", no. 51/09 and 99/11 - other law), the Law on Process of Registration in the Business Registers Agency ("Official Gazette of RS", No. 99/11 and 83/14), Law on Political Parties ("Official Gazette of the RS", No. 36/09 and 61/15 - decision CC) and Labor Law ("Official Gazette of the RS ", No. 24/05, 61/05, 54/09,32/13 and 75/14).

Ministry of Public Administration and Local Self-Government performs the tasks of public administration

relating, *inter alia*, to political or other organization, except for union organization, maintaining the Register of political parties. Ministry of Labor, Employment, Veterans and Social Rights decides upon the registration of unions.

The principle of non-discrimination and treatment of socially vulnerable and persons with disabilities

Any discrimination, direct or indirect, based on any grounds, particularly on the ground of race, sex, national and social origin, on the ground of birth, religion, political stand or personal opinion, wealth, culture, language, age, mental or physical disability is prohibited by Article 21 of the Constitution of the Republic of Serbia. Republic of Serbia may introduce special measures in order to achieve full equality among particular individuals or groups that are found at substantially unequal position compared to other citizens, as provided by Article 21 of the Constitution of the Republic of Serbia. Such introduced measures shall not be considered as discrimination.

Strategic framework of the Republic of Serbia in the field of non-discrimination primarily involves the Strategy for the Prevention and Protection against Discrimination ("Official Gazette of the RS", no. 60/13), which was adopted in order to prevent discrimination and improve the position of nine vulnerable groups (women, children, persons with disabilities, elderly, lesbian,

gay, bisexual, transgender and intersex people (LGBTI), national minorities, refugees, internally displaced persons and other vulnerable migrants, persons with medical conditions that may constitute a basis for discrimination, members of religious communities) who are often discriminated. The Action Plan accompanying the Strategy is being implemented. Along with the general anti-discrimination strategy, the Republic of Serbia has adopted a number of other strategic documents relevant for the principle of non-discrimination: the Strategy for Improving the Living Conditions of Roma with the Action Plan ("Official Gazette of the RS", no. 27/09), the National Strategy for the Advancement of Women and Promotion of Gender Equality ("Official Gazette of the RS", no. 15/09) and the Action Plan for its implementation, the National strategy for Preventing and Combating Violence Against Women in the Family and in Intimate Partner Relationships ("Official Gazette of the RS", no. 27/11), National Action plan for the implementation of the UN Security Council Resolution 1325 - Women, Peace and security in the Republic of Serbia, 2010-2015 ("Official Gazette of the RS", no. 102/10), and the Strategy for Improving the Position of Persons with Disabilities in Serbia from 2006 to 2015 ("Official Gazette of the RS", no. 1/07), as well as the National Strategy on Ageing ("Official Gazette of the RS", no. 76/06) with the Action Plan.

The legislative framework in the field of non-discrimination includes the following laws: the Law Against Discrimination ("Official Gazette of the RS ", No. 22/09), the Law on Prevention of Discrimination against Persons with Disabilities ("Official Gazette of the RS", No. 33/06). Apart from these two laws, there are a number of laws that contain provisions on the prohibition of discrimination, such as the following: the Law on Health Care, the Law on Higher Education, the Law on the Basis of the Education System, the Law on Employment and Unemployment Insurance, Labor Law, Law on Vocational Rehabilitation and Employment of Persons with Disabilities, the Law on Volunteering, new media laws, the Law on Free Access to Public Information, the Law on Enforcement of Criminal sanctions, Family Law, the Law on Juveniles, Law on prohibition of Events Organized by Neo-Nazi or Fascist Organization, the Law on Gender Equality, the Law on Social Protection, Law on Youth, Law on Sports, Law on the Prevention of Violence and Undignified behavior at Sporting Events, the Law on the Protection of the Rights and Freedoms of National Minorities, and Law on Churches and Religious Communities. Along with these laws, a set of other laws also contains provisions prohibiting discrimination.

Penalties prescribed for criminal offenses of discrimination are included in the Criminal Code, and the Law on Prohibition of Discrimination contains misdemeanor sanctions (Articles 50-60). The Republic of Serbia is currently working on the amendments to the Law on Gender Equality in order to fully comply with the EU acquis particularly with *Council Directive 2004/113/EC, Directive 2006/54/EC of the European Parliament and of the Council and Directive 2010/41/EU of the European Parliament and of the Council*, while the amendments to the Law on Prohibition of Discrimination and the Criminal Code are also necessary.

Institutional framework for the protection against discrimination consists of all ministries, as they are all competent for suppression of discrimination within their jurisdiction prescribed by law. Ministry of Labor, Employment, Veterans and Social Affairs is responsible for the implementation of anti-discrimination policy, while the Office for Human and Minority Rights performs professional work for the Government and relevant ministries relating to the protection and promotion of human and minority rights; monitoring the compliance of national legislation with international treaties and other international instruments on human and minority rights, and initiating changes of domestic regulations. In accordance with applicable laws and regulations in the Republic of Serbia, the Commissioner for Protection of Equality was established as an independent state body, which is the central national body specialized for prevention and | suppression of all forms and types of discrimination. In addition, the Ombudsman and, the Commissioner for Information of Public Importance and Personal Data Protection (also independent state bodies) have major importance for the fight against discrimination in Serbia.

The Action Plan for the implementation of the Strategy for prevention and protection from discrimination is adopted and is being implemented. The body for monitoring and supervision over the implementation of the Strategy and Action Plan for prevention and protection from discrimination regularly operates and has finalized the first cycle of reporting. Moreover, a mechanism of the Government of the Republic of Serbia for the implementation of all the recommendations of UN mechanisms for human rights is established.

The Ministry of Interior developed the Action Plan for the implementation of the Community Policing Strategy for 2015 and 2016, which was adopted by the Government in August 2015. Moreover, as of 2012 to date, 60 mini-projects for the development of community policing have been conducted in cooperation with the OSCE Mission in Serbia, with the subject of the most current security problems in local communities. Also, the Conference on the establishment and functioning of local security councils was held in cooperation with the OSCE Mission to Serbia and the Standing Conference of Towns and Municipalities. Manual for the functioning of the security councils in towns and municipalities has been developed and printed. The implementation of seven regional conferences is in progress, in order to present the most important guidelines for the establishment and operation of local security councils in this manual. Finally, the brochure containing the Community Policing Strategy and the relevant Action Plan has been printed.

Police officers as contact points for the socially vulnerable groups (women - victims of domestic violence and partner relationships, LGBT persons and any other vulnerable groups, in accordance with the security needs of local communities) who were specially trained and selected, are appointed and started operating. After successful preparations, at the end of September 2015, the effective engagement of the police enabled the events "Pride Week" and the public assembly in motion "Pride Parade 2015" (which was attended by about 1,100 people) to safely take place. The representatives of the Ministry of Interior hold regular meetings with representatives of socially vulnerable groups, the LGBT community and civil society organizations to foster sensitization and enhance co-operation, to improve security and protection of human and minority rights.

The MOI designated 8 liaison officers for contact with LGBTI population, who undertook specialized training, focused on the work of police in community policing and communication skills. Handbook for the work of police with the LGBT population has been developed and distribution is planned for the beginning of 2016. In addition, MOI implemented a project in collaboration with CSOs focusing on „Same sex orientation and gender identity in the work of police officers“ within which 130 police officers were trained to improve communication and cooperation with the representatives of CSOs.

The Commissioner for Protection of Equality continuously oversees implementation of the Law on the Prohibition of Discrimination, files lawsuits for protection against discrimination, launches misdemeanor complaints for breach of rights from the Law on Prohibition of Discrimination, provides a thorough overview of the current state, issues warnings to the public of the most

frequent and severe cases of discrimination, provides opinions on draft laws and other regulations in the area of anti-discrimination, gives recommendations on achieving equality to public authority bodies and other persons, and acts upon complaints of citizens. Commissioner and the Open Society Foundation have jointly organized the conference on the occasion of the International Day of Tolerance: 'Serbia on Path of Tolerance and Equality - Experiences of the Commissioner for Protection of Equality of the Republic of Serbia' with the thematic part dedicated to media (Media - from discrimination to tolerance). At the same time, Commissioner and the OSCE have established the media award and have awarded authors for the best media (TV/printed/on-line) articles on the topic of tolerance.

Right to education

The right to education is guaranteed by Article 71 of the Constitution of the Republic of Serbia. Primary education is free and compulsory while secondary education is as well free but optional. The education right is further guaranteed by the Strategy on Education Development in Serbia 2020+ ("Official Gazette of the RS", No. 107/12) and its Action Plan, Law on the Foundations of Education ("Official Gazette of the RS", no. 72/09, 52/11, 55/13, 35/15 - authentic interpretation and 68/15), the Law on Primary Education ("Official Gazette of the RS", no. 55/13), the Law on Secondary Education ("Official Gazette of the RS", no. 55/13), the Law on Higher Education ("Official Gazette of the RS", no. 76/05, 97/08, 44/10, 93/12, 89/13, 99/14, 45/15 - authentic interpretation and 68/15), the Law on Pre-School Education ("Official Gazette of the RS", no. 18/10), the Law on Textbooks ("Official Gazette of the RS" No. 68/15) and the Law on Adult Education ("Official Gazette of the RS", no. 55/13).

Right to property

Article 58 of the Constitution of the Republic of Serbia refers to the property rights. It guarantees right of ownership and provides that property may be revoked or restricted only in public interest established by the law and with compensation corresponding to the market value. Only laws may restrict the manner of use of the property. Seizure or restriction of property that derives from the fine payments or is performed for taxation purposes may be conducted only in accordance with the law. Legal framework that relates ownership rights includes the following laws: the Law on Public Property ("Official Gazette of the RS", no. 72/11, 88/13 and 105/14), the Law on Property Restitution and Compensation ("Official Gazette of the RS", no. 72/11, 108/13, 142/14 and 88/15 - decision CC), and the Law on Restitution of Property to Churches and Religious Communities ("Official Gazette of the RS", no. 46/06). It is important to note that Serbia developed draft of the Civil Code, part of which regulates property relations.

With regard to property rights, December 2014 amendments to the law on restitution extended the deadline for the start of financial compensation for confiscated property to 2018 while the period of repayment was shortened from 15 to 12 years. The Agency for Restitution had adopted around 34 000 opinions and first-instance decisions on the return of confiscated property out of 76 000 submitted claims. Property with an estimated value of over 1 billion euro has been returned to the original owners. A majority of the agency's decisions were approved by the Ministry of Finance as the second-instance decision body. The Ministry's insufficient staff levels led to delays in processing complaints.

Gender equality and women rights

According to Article 15 of the Constitution of the Republic of Serbia, the State shall guarantee the equality of women and men and develop equal opportunities policy. The strategic framework of the Republic of Serbia in the field of gender equality consists of the following documents: the National Strategy for the Advancement of Women and Promotion of Gender Equality ("Official Gazette of the RS", no. 15/09) and the Action Plan for its implementation, the National Strategy to Prevent and Combat Violence Against

Women in the Family and in Intimate Partner Relationships ("Official Gazette of the RS", no. 27/11), National Action plan for the Implementation of United Nations Security Council Resolution 1325 - Women, Peace and Security in the Republic of Serbia, 2010 -2015 ("Official Gazette of the RS", no. 102/10).

The current national strategy for Improving the Status of Women and Promoting Gender Equality has six main strategic objectives: 1) to increase the participation of women in decision-making processes and the achievement of gender equality, 2) improve the economic status of women and the achievement of gender equality, 3) achieve gender equality in education, 4) improve the health of women and gender equality in health care policies, 5) to prevent and combat violence against women and improve the protection of victims, and 6) eliminate gender stereotypes in the media and promote gender equality.

The legal framework consists of the following laws: Law on Gender Equality ("Official Gazette of the RS", no. 104/09), Law on Prohibition of Discrimination, the Law on Elections and Lawmakers ("Official Gazette of the RS", no.35/00, 57/03 - decision CC, 72/03 - other law, 75/03 - other law, 18/04, 101/05 - other law, 85/05 - other law, 28/11 - decision CC, 36/11 and 104/09 - other law), the Law on Local Elections ("Official Gazette of the RS", no. 129/07, 34/10 - decision CC and 54/11) and the Law on Protection of the Rights and Freedoms of National Minorities ("Official Gazette FRY", no. 11/02, "Official Gazette of the RS", no. 1/03 - Constitutional Charter and " Official Gazette of the RS", no. 72/09 - other law 97/13 and Decision CC).

Institutional framework for achieving gender equality consists of a set of institutions: Ministry of Labor, Employment, Veterans and Social Affairs, in charge of legislative and strategic framework; the Coordination Body for Gender Equality led by the Deputy Prime Minister, which addresses all gender-equality issues and coordinates the work of state administration in relation to gender equality in Serbia. Committee for Gender Equality of the National Assembly was formed in 2003 as a permanent working body. The Committee discusses draft laws and other regulations in terms of gender equality and monitors the implementation of laws and regulations relating to gender equality. The Ombudsman addresses the issue of gender equality within its domain. In line with the Law on Ombudsman, the Ombudsman has the Deputy Ombudsman for gender equality and the rights of persons with disabilities and the Sector for Gender Equality as a part of the institution of the Ombudsman. The Commissioner for Protection of Equality, as an independent body, addresses the issue of gender equality within its jurisdiction. The Commissioner has the authority to act preventively in the field of gender equality regardless of the individual characteristic that is the basis of discrimination.

The Coordination Body for Gender Equality of the Government of the Republic of Serbia, the Team for Social Inclusion and Poverty Reduction and the United Nations Agency for Gender Equality and women empowerment, with the support of the Republic Secretariat for Public

Policy provided an initiative for an assessment of the effects analysis of the implementation of the National Strategy for improving the status of women and promoting gender equality and the National Action Plan. The aim of this initiative is to provide an overview of the progress of the Republic of Serbia in improving the status of women in the six thematic areas and to give recommendations for drafting a new National Strategy for Gender Equality. This report aims to improve monitoring of the implementation of the National Strategy and improve coordination of sectoral decision-making, as well as the implementation of policies and horizontal and vertical coordination between national and local levels in the field of gender equality. Evaluation of the national action plan for improving the position of women and promoting gender equality for the period 2010-2015 has been performed. The Draft National Strategy for improving the status of women and promoting gender equality and its accompanying AP have been developed and sent to relevant ministries for opinion. The Draft was developed by the Working group established by the Vice Prime Minister, in close cooperation with UN Agencies in Belgrade and the expert team, including also the recommendations from the civil society. Subsequently, the new Strategy for Gender Equality for the period 2016-2020 and its accompanying Action plan were adopted in January 2016.

In an effort to improve the protection of women against violence, the Minister of Justice signed the Agreement on cross-sectoral cooperation in the implementation of the General Protocol of conduct and cooperation of institutions, bodies and organizations in situations of violence against women in the family and in intimate partner relationships in the area of the City of Belgrade in November 2015. The Agreement involves a set of social care institutions, the police, courts and CSOs. During 2014, 294 judges and deputy public prosecutors finalized training for acting in the cases of violence against women in the family, partner relationships and gender based violence at the Judicial Academy.

Rights of the child

The Constitution of the Republic of Serbia regulates the position of the child in Articles 64, 65 and 66. Pursuant to Article 64 of the Constitution of the Republic of Serbia, children enjoy human rights suitable to their age and maturity. Children are guaranteed special protection from psychological, physical, economic and any other form of exploitation or abuse. Children born out of wedlock have the same rights as children born in wedlock. According to Article 65, the parents have the right and duty to support, provide upbringing and education to their children in which they shall be equal. Article 66 stipulates that the family, a mother, a single parent and child in the Republic of Serbia shall enjoy special protection according to the law. Special protection shall be provided for children without parental care and mentally or physically handicapped children.

Strategic documents governing the status of children in the Republic of Serbia involve the National Plan of Action for Children in 2004 and the National Strategy for the Prevention and Protection of Children from Violence ("Official Gazette of the RS", no. 122/08). The Action plan for the implementation of the Strategy for Improvement of the Status of Roma contains activities in the areas of education, social protection, and health care, issuance of identity documents, employment and housing in order to improve the status of Roma children.

Constitutional framework of children's rights was elaborated in a series of laws, while the most important are the following: the Criminal Code, Criminal Procedure Code, the Law on Juvenile Offenders and Criminal Protection of Juveniles ("Official Gazette of the RS", no. 85/05), Law on

38

Special Measures for the Prevention of Crimes Against Sexual Freedoms Pertaining to Minors ("Official Gazette of the RS", no. 32/13), Civil Procedure Code ("Official Gazette of the RS", no. 72/11, 49/13 - Decision CC, 74/13 - Decision CC and 55/14), the Law on Enforcement of Criminal sanctions, Family Law,

Law on Inheritance ("Official Gazette of the RS", no. 46/95, 101/03 - Decision of the CC and 6/15), the Law on Police, Law on the Prohibition of Discrimination ("Official Gazette of the RS", no. 22/09), Law on the Prevention of Discrimination Against Persons with Disabilities ("Official Gazette of the RS", no. 33/06 and 13/16), the Law on the Foundations of Education and Upbringing ("Official Gazette of the RS", no. 72/09, 52/11, 55/13 and 68/15), the Law on Primary Education ("Official Gazette of the RS", no.55/13), Law on Secondary Education ("Official Gazette of the RS", no.55/13), Law on Financial Assistance to Families with Children ("Official Gazette of the RS", no. 16/02, 115/05 and 107/09), Law on Asylum ("Official Gazette of the RS", no. 109/07), the Law on Foreigners ("Official Gazette of the RS", no. 97/08), Law on the Ombudsman ("Official Gazette of the RS", no. 79/05 and 54/07), the Law on Social Protection ("Official Gazette of the RS", no. 24/11), the Law on Health Care ("Official Gazette of the RS", no. 107/05, 72/09 - oth.law 88/10, 99/10, 57/11, 119/12, 45/13 - oth.law 93/14 and 96/15), Law on Health Insurance ("Official Gazette of the RS", no. 107/05, 109/05 - corr., 110/12 - Decision CC, 119/12, 99/14, 123/14 and 126/14 - Decision CC, 106/15 and 10/16 - oth.law) and the Law on Youth ("Official Gazette of the RS", no. 50/211), Law on Public Information and Media ("Official Gazette of RS", Nos. 83/14 and 58/15), the Law on Electronic Media ("Official Gazette of RS", No. 83/14 and 6/16 - oth.law), Law on public media services ("Official Gazette of RS", No. 83/14 and 103/15) and the Law on Registers ("Official Gazette of RS", nos. 20/09 and 145/14).

Republic of Serbia has a broad institutional framework for the protection of children's rights. Within the National Assembly, the Committee on the Rights of the Child operates as a permanent working body; the Government established the Council for Children's Rights, while the Council for monitoring and improving the work of the criminal proceedings and the enforcement of criminal sanctions against minors (Juvenile Justice Council) was established by the joint decision of the Minister of Justice and President of the Supreme Court of Cassation. Ministry of Labor, Employment, Veterans and Social Affairs is responsible for public administration in the field of family and children, while the Ministry of Justice is responsible for legal protection of minors. It is important to note that all ministries are responsible for the position of children within their jurisdiction. Pursuant to the Law on Ombudsman, the Ombudsman has a deputy specialized for the rights of the child and the Sector for the rights of the child. At the local level, in each municipality there are centers for social work carrying out activities in the field of child protection.

Through cooperation with UNICEF, activities towards improvement of foster care system started, by increasing the availability and quality of services for children with disabilities and their families through strengthening the capacity of regional centers for foster care and centers for social work and development of procedures and guidelines for foster care as shared care between foster and biological families. As a part of the project "Strengthening the justice system and social protection in order to improve child protection in Serbia - direct contract with UNICEF", evaluation of existing resources in large and small residential institutions for children initiated and will be followed by drafting recommendations on the methods of their use in the process of transition from institutional to community care. Likewise, activities towards an improvement of case management system in the centers for social work have started, focusing on treatment planning for support to families at risk of separation instead of an institutionalization-oriented approach. Increasing use of diversionary schemes and prioritizing restorative approach to juvenile offenders to ensure their social reintegration and reduce recidivism rates was also initiated, primarily through the inclusion and further development of new diversionary schemes in the Draft Law on Juveniles. Draft Law on Juveniles is developed and its adoption is expected in III quarter of 2016.

Training of judges, public prosecutors, lawyers and police officers in contact with juvenile offenders at the Judicial Academy continued, including a segment on the child friendly judiciary based on the Council of Europe guidelines. Through the Kingdom of Norway donation IMG, equipment for the premises for the children and other particularly vulnerable victims in Higher court in Belgrade, Nis, Novi Sad, Vranje and Basic court in Leskovac has been supplied in the end of 2014.

Procedural safeguards

Everyone has the right to personal liberty and security, as Art 27 of the Constitution of the Republic of Serbia states. Depriving of liberty is allowed only accordingly to the law and on the grounds of the procedure stipulated by the law. Person deprived of liberty by an authority of the state, shall be informed promptly and in a language that can understand, about the grounds for arrest or detention, charges brought against him or her, and their rights to inform any person of their choice about their arrest or detention without a delay. Article 32 of the Constitution of the Republic of Serbia envisages that everyone shall have the right to a public hearing before an independent and neutral tribunal established by the law, fairly and within reasonable time. Such a tribunal shall decide on reasonable suspicion that resulted in initiated procedure and decide on defendants' rights and obligations. Procedural guarantees are consisted as well in some other articles of the Constitution; 33 (the right to defense), 34 (legal certainty in the procedural context, distinctness of provisioned penalties, presumption of innocence and *ne bis in idem* principle), 36 (principle of equal protection of rights and right to a legal remedies) and 67 (right to legal aid).

Constitutional provisions establishing procedural safeguards are specified in the provisions of the following laws: the Criminal Code, the Criminal Procedure Code, the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles. Free legal aid in civil matters is partially regulated by the Law on Civil Procedure (Article 85) and the Criminal Procedure Code (Article 73) in criminal matters.

Draft Law on Free Legal Aid is developed. TAIEX mission was organized in May 2015 and the working group amended the provisions in line with the expert's recommendations. The Law on FLA will be adopted in the forthcoming period.

Memorandum of Understanding was signed in February 2015 between the Public Prosecutors' Office and Victimology Society of Serbia in order to improve the situation of victims and witnesses in criminal proceedings. The Law on the right to a trial in reasonable time has been adopted in May 2015 and its implementation started as of 1st January 2016.

Respect and protection of minorities and cultural rights

The Republic of Serbia has a comprehensive normative framework for the protection of minority rights. Serbian Constitution in Article 14 states that the Republic of Serbia shall protect the rights of national minorities and guarantees special protection to national minorities to achieve full equality and preserve their identity.

Article 47 of the Constitution of the Republic of Serbia guarantees the freedom of expressing national affiliation and Article 48 the promotion of respect for diversity. Article 75 of the Constitution of the Republic of Serbia guarantees that persons belonging to national minorities shall be guaranteed special individual or collective rights in addition to the rights guaranteed to all citizens by the Constitution of the Republic of Serbia. Article 76 of the Constitution of the Republic of Serbia prohibits discrimination against national minorities and states that specific regulations and provisional measures which the Republic of Serbia may introduce in economic, social, cultural and political life for the purpose of achieving full equality among members of a national minority and citizens who belong to the majority, shall not be considered discrimination if they are aimed at eliminating extremely unfavorable living conditions which particularly affect them.

Article 77 of the Constitution of the Republic of Serbia provides that members of national minorities shall have the right to participate in citizens, and Article 78 prohibits the forced assimilation. In the Article 79 of the Constitution of the Republic of Serbia national minorities are guaranteed the right to preserve their specificity. Articles 80 and 81 of the Constitution of the Republic of Serbia regulate freedom of association and cooperation with compatriots, and developing a spirit of tolerance. Article 100 of the Constitution of the Republic of Serbia contains provisions for minority representation in the National Assembly, and Article 180 of the Constitution of the Republic of Serbia regulates proportional representation of ethnic minorities in assemblies at the level of local self-government and autonomous provinces.

Constitutional guarantees are further specified in a series of laws, in particular: the Law on the Protection of the Rights and Freedoms of National Minorities ("Official Gazette FRY", no. 11/02, "Official Gazette SM, No. 1/03 - the Constitutional Charter and the "Official Gazette of the RS" no. 72 / 09- other law and 97/13- decision CC), Law on National councils of National minorities ("Official Gazette of the RS", no. 72/09, 20/14-CC and 55/14), Law the Official Use of Languages and Scripts ("Official Gazette of the RS", no. 45/91, 53/93, 67/93, 48/94, 101/05 - other law and 30/10), and the Anti-Discrimination Law ("Official Gazette of the RS", no. 22/09) and the Law on Public Information and Media ("Official Gazette of RS", Nos. 83/14 and 58/15)..

Strategic framework in the field of minority rights consists of strategies for prevention and protection from discrimination where national minorities represent one of nine vulnerable groups, as well as the Strategy for improving the situation of Roma. Serbia has ratified the Framework Convention for the Protection of National Minorities (FCNM), the European Charter on Regional or Minority Languages, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination.

Institutional framework for the protection and promotion of minority rights in Serbia involves the National Assembly; authorities responsible for the protection and promotion of human rights, and primarily: bodies of the Government for the promotion and protection of human rights: the Council for National Minorities, the Council on Improving the Situation of Roma and the Decade of Roma Inclusion; competent state bodies: the Ministry of Justice, Ministry of Labor,

41

Employment, Veterans and Social Affairs, the Ministry of Education, Science and Technological Development, the Ministry of Public Administration and Local Self-Government, Ministry of Culture and Information, Ministry of Health; the Office for Human and Minority Rights, the Commissioner for Refugees and Migration; Competent provincial authorities: Provincial Department of Education,

Administration and National Communities, Provincial Secretariat of Health, Social Policy and Demography, Provincial Secretariat of Culture and Information, Provincial Office for Roma Inclusion; independent public bodies for protecting and promoting human rights: the Ombudsman, the Provincial Ombudsman, the ombudsmen at the local level, the Commissioner for the Protection of Equality.

The Working Group for drafting the Action Plan for Exercise of the Rights of National Minorities was established in April 2015. Members of the working group have been designated from among state authorities, provincial authorities, councils of national minorities and civil society. The Working Group developed the Draft AP in December, which was subsequently examined by the CoE expert suggested by the Advisory Committee of the Framework Convention. The Government adopted the Action Plan for Exercise of the Rights of National Minorities on March 3 2016. At the same session, the Government adopted the Regulation on the allocation of funds from the budgetary fund for national minorities ("Official Gazette of RS", No. 22/16), fulfilling in this way the conditions for funding and continued support for national councils of national minorities.

The work of the Council for national minorities is reinstated (new decision on the establishment of the Council for national minorities was adopted and published in the "Official Gazette of the RS", No. 32/15), including participation of the representatives of all national minorities, aimed at effective exercise of the rights of national minorities. Meanwhile, three sessions of the Republic Council for National Minorities were held, particularly focusing on the support to the development of the special AP.

Activities aimed at raising public awareness about the rights of national minorities and respect for cultural and linguistic diversity by supporting the production of media content are being successfully implemented. The purpose of this and similar public calls is co-financing the production of media content in the field of public information that contributes to accurate, unbiased, timely and complete information to members of national minorities; preservation of cultural and linguistic identity of national minorities in the Republic of Serbia and encouragement of creativity in all areas of public life of national minorities.

New Law on Textbooks has been adopted ("Official Gazette of RS", No. 68/15), enabling adequate framework for the provision of textbooks in languages of national minorities. Activities aimed at raising the quality of primary and secondary education in minority languages by launching the competition for financing and co-financing activities, programs and projects of national councils of national minorities are ongoing.

Public call for financing regular activities, projects and organizing events, as well as procurement of equipment and investment by the organizations of ethnic communities in the Autonomous Province of Vojvodina was conducted during 2015.

In order to enhance the exercise of the rights of persons belonging to national minorities to the entry of a name in the birth registry in the language and script of national minority, the instruction has been prepared by the Ministry of State Administration and Local self-government and submitted to the municipal and city governments that carry out the tasks entrusted to the registers. Also, in accordance with the established plan in 2015 activities pertaining to the organizing and holding of trainings for registrars and deputy registrars as well as employees in social welfare centers and police departments of the Ministry of Interior were fully implemented, in connection with the implementation of laws and regulations governing the entry of name in the birth registry in the language and script of national minorities in the registry books. Trainings involved a total of 827 participants.

Concurrently, the Ministry of Interior fully implements the statutory provisions allowing registration of residence at the Centre for Social Work. The requests are resolved in an expedited process and applicants are provided free legal aid in the process of application.

The project on internship of young members of national minorities in state institutions in the Republic of Serbia aimed at strengthening their capacity to work in state institutions in the Republic of Serbia is completed. Overall, the internship program was finalized by 49 interns, out of which 24 Albanians, 16 Bosniaks and 9 Roma.

Law on employees in the autonomous provinces and local government units has been adopted on March 3 2016 and published in the "Official Gazette of the RS", no.21/16..

Office for Human and Minority Rights made the Decision in February 2015 establishing the precise share for the distribution of funds for the financing of National Councils of National Minorities for the current year, as a part of support to the National Councils of National Minorities.

With regard to Roma, an analysis on the effects of the Strategy for advancing the position of Roma in the Republic of Serbia was performed and a report on its implementation is developed. Baseline study for the development of the Strategy for Roma Inclusion in Serbia aligned with the Europe 2020 Strategy is developed and adopted. Baseline Study is available on the website of the Office for Human and Minority Rights.

A new Roma Inclusion Seminar jointly organized by Serbia and the EU was held in June 2015 and new set of operational conclusions has been utilized for the development of the activities in AP Ch23. The Council for the Improvement of the Position of Roma and the Implementation of the Roma Decade re-initiated its functioning.

Multi-sectorial Working group developed the Draft new multiannual Strategy for Advancing the Position of Roma in the Republic of Serbia in cooperation with the group of experts, from among civil society, state administration and university. Public debate is finalized. The Government adopted the Strategy for Social Inclusion of Roma in the Republic of Serbia for the period 2016-2025.

Solid foundations for a sustainable improvement of the position of the Roma have been laid, especially in the education sector, health sector and access to personal documents. Continuation of the process under the Memorandum of Understanding between the Ministry of Public Administration and Local Self-Government, the Ombudsman and the United Nations High Commissioner for Refugees is aimed, on the one hand, at further promoting the operation of and adherence to regulations by the competent authorities and, on the other hand, at providing free legal aid to persons who need to resolve any of the personal status rights, which will facilitate the exercise of this right until the free legal aid system is introduced. The extension of the

Memorandum of Understanding signed between the Ministry of Public Administration and Local Self-Government, the Ombudsman and the United Nations High Commissioner for Refugees - Representation in Serbia, until the end of 2016, focuses on the one hand, to activities related to the improvement of the capacity of the competent authorities in relation to the proper and lawful implementation of laws and regulations, and on the other hand, identification of persons who have not been able to exercise some of the civil status rights (entry into the register in the administrative or extra-judicial proceedings, nationality, name, address, ID card and etc.) and the provision of free legal aid in proceedings conducted for the purpose of exercising any of these rights, in order to fully overcome the issue of the so-called "legally invisible persons".

Ministry of Education, Science and Technological Development continued the implementation of affirmative measures through the mentoring system and scholarships for education. Active measures were implemented to support employment of Roma through financial and non-financial support by the allocation of grants for self-employment and training. A call for Autonomous Province and local governments to participate in the financing of the program or measures of active employment policy in 2015 was implemented.

Efforts to enhance housing conditions for the Roma population were invested in cooperation with Republic Agency for Housing. The total of 86 apartments was built and distributed in Kikinda and Nis, while 49 apartments were distributed in Zrenjanin, Kikinda, Pancevo, and Kraljevo. Under an IPA 2012 project, a situation assessment was performed in 22 local governments.

Measures to combat racism and xenophobia

Article 49 of the Constitution of republic of Serbia prohibits fomentation of racial, ethnic, religious hatred or some other form of inequality or intolerance. The Law on the Prohibition of Discrimination bans discrimination on any grounds, including race, color, nationality or ethnic origin. The Criminal Code envisages instigating or exacerbating ethnic, racial and religious hatred or intolerance among the peoples and communities living in Serbia as criminal offences (Article 317). Criminal offences are constituted also in instigation of ethnic, racial and religious or other hatred or intolerance by means of behavior or slogan pointing at sporting events or public gatherings (Article 344 a) and the propagation of the racist ideas as racial superiority, racial intolerance or discrimination on the grounds of race (Article 387). Possible sentences for these crimes may be imposed in duration up to five, twelve and three years. By means of Article 54a of the Criminal Code racial, religious, national, ethnic and sexual hatred is an aggravating circumstance and is in line, respectively, with the recommendations of the UN Committee on the Elimination of all Forms of Racial Discrimination (CERD) and the Council of Europe's Commissioner for Human Rights and the ECRI.

Serbian legal framework at the moment does not contain provisions on exhortation to violence or hatred by public condoning, nor denial or gross trivialization of certain international crimes, as specified by Article 1 (c) and (d), respectively of the Framework Decision.

Strategy for combatting violence and misbehavior at sport events (2013 - 2018) is actively implementing at the moment, as part of the Republic of Serbia's policy against racism and xenophobia. Prohibition of hate speech is also referred to in the Article 75 of the Law on Public Information and Media and Article 51 of the Law on Electronic Media.

The EU Fundamental Rights Agency

Serbia formally expressed its interest to become an observer to the FRA in September 2013. The official request for observer status has been submitted in 2014 and the internal procedures of the EC are in progress.

Personal data protection

Personal data protection is guaranteed in Article 42 of the Serbian Constitution. Collecting, keeping, processing and using of personal data shall be regulated by the law. In addition, use of personal data for any the purpose other the one were collected for shall be prohibited and punishable in accordance with the law, unless this is necessary to conduct criminal proceedings or protect safety of the Republic of Serbia, in a manner stipulated by the law. Also, everyone shall have the right to be informed about personal data collected about him, in accordance with the law.

Constitutional guarantees are elaborated in the Law on the Protection of Personal Data ("Official Gazette of the RS", no. 97/08, 104/09, 8/12 - CC Decision and 107/12). The law is partially aligned with the Directive 95/46 of the European Parliament and the Council on the protection of individuals with regard to processing of personal data and the free flow of information, particularly bearing in mind the provisions of Article 28 of the Directive with regard to the supervision and authority of the independent body.

The Government adopted the Regulation on the form for recording and keeping records on the processing

of personal data ("Official Gazette of the RS", no. 50/09). In accordance with the Law, the Commissioner for Information of Public Importance and Personal Data Protection has adopted the Rulebook on the manner of the previous verification activities and the processing of personal data and the Regulation on the form of identification of the authorized person for overseeing the Personal Data Protection Law ("Official Gazette of the RS", no. 35/09). The Government adopted the Strategy for Protection of Personal Data ("Official Gazette of the RS", no. 58/10) which sets out the objectives, measures and activities as well as the roles and responsibilities of the executive, supervisory bodies and other entities in the rights guaranteed by the Constitution of the Republic of Serbia.

Institutional framework for the protection of personal data is consisted of the Ministry of Justice, which, *inter alia*, performs tasks related to the preparation of legislation on personal data protection and data secrecy. In accordance with the Law on Personal Data Protection, the Commissioner for Information of Public Importance and Personal Data Protection as an independent body performs the protection of personal data. Protection of human rights, the right to free access to information of public importance and the right to protection of personal data, pursuant to the law, are exercised by the Commissioner in appellate proceedings conducted upon complaints submitted by citizens for violation of law, whereas the Commissioner for Personal Data Protection ensures the protection of data through supervision in terms of data processing. The Commissioner does not have the right of legislative initiative.

The working group for drafting the new Law on Personal Data Protection developed the Draft in line with Table of concordance and the recommendations of the expert, and the Proposal for a

Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation COM 2012 11). The Model law prepared by the Commissioner for Information of Public Importance and Personal Data Protection was also utilized. Public debate on the Draft Law is finalized. New Draft Law is aligned with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to processing of personal data and free movement of such data and with Directive 2002/58/EC as amended by Directive 2009/136/EC. Given the adoption of the Regulation in the EU, it has been decided to include also the necessary provisions in the new Draft Law in order to fully align with General Data Protection Regulation COM 2012 11. Hence the adoption is postponed until finalization of these changes.

III Plan for alignment of legislative and institutional framework with the EU acquis

Legislation of the Republic of Serbia regulating the field covered by Chapter 23, "Judiciary and fundamental rights" is partially aligned with the *acquis*. Serbia has developed institutional framework for the implementation of the *acquis* in this area, but there is a need for further improvement. Serbia will continue with reforms in Chapter 23, in order to fully align its legislative and institutional framework with the *acquis* in the area of judiciary, fight against corruption and fundamental rights.

The strategic framework for activities in this field involves the action plans for negotiations on Chapter 23 "Judiciary and Fundamental Rights", as well as relevant national strategies and action plans.

1. Judiciary

Independence

The following key measures are foreseen aimed at acceptance of the *acquis/EU* standards and negotiating requests regarding judicial independence:

The analysis of the provisions of the Constitution of the Republic of Serbia is almost done with an aim to ensure the full independence of the judiciary in line with Venice Commission recommendations and European standards. Next step is initiation of the parliamentary process which should result in adopting a new Constitution of the Republic of Serbia by the end of 2017.

In order to reflect the new constitutional provisions and other recommendations from the screening report during the 2018 complete judiciary legislation will be amended including bylaws and secondary acts as follow up in 2019. In the meantime a series of interim measures started from 2013 are going to be implemented during 2016 in order to strengthen the independence of the judiciary within the current constitutional framework, bearing in mind complexity of amending the Constitution. The High Judicial Council will finish permanent appointment of all remaining Court Presidents. The Council will adopt new rules and criteria for appointment of (candidate) judges, court presidents by the High Judicial Council. The completion of the transfer of the budgetary competences from the Ministry of Justice to the respective Councils shall initiate as of 1st January 2017. With the support of the twinning project the administrative capacity of the

46

Councils is being strengthened so as to match their new powers. The rules of both Councils will be amended to allow them to react publicly in cases of political interference in the judiciary and the prosecution so as to strengthen the independence of the judiciary. In parallel, code of conduct for members of parliament (MPs) will be adopted, including provisions prohibiting commenting on judicial decisions. The codes of ethics of police and prosecutors will be amended to better guarantee the secrecy of

the investigation and various other measures are foreseen to raise the awareness on these issues.

As one of the aims of the Serbian authorities is to set a more systematic involvement of civil society and professional organizations in the justice reform process based on previous good practice, continues implementation of different measures is allowing them to assistance defining the further steps in the reform process and monitor the implementation of action plans. Foreseen actions include roundtable discussions, regular public calls for comments on planned policy measures, joint publications and the adoption of guidelines for including civil society organizations in the legislative process.

To fulfil Serbian obligations under the First Agreement of 19th April 2013, Serbia will adopt a special regulation with respects to Serbian judicial institutions with jurisdiction in Kosovo^{5*}, executing deadline will be defined on ongoing negotiations between Belgrade and Pristina.

Impartiality/accountability

Serbia will undertake additional steps to improve impartiality and accountability of the judiciary.

The well- functioning of an automated system for random allocation of cases is a precondition of impartiality. Aiming at this the planned actions will go in two directions: improvement of the ICT system and amendments of the normative framework. When it comes to the improvement of the ICT system, planned action will be undertaken in several phases. The first phase is dedicated to maximization of results in the use of current ICT capacities, bearing in mind the costs and time that takes establishing of interoperability within ICT system. Apart from the necessary hardware and software updates, amendments to the Law on Judges, to the court rules of procedure and to the rules on the administration in public prosecution offices are necessary to create an adequate framework for random allocation of cases (2016 - 2017).

Besides a new ethical framework for the judges a number of actions such as trainings, publications of brochures etc. will be implemented in order to enhance the accountability of judges and public prosecutors.

The rules on preventing conflicts of interest and asset declarations of magistrates will be improved through the adoption and implementation of the new Law on the Anti-Corruption Agency. Republic of Serbia will improve cooperation through more regular meetings between the High Judicial Council and State Prosecutorial Council on the one side and the Anti-Corruption Agency on the other side.

With the respect of possible amendments in 2016 of the current codes of Ethics for judges and prosecutors it is planned conducting comprehensive analyses of acceptability.

⁵ This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

Also, in order to have tangible elements on which further improvement of the system will be based it is planned analyses in 2016 of the current normative framework of the disciplinary regulations for magistrates as well as the current provisions regulating functional immunity.

Competence efficiency

The competence as well as efficiency are the key pillars of the high quality judiciary. Serbia will develop a set of criteria in 2016 to make the assessment of training needs become part of the performance appraisal of judges and public prosecutors. At the same time, Serbia will continue to undertake necessary measures in line with the findings from the JA's needs analyses to strengthen its capacities and make them adequate to respond to growing training requests.

Bearing in mind that judicial efficiency represents one of the biggest issues, Republic of Serbia will conduct a comprehensive mid-term analysis of costs, efficiency and access to justice before taking further steps concerning reform of the court network. Expected results of conducted analyses are various actions to be taken from 2017. The goal of these actions is to establish a best possible balance between human resources and the workload. That requires adoption and implementation of new Human Resource Strategy from 2016. By setting up the court network as well as the human resources aspects, Serbia will try to effectively address workload imbalances.

Having in mind that backlog reduction requires various measures and actions based on results of monitoring of the implementation of the Backlog Reduction Program, Serbia plans to amend the BLRP. At the same time Serbia plans to amend its normative framework of the Civil and Criminal Procedures Codes in 2016 in order to simplify and speed up court proceedings and to improve implementation of the various mechanisms that support backlog reduction such as reforming the court network, increasing trainings, implementing new legislation on Mediation and Notaries, planned ICT solutions, measures on resolution of workload imbalances, the new human resources strategy.

Aiming to ensure efficient implementation of the recently adopted Law on Enforcement and Security (2015) Serbia plans to adopt adequate bylaws in 2016. As the continuous monitoring of the efficient implementation is the precondition for the identification of potential gaps or problems, establishing of adequate mechanisms is planned. Expected results of the monitoring will reflect on the system of enforcement officers.

Based on Guidelines for development, drafted as a result of the assessment of the current ICT/e- justice system, Serbia plans to amend from 2016 its normative framework as well as to take various actions (technical actions, trainings and supply of equipment) aimed at establishing the centralized ICT/ e-justice system. The final goal is to establish centralized e-justice system which will provide reliable and consistent judicial statistics and therefore give grounds for monitoring the length of trials.

In order to improve the consistency of jurisprudence, the normative framework is currently analyzed. In line with the result of the analysis normative framework will be amended, during 2016. Additional precondition for improvement of court practice is publishing judicial decisions and their reasoning in accordance with the EU standards. That action requires adoption of the unified rules for anonymization of judicial decisions. Since an electronic database containing case law and current legislation has been established, simple access to jurisprudence is enabled for all magistrates.

As the new CPC from 2012 has introduced completely new concept of criminal proceedings, the continuous monitoring of its implementation is required. The implementation of the new Criminal Procedure Code is monitored by judicial stakeholders and they will continuously report to the NJRS

Strategy Commission, which can recommend corrective actions when required, relying on the reports.

At the end of 2017, it is planned to conduct impact assessment of the results produced by the Judicial Reform Strategy and follow up of the Action Plan as well as by the Action Plan for Chapter 23. Serbia will define additional measures in 2018.

Key indicators of the judicial reform results will be as follows:

Amended constitutional and legal provisions related to judiciary reflect the Venice Commission recommendations; The High Judicial Council and the State Prosecutorial Council as leading institutions managing the judicial system with adequate capacities; Career system for judges and public prosecutors is based on objective criteria without political or any other inappropriate influence; Automatization of case allocation is based on improved ICT/e-justice system and ensures impartial decision making; Judicial Academy is leading institution in charge of initial and continuous training with the sufficient resources; the normative and internal procedures framework allows efficient court proceedings; improved systems of public bailiffs, notaries and mediation strongly supporting backlog reduction; improved various mechanisms dealing with court practice unification provides consistent jurisprudence ensuring legal predictability. The overall result is efficient, independent and quality judiciary.

Domestic handling of War crimes

National Strategy for the prosecution of war crimes is adopted and will be successfully implemented in 2016. Key measures presented in the strategy focus on improvement of the efficiency of the war crime proceedings, ensuring adequate protection and support for victims and witnesses as well as improved answers to the problem of the missing persons. Strengthening the cooperation amongst various stakeholders, should contribute to a more efficient conducting of the war crimes proceedings. Improving regional and international cooperation in the area of the war crime proceedings is planned, as well as raising awareness regarding unacceptability of impunity for war crimes. This strategy aims to ensure proper proceedings of war crimes and crimes against humanity, irrespective of current or former rank or grade, or current occupation of suspects or victims.

In line with provision of the Action Plan for Chapter 23 as well as with the National Strategy for the prosecution of war crimes the WCPO is going to adopt the Prosecutorial Strategy for Investigation and Prosecution of war crimes in Republic of Serbia. The main goal of this strategy is to define criteria for case prioritization and to foresee other measures required for improvement of investigation and prosecution.

Regarding strengthening of the War Crimes Prosecutorial Office, first measure will be reinforcing the Office with seven deputy public Prosecutors and seven assistants/advisors

49

between 2015 and 2018. Consequently, transparency related to their work will be enhanced through posting more information on the official website of the WCPO. Report that includes activities related to all criminal charges since 2005, focusing on cases of highly ranked officers is going to be published in the reasonable time. Trainings and education of judges, prosecutor, investigation officers, lawyers and magistrates related to international criminal law humanitarian law, procedural safeguards including victims and witnesses rights are planned. Serbia has started researching the archives of the International Criminal Tribunal for former Yugoslavia (ICTY) and of the Residual Mechanism (MICT) as to increase the evidence search.

Analysis of the War Crimes Investigation Service of the Ministry of Interior (WCIS) with a special focus on organizational capacities will be finalized in the first half of 2016. The Higher Court, Appellate Court

and Supreme Court of Cassation are preparing a report on the jurisprudence on sentencing in war crime proceedings, for judges, prosecutors and lawyers for the purpose of ensuring proportionality of sentences, and in accordance with conclusions from an expert meeting.

Alignment of CPC with relevant Acquis in this area, as well as quality of implementation of Art. 102 of the CPC, are currently being assessed. Serbia plans to amend its CPC in line with results of above mentioned analysis during 2016. Ministry of Interior's Unit for witness protection assessment of needs is currently ongoing and Serbia will take necessary measures to improve status of that unit to ensure the highest standards regarding the witness protection.

Serbia has taken the responsibility to establish a nation-wide service network for the support and assistance intended for witnesses and victims in 2018, taking into account already established services for the support and assistance to witnesses and victims in courts and public prosecutor's offices. The first step in that process will be amendments of the normative framework in line with the recommendations from above mentioned analyses of the CPC, the next step is going to be defining adequate model of nationwide network based on conclusions from the comparative analysis that is going to be done during the first half of 2016.

Specific measures of raising awareness regarding unacceptability of impunity for war crimes (round tables and lectures) as well as regarding confidentiality of the investigation are planned. The impact of the measures will be assessable in 2016.

Beside the aforementioned activities Serbia plans to take various actions that should result in improving: efficiency of war crime proceedings; proportionality of sentences; equal treatment of suspects and victims; inter-cooperation between national institutions in charge of investigation and proceeding of war crimes; regional and international cooperation in the area of war crime proceedings; approach of public toward to necessity of punishment of war crimes.

2. Fight against corruption

Preventive actions against corruption

In order to ensure systematical consideration of the reports, policy recommendations and other initiatives made by Anti-Corruption Council, Government and other relevant state authorities are taking appropriate measures. These measures are consisting of formal cooperation between state

50

authorities, as well as of analyzing the reports of the Council, including determination of possible criminal liability and, if necessary, initiating criminal proceedings.

For the purpose of alignment of legislative and institutional framework with the EU acquis and international standards, Serbia is planning to conduct a comprehensive analysis during 2016 and on that basis to amend the current legal framework before the end of 2016.

New Law on Anti-corruption Agency is currently in the phase of preparation. Law on ACA will stipulate imposition of more clear and strict rules on the responsibility of officials, improvement of the efficiency of the ACA and strengthening its independence, as well as harmonization with the NACS and corresponding AP. Impact assessment of the new law provisions will be done in 2017. After its adoption in 2016, reassessment of the ACA budget, staff and training needs and ICT will be done.

New Law on Anti-corruption Agency will also address in more effective manner conflict of interest. In order to achieve this goal, ACA will organize and deliver trainings, web-based presentations (webinars), a

guidebook, as well as assessment of existing measures for preventing conflicts of interest among civil servants.

Following an impact analysis on the Law on financing political activities, adequate changes in mentioned law will be done in 2016. For that purpose, certain preparatory activities are been already made - capacities of State Electoral Committee, the State Audit Institution and misdemeanor courts are strengthened up through specific trainings, since these institutions are responsible for implementation of mentioned law.

In 2016, analysis of the legal and institutional framework in terms of illicit enrichment will be done. Subsequently, adequate provisions in regulations will be amended and their implementation will be monitored. Specific training courses will be provided for police, public prosecutors' office, the ACA and judges.

The Law on Free Access to Information of Public Importance will be amended in 2016, based on previously conducted analysis of its current legislation. Implementation will be monitored by Commissioner for Information of Public Importance and Personal data Protection annual reports. In order to further increase the efficiency of the Office of the Commissioner for Information of Public Importance and Personal data Protection, its capacities will be strengthened via twinning project, in line with recommendations of the assessment planned in 2017. Moreover, specific trainings will be conducted, in accordance with case law and international standards for the officials dealing with requested information.

Action Plan for the implementation of the Public Administration Reform Strategy (2015-2017) is applying actively. Measures and activities prescribed in mentioned action plan will, among other things, strength transparency, integrity and depoliticizing of the public administration, as well as develop objective and precise criteria for the employment and promotion of public officials. In 2016, mechanisms to effectively monitor the Code of Conduct for civil servants will be developed.

Law on Whistle-blowers ("Official Gazette of RS", No. 128/14) and appropriate by-laws were adopted in 2015. As a follow up of implementation of the Law on whistle-blowers, a training program is organized for judges in four appellate courts. Trainings will be conducted *pro futuro*,

for the judges and public servants. Ministry of Justice is a institution responsible for monitoring of the implementation of the law.

In line with the Public Procurement Development Strategy in the Republic of Serbia for the period of 2014 - 2018 and the Action Plan for its implementation for the period of 2014 - 2015, the Law Amending the Public Procurement Law was adopted. The Law on Public Procurement amended in 2015 governs in a clearer and simpler way, certain issues that the practice revealed as outdated and as an unnecessary administrative burden both for contracting authorities and bidders. Also, Public Procurement Portal is improved by introducing new features to further enhance the transparency of public procurement procedures and advance public participation in monitoring budget spending. In order to align with EU acquis, new Law on Public Procurement will be done in 2017, on the basis of public procurement legislation assessment. Bearing in mind that implementation of existing and future new Law is in the competence of the Ministry of Finance and the Public Procurement Office, personnel capacity of the Public Procurement Office will be increased in 2016. Database will be established in order to allow all relevant institutions to monitor, supervise and control public procurement in 2016.

In 2015, corruption risk assessment was conducted regarding the Laws on Bankruptcy and Privatization, on public-private partnership and on public companies. On the basis of assessment, relevant legislation will be amended. The new Law on public companies was adopted ("Official Gazette of RS", No. 15/16). There are ongoing preparations of a new draft Law on amendments to the Law on Bankruptcy. Adoption of the law is expected in the first quarter of 2016. When it comes to the implementation of the new Law on public companies, the possibility of corruption has been significantly reduced. The new Law on Public Companies introduces stricter conditions and specifies the conditions for selection of members of supervisory boards, procedure for the selection of the director, for the purpose of specialization of the management of public companies, and increase of individual and collective responsibility. The environment for internal control and internal audit further improves. Strengthening of the capacities of the State Audit Institution, and Commission for Protection of Competition and Securities Commission is in progress.

National Anti-Corruption Strategy in the Republic of Serbia for the period 2013-2018 and accompanying Action Plan envisage extensive field for the fight against corruption, as well as range of concrete measures against corruption in the vulnerable areas such as: health care, taxes, education, police, customs and local self-government. All activities envisaged by the Action Plan for Chapter 23, which are also provided and in the Action Plan for implementation of NACS (2013-2018), will be monitored through implementation of appropriate activities envisaged in Action Plan for Chapter 23, subchapter Fight against corruption.

Office for Cooperation with Civil Society is taking legal steps to align state authority bodies/ CSOs cooperation practices with international standards and practices. Also, Office is organizing raising awareness campaigns that will be operational until 2017. Civil society organizations will continue to receive support in 2016 from foreign donors in order to enable their engagement in alternate monitoring of Serbia's anti-corruption policy. In 2016, Office will also develop a monitoring methodology for the implementation of programs/projects financed from the budgetary resources.

Repressive actions against corruption

Having in mind measures envisaged in Chapter 24 - Justice Freedom and Security, subchapter "Police co-operation and fight against organized crime" and Chapter 23 subchapter Judiciary, independence and effectiveness of the pre-trial investigation and the court system will be further strengthened, in accordance with appropriate prescribed measures in abovementioned Action plans.

Criminal Code will be amended in 2016 and subsequently monitored, based on the conducted analysis of the "economic crime section" in the Criminal Code of the Republic of Serbia. This analysis compared

provisions of the Criminal Code's "economic crime section" to the EU standards in terms of the needed implementation of specific provisions related to criminalizing abuse of office. In line with new legal solutions, training on the implementation of the new Criminal Code will be provided for judges and prosecutors.

In 2016, Law on Organization and Jurisdiction of State Authorities in the fight against organized crime of corruption and other particularly serious criminal offences (Link with Chapter 24 activity 6.2.4.2.) will be amended. Amending procedure will be conducted based on previously released analysis of the organizational aspects and capacity of the bodies in charge of investigating corruption (and organized crime) allegations.

Introducing a team of financial forensic experts in the Public Prosecutors' Office (2016) and strengthening the capacity of the Department for Financial Investigation of the Ministry of Interior are measures planned for 2016. For that purpose, specific trainings on asset confiscation and financial investigations have been already started. All Financial Action Task Force (FATF) recommendations will be implemented in 2016. In 2018, databases containing relevant information for conducting criminal investigations will be networked and connected, respecting | data protection rules. Concurrently, a secure platform for electronic information exchange between Public Prosecutors' Offices, the Police Directorate, the Customs Department, the Tax Administration, the ACA and other relevant bodies will be established.

The abovementioned measures should be enforced likewise in increasing the efficiency in investigating allegations of corruption in privatization cases. Toward prevention of the corruption in its entirety, in 2016 Serbia will amend and strengthen regulations in relation with the assessment of corruption risks during the privatization process. Subsequent trainings of relevant authorities in the context of the above mentioned anti-corruption twinning, will be provided.

In 2017, model of unique records keeping (electronic register) for criminal offenses with an element of corruption will be done, in accordance with the law governing the protection of personal data. Electronic register will be used in future for creating criminal policy, allowing collection of data on criminal offences related to corruption and relevant statistics

In 2017, Law on Seizure and Confiscation of the Proceeds from Crime will be amended, in line with the Directive 2014/42/EC (Link with Chapter 24, activity 6.2.5.3.). Directorate for Administration of Seized Assets shall be upgraded with new software, staff and specific trainings.

To prevent future leaks of confidential information on investigations to the media, the Republic of Serbia performed some positive actions. Risk assessment was conducted and currently is being worked on amending internal regulations and procedures within the police and Public

Prosecutors' Offices. In respect of leaking confidential information and monitoring of the correct application of the sanctioning regime, in 2016 Serbia shall upgrade protection of its IT systems and revise the rules governing criminal, disciplinary and all other types of liability.

In 2016, analysis of the current legal immunity system will be done. Subsequently, Serbia will review its regulation on immunity system, ensuring that provisions governing immunities do not trammel criminal investigations into allegations of corruption and crime.

Since revision/midterm review of Action Plan for implementation of NACS is at the end of drafting procedure, conducted on the basis of previous fulfillment of NACS, constraints in the implementation and its monitoring, amendments will be done in following manner: all activities envisaged by the Action Plan for Chapter 23, which are also provided and in the Action Plan for implementation of NACS (2013-2018), will be monitored through implementation of appropriate activities envisaged in Action Plan for Chapter 23; certain measures and activities have been reformulated or redefined in order to achieve their successful implementation; deadlines for implementation of activities are now defined in the quarters; new realistic deadlines are created for activities and measures whose deadline for implementation expired; indicators have been reformulated at certain points, where it was necessary to facilitate monitoring of implementation of measures and activities and responsible authorities were replaced in certain points where there was a separation of line ministries.

At the end of 2018, results achieved by the implementation of the National Strategy for the Fight against Corruption for the period from 2013 to 2018 and the accompanying action plans will be evaluated and compared with the overall situation with regard to corruption in Serbia. On that basis, necessary measures for the remaining period up to accession will be defined.

3. Fundamental Rights

Prohibition of torture, degrading and ill-treatment and punishment

In the field of prevention and prohibition of torture and ill-treatment, the Republic of Serbia plans to strengthen the capacity of the Ombudsman, particularly with regard to its role as a National Preventive Mechanism, through the provision of the necessary number and structure of employees for the efficient performance of duties. Recently measures have been taken to intensify the cooperation between the Ministry of Interior and National Mechanism for the Prevention of Torture. By establishing specific communication channels between police officers, NPM and civil society organizations, including through the conclusion of formal agreements, it is planned to increase the level of coordination and raise general awareness about the necessity of full elimination of all forms of torture. Through initial and continuous training for police officers, staff at the institutes for enforcement of criminal sanctions and enforcement judges, a higher level of expertise and awareness of the necessity to establish zero torture tolerance shall be achieved.

The existence of adequate infrastructure at the institutes for enforcement of criminal sanctions is an important aspect of the prevention of torture, hence the Republic of Serbia plans to invest considerable efforts to build new institutes for enforcement of criminal sanctions during the implementation period of the Action Plan for Chapter 23, and restore the existing facilities. In addition to the renewal of the facilities, considerable attention will be paid to the improvement of conditions in the Special Prison Hospital in Belgrade. Significant efforts will also be made to improve the infrastructure and conditions of the detention facilities in police stations.

The problem of overcrowding in the institutes for enforcement of criminal sanctions will be addressed on

two tracks, both through infrastructure investments as well as through the development and further improvement of the system of alternative sanctions.

In the formulation of measures for the prevention and suppression of torture and ill-treatment, special attention is paid to the Recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment i.e. the implementation of the recommendations is the main focus of all activities in this area.

Serbia will undertake a set of comprehensive measures in order to fully implement the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). The measures comprise of infrastructural works, legislative changes, and training.

In line with CPT recommendations, infrastructural changes shall be performed continuously, until 2018, with an aim to improve living conditions of convicted individuals. The key activities involve major reconstruction works in a number of correctional facilities, as well as construction of 2 new prison buildings. Concurrently, the first 14 police detention facilities will be renovated in 2016, whereas additional facilities will be sequentially included depending on the available funds.

Amendments to the legislative framework in 2016 are aimed at improved treatment of detainees and persons in custody. Along with the legislation, a methodology on methods of investigation and examination of accusations of torture and ill treatment by the police will be established. These changes will be accompanied by compulsory training of police officers, focusing on the human rights, rights of detainees and procedure in high risk situations. New strategic framework on reducing prison overcrowding will be implemented as of 2016, with clear monitoring mechanisms. Along with these changes, major importance is also given to the implementation of alternative sanctions and restorative justice principles.

In order to enable functional operation of the Ombudsman, its capacities will be strengthened in 2016 through legislative amendments, filling current vacancies and provision of new premises. The role of Local Ombudsmen shall be strengthened through the planned changes to the Law on Local Self-Government.

Freedom of thought, conscience and religion

In the domain of freedom of thought, conscience and religion, it is necessary to conduct a detailed comparative analysis of the legal status of churches and religious communities, taking into account the specificities of European legal tradition in this domain and cultural characteristics of the region Serbia belongs to. The analysis will be based on the idea proclaimed in the Constitution of the Republic of Serbia, which states that churches and religious communities are equal and free to independently regulate their internal organization, religious affairs, to perform religious rites. The neighboring countries of the Republic of Serbia will

represent the paradigm for this analysis, given that they have already met the criteria for membership in the EU. The abovementioned approach is based on the cultural similarities of the countries in the region and the fact that the same religious communities are extended across these countries, but also given the need to use the know-how of countries that have already experienced the process of integration. Following the performed analysis, all necessary measures to implement the recommendations of the analysis will be undertaken to enable full alignment with the identified standards and best practices. To this end, a comprehensive dialogue with the Serbian Orthodox Church will be fostered with a view to encouraging the use of minority languages in the services where possible and appropriate and ensure that there was no unjustified limitation of the right of persons belonging to national minorities to practice their religion in their mother tongue.

Freedom of expression, including freedom and pluralism of the media

Frequent threats and violence against journalists have been recognized as a serious threat to freedom of expression and media pluralism. In order to overcome this challenge, the key focus in the following period is to strengthen coordination between all competent authorities and raise awareness on the importance of the protection of journalists, both through training and prioritization of these cases. To this end, several aspects of journalists' protection are addressed, including better cooperation on the line police-public prosecutors' offices, legislative amendments as well as enhanced risk analysis.

Information leaks regarding planned and ongoing criminal investigations have been perceived as a serious threat to the efficiency of the investigation, the presumption of innocence and privacy of personal data. It is planned to end these negative practices through the development of new operational procedures, capacity building through training and effective coordination of the competent authorities. To address this, in 2016 Serbia plans to amend Codes of ethics in Ministry of Interior and Prosecutors' Office in order to sanction unauthorized communication of information about ongoing or planned investigations to the media. Concurrently, Ministry of Interior will adopt a by-law which establishes procedures for issuing statements of police officers to the media. Normative amendments will be followed by comprehensive training on prevention of media leaks and protection of privacy of vulnerable persons, whereby training sessions will include journalist associations, CSOs, judiciary and public prosecutors' offices.

Commission for consideration of the facts that were obtained in the investigations that were conducted on the killings of journalists will continue its efficient work, whereas responsible authorities shall regularly follow up on the recommendations of the Commission through investigations and prosecution.

Through consistent implementation of a set of new media laws (the Laws on Public Information, on Electronic Media and on Public Service Media) that came into force in the beginning of August 2014, full withdrawal of the state from media ownership will be achieved. Their implementation is being monitored and reported on by the Ministry for Culture and Information. The Ministry for Culture and Information shall, in line with the measures and timeframe set in the Action plan for Ch23 and the Action plan for the exercise of the rights of national minorities, conduct a series of trainings and TAIEX seminar. Republic of Serbia will develop new strategic framework governing Public Information System, building on the effects of the previous strategy and its shortcomings. In addition, transparency of media ownership will be monitored through the

56

established Registry of the media, along with effective monitoring over the system of cofinancing media projects from the budgetary and/or public financial resources.

Moreover, implementation of the recommendations of the Anti-Corruption Council will ensure greater transparency of media ownership, as well as clear set of rules on direct and indirect budget support for the

media.

Principle of anti-discrimination and position of socially vulnerable groups

The Republic of Serbia adopted an Action Plan for the implementation of the Strategy for Prevention and Protection from Discrimination for the period from 2014 to 2018 at the end of 2014 and established a mechanism for monitoring its implementation. Through its consistent implementation and active monitoring, improvement of the position of the most vulnerable social groups will be achieved.

In the following period, Serbia plans to fully align the Law on Prohibition of Discrimination with the acquis and relevant recommendations of the Commissioner for the Protection of Equality, as well as to align Criminal Code with European Convention on preventing and combating Violence against women and domestic violence (Istanbul Convention) and enable its implementation.

In the forthcoming period, the good practice of raising awareness about the prohibition of all forms of discrimination and methods for its prevention is planned to continue, which will be achieved through a series of educational roundtables, training of citizens and civil servants, and printing and distributing manuals (in Serbian and languages of national minorities) for recognizing and responding to discrimination. Similarly, in order to contribute to the development of tolerance in society, implementation of a new model of community policing, particularly in multi-ethnic and multicultural communities, is planned.

The Commissioner for Protection of Equality is a central national body specialized in combating all forms and types of discrimination, prevention of discrimination, and raising awareness on discrimination. Administrative capacities of the Commissioner will be strengthened through employment of new staff and provision of adequate premises.

Improvement of the situation of the LGBTI community will continue through the implementation of the Action Plan for the implementation of the Strategy of Prevention and Protection Against Discrimination for the period from 2014 to 2018, which also involves this vulnerable group, as well as through ongoing consistent implementation of the Law on anti-discrimination. Through the development of a model of community policing and continuous cooperation with the representatives of the LGBTI community by designating contact persons, the work on the improvement of safety of all members of the LGBTI community will continue.

In order to align its legal framework with the European Convention of Human Rights and fundamental freedoms and the Charter of Fundamental Rights of the European Union, the Republic of Serbia adopted a new Law on peaceful assembly („Official Gazette RS”, no. 06/16).

To improve the position of persons with mental disabilities in institutions of social welfare, Serbia will adopt a new Law by the end of 2017. Other measures aimed at better protection of persons with mental disabilities and their social integration are further specified in Chapters 19 and 28 respectively. The Ministry of Culture and Information will hold two workshops on discrimination for media professionals at the end of March 2016 through the IPA project “Strengthening media freedom”.

Gender equality

The Republic of Serbia plans to pay due attention to the promotion of the principle of gender equality in the forthcoming period, including mainstreaming gender equality issues in relevant policy areas, both at strategic and legislative level, as well as to strengthen capacity of the institutions and their mutual coordination.

The Government of the Republic of Serbia recently established a Coordinating Body for gender equality that will address all the related issues and coordinate the work of state administration in relation to gender equality, in order to ensure that all the available mechanisms (national, provincial and local) operate in an efficient and consistent manner.

Furthermore, the Republic of Serbia will develop a new multiannual National Strategy for Improving the Status of Women and Promoting Gender Equality in order to ensure gender equality in practice. The new Strategy will build on the achieved results and provide feasible solutions for the identified implementation obstacles of the previous strategy. New Strategy will be aligned with gender dimension of the EU 2020 Strategic framework, particularly focusing on economic empowerment of women, combating gender based violence, and participation of women in public life, including specific measurable impact indicators which will be used for monitoring implementation.

Through the adoption of a new National Strategy and Action Plan for Combating Violence Against Women in Family and Partner Relationships, the Republic of Serbia shall endow the necessary efforts to align with the Istanbul Convention, in particular through analysis and the necessary amendments to the current legislative framework for the protection of women against violence. The planned legislative changes shall include the introduction of safe houses, counselling services, state-wide telephone helplines free of charge, treatment support programs aimed at preventing perpetrators, in particular sex offenders, from re-offending, due diligence principle as well as multi-sectorial cooperation and CSO involvement.

Rights of the child

In the field of the rights of a child, the work of the Council for the Rights of a Child will be intensified to achieve a higher level of coordination of all state bodies responsible for the implementation of strategic documents. In addition, through an inclusive and transparent process, a new strategic framework for the protection of children from violence will be developed, in order to carry on with the development and improvement of the existing framework.

The work on increasing the number of children who benefit from family support measures will be continued. The comprehensive set of measures in this field will be implemented with the support of UNICEF. Some of the key measures involve launching of family support centers in 4 cities, provision of social support services targeting children with disabilities as well, improving foster care system by increasing the availability and quality of services for children with disabilities, improving case management in the centers for social work in order to focus treatment planning on support to families at risk of separation instead of an institutionalization-oriented approach, and other measures aimed at reduction of the number of children residing in institutions.

For the purpose of full implementation of the European standards, the work on improvement of the juvenile justice system will be continued, in particular by enabling that the number of children who benefit from the child-oriented judiciary increases. To this end, Serbia will amend the Law on Juveniles ("Official Gazette RS", no. 85/05), to, *inter alia*, review the type and system of criminal sanctions for juveniles and introduce new diversion orders. Inter-institutional coordination will be fostered through the reinstatement of work of the Juvenile Justice Council. The planned increase in the use of diversionary schemes and prioritization of restorative approach to juvenile offenders will ensure social reintegration and reduce recidivism rates.

Moreover, practical guidelines for interviewing children will be defined on the basis of best EU practices in order to enable uniform application of protective measures of children victims / witnesses in criminal proceedings and avoid secondary victimization. Implementation of guidelines will be accompanied by in-depth training of police officers, public prosecutors, judges and employees in social services. Additional

protection of the children's right in civil and administrative proceedings is also planned, along with implementation of specialized treatment programs for social reintegration of children in detention and provision of post-traumatic support for child victims/witnesses in criminal proceedings.

Procedural safeguards

Republic of Serbia adopted in May 2015 a new Law on the right to a trial in reasonable time and its implementation started in January 2016.

The establishment of a functioning free legal aid system shall commence by the adoption of the Law on Free Legal Aid and its implementing bylaws. Introduction of this system will significantly facilitate access to justice for all citizens and particularly those who are most vulnerable. Its implementation will be monitored by the Ministry of Justice. Prior to the start of implementation of the law, a comprehensive training program for professionals and an information campaign for citizens is planned.

Republic of Serbia plans to strengthen procedural safeguards through alignment of Criminal Procedure Code with the *acquis*, enabling additional guarantees for the exercise of the right of suspects or accused persons to access a lawyer, the right to information and the right to interpretation and translation. These amendments will enable that all suspects, arrested and accused persons will be provided in written form with their rights in Serbian, minority languages or English. Training on various aspects of procedural rights will also be performed.

The amendments to the normative framework will also be performed to achieve full alignment with the Directive 2012/29 / EU regarding the rights, support and protection of victims, witnesses and injured parties. Through the establishment of victim support services by 2018, another aspect of access to justice shall be improved. An information campaign and training for professionals as required by the Directive are planned in 2016. Republic of Serbia will also amend its legislation so as to align its understanding of the concept of "victim" with international standards (2016). Also, through a series of trainings for all relevant stakeholders, the necessary capacities for full implementation of the new procedural safeguards shall be strengthened.

Position of national minorities

Republic of Serbia adopted a special Action Plan on the Exercise of the Rights of Persons Belonging to National Minorities. The basic framework for the development of the Action Plan is the Council of Europe Framework Convention for the Protection of National Minorities, the European Charter on Regional and Minority Languages, as well as the Report of the Expert Mission of the European Commission for National Minorities.

The Action Plan was developed through a broad inclusive process in order to ensure the maximum possible level of consensus of all stakeholders and provide opportunities for minorities to, through their representatives, achieve the highest level of participation in the formation of this key document for the exercise of the rights of national minorities. The Action Plan corresponds to the key areas of the Framework Convention of the Council of Europe for the protection of National Minorities and its implementation will result in full exercise of the rights of national minorities in line with European standards.

Monitoring of the implementation of the activities in the Action Plan will be entrusted to the Council for National Minorities, in order to achieve full inclusion of national minorities in the monitoring process, and the full coordination of work of state authorities. The Council for National Minorities is a working body of the Government, which includes competent state authorities and the presidents of all national councils of national minorities. The Council for National Minorities shall meet quarterly. The administrative, professional, and technical support to the Council for National Minorities will be provided by the Office for Human and Minority Rights. All bodies in charge of activities will appoint contact persons for reporting on implementation of the Action Plan activities, and submit the necessary information to the Office for Human and Minority Rights.

The Office for Human and Minority Rights will collect data on the implementation of activities and prepare quarterly reports on the implementation of the Action Plan. The Reports on the implementation will be submitted to the Council for National Minorities and Coordination of National Councils of National Minorities.

Republic of Serbia adopted a new Strategy for the Improvement of the Position of the Roma in the Republic of Serbia for 2016 -2025. The key pillars of the new strategic framework include: education, housing, employment, health care, and social protection. Monitoring over the implementation of the action plan will be organized in the following manner: Government will establish Coordination body for social inclusion of Roma tasked with coordination of work of state bodies in this field. Office for Human and Minority Rights and Team for Social Inclusion and Reduction of Poverty will provide administrative and technical support to the work of the Coordination body for social inclusion of Roma. Within these bodies, special units will be formed for the inclusion of Roma. Representatives of Roma national minority shall be actively included in all phases of monitoring implementation. Monitoring over the implementation at the local level shall be performed through strengthening Roma coordinators in local self-government units.

On behalf of the Government, the Deputy Prime Minister will coordinate the efforts of public authorities, including local governments and public enterprises, geared towards improving the position of the Roma and their full inclusion in the social, economic, cultural and political life.

The Republic of Serbia shall make significant efforts in the forthcoming period to improve the living conditions of refugees and internally displaced persons. With the help of international donors, significant financial resources will be invested to resolve housing problems of the most vulnerable

Position of refugees and internally displaced persons

families, particularly those who are still placed in collective centers, both through to the construction of new housing units and the provision of necessary construction materials to enable the closure of all formal collective centers. The provision of complementary measures aimed at sustainable integration of refugees through programs aimed at the economic empowerment will continue.

The introduction of a free legal aid system available to refugees and internally displaced persons will enable a higher degree of legal certainty and facilitate access to personal documents through the procedures prescribed by the Law on non-contentious proceedings, aimed at elimination of "legally invisible persons" through the registration and provision of identity documents.

Measures against Racism and Xenophobia

In the field of combating racism and xenophobia, Serbia will align its legislative framework with the Framework Decision 2008/913 / JHA on suppression of certain forms and expressions of racism and xenophobia by means of criminal law. Through amendments to the criminal legislation, compliance with paragraphs (c) and (d) of Article 1 of the aforementioned decision will be ensured, envisaging punishment of public approval, denial or gross trivialization of genocide, crimes against humanity and war crimes, as well as public approval, denial or gross trivialization of the crime in a way that can lead to violence or hatred against persons or groups of persons who are linked by common race, color, religion, ancestry, nation or ethnicity. Also, by amending the criminal offense of violation of equality (Article 128 of the Criminal Code), in order to include its execution on the grounds of sexual orientation or gender identity to limit or deny the rights of any person, a higher degree of protection and prevention of hate crimes will be achieved.

Through training, judges, prosecutors and police officers, will improve knowledge and skills necessary for the effective prosecution of hate crimes, whereas the development and dissemination of educational materials, organization of annual forums and implementation of active media campaign will lead to a higher level of tolerance necessary for successful hate crime prevention.

Through the selection of new members and intensification of the work of the Action Team for development and implementation of a Strategy and Action Plan to combat violence and misbehavior at Sports Events, the supervision over the implementation of the Strategy will be enhanced, providing in this way adequate update the Action Plan for the implementation of this strategy.

Personal data protection

Serbia is preparing to amend the data protection Law by the end of 2016 based on the analysis of the extent to which its legislation is aligned with the relevant EU acquis, which will be followed

by the adoption of implementing legislation in 2016. The adoption of bylaws that accompany the new Law on Personal Data Protection will enable full functionality and consistent implementation of these laws. Bearing in mind that the EU acquis in this field is being enhanced and that the Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation COM 2012 11), is in EU legislation pipeline, Serbia shall further align its legislation accordingly upon adoption.

Amendments and supplements to the Law on Personal Data Protection will lead to changes in responsibilities and organization of the Commissioner for Information of Public Importance and Personal Data Protection, and in accordance with these changes it may be necessary to develop and implement a new Rulebook on internal organization and job systematization in order to strengthen the capacity of the Commissioner. The administrative capacity of the Commissioner for Information of Public Importance and Personal Data Protection was strengthened, raising staff levels to 64 in 2016 out of the planned 94.

IV Acceptance of the EU *acquis*

Republic of Serbia accepts the EU acquis with respect to Chapter 23 Judiciary and Fundamental Rights as it stands on 1 January 2016 and will be in the position to implement it fully by the time it accesses to EU membership.

Republic of Serbia will have implemented any outstanding acquis, by the date of accession, subject to the outcome of the negotiations under this chapter.

Republic of Serbia stands aware of the financial burden arising from the commitments in this Chapter and is willing to undertake these obligations.

Republic of Serbia does not request specific adaptations under this chapter.