

United Nations Study on Violence against Children

Response to questionnaire received from the
Government of SERBIA and MONTENEGRO

Serbia and Montenegro

RESPONSES TO THE QUESTIONNAIRE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS DESIGNED TO OBTAIN INFORMATION ON VIOLENCE AGAINST CHILDREN (A/RES/57/190)

I. LEGAL FRAMEWORK

International Treaties

1. The state union of Serbia and Montenegro ratified the Convention on the Rights of the Child in 1990 (*Official Gazette of the Socialist Federal Republic of Yugoslavia - International Treaties*, No. 15/90). The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts were adopted in July 2002 (*Official Gazette of the Federal Republic of Yugoslavia - International Treaties*, No. 7/02).

To protect children against sale, child prostitution and child pornography, the legislatures of the Republic of Serbia and the Republic of Montenegro have begun to align the punishment provisions of the relevant Laws with the provisions of the Protocol on the Sale of Children, Child Prostitution and Child Pornography. Accordingly, the Amendments to the Criminal Law of the Republic of Serbia (*Official Journal of the Socialist Republic of Serbia*, Nos. 26/77, 28/77, 43/77, 20/79, 24/84, 39/86, 51/87, 6/89, 42/89 and 21/90 and the *Official Gazette of the Republic of Serbia*, Nos. 16/90, 49/92, 23/93, 47/94, 17/95, 44/98, 10/02, 11/02, 39/03 and 67/03) provide for the first time for a separate criminal offence of the *exploitation of underage persons for pornography*. This offence is punishable with 1 to 5 years in prison and if committed against a person younger than 14 it is punishable more severely with at least 3 years in prison. Likewise, the criminal offence of *human trafficking* has been provided for which, if committed against an underage person, is punishable with a longer sentence in prison. This offence is punishable as provided for by the law even if not committed with the use of force or threat.

Pursuant to the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts, the Law on the Army of Yugoslavia (*Official Journal of the Republic of Serbia*, Nos. 43/94, 44/99, 74/99 and 31/02) stipulates in the part relative to compulsory conscription that a conscript will be sent to do his National Service only upon completion of 21 years of age (Art. 301) and that he may be conscripted at a younger age, i.e. upon completion of 18 years of age, only at the personal request (Art. 302).

Legal provisions on violence against children

2. Pursuant to the Charter of Human and Minority Rights and Civil Liberties of Serbia and Montenegro (*Official Gazette of Serbia and Montenegro*, No. 6/03) human dignity is inviolable and everyone has the obligation to protect it. Likewise, everyone has the right to free development of his/her personality provided that he/she does not violate the rights of others guaranteed by the Charter (Art. 1). Specifically, the Charter protects the family, mother and child (Art. 39).

The Law on Marriage and Family of the Republic of Serbia (*Official Journal of the Socialist Republic of Serbia*, Nos. 22/80 and 11/88 and the *Official Journal of the Republic of Serbia*, Nos. 22/93, 25/93, 35/94 and 29/01) provides for the obligation of the judiciary, other agencies and each citizen to

report a parent unable to exercise his/her parental right to a guardian agency or inform of a child in need of protection for other reasons as soon as they learn of it (Art. 333). If it establishes that a child is at risk, the guardian agency may take the child from the parent(s) and entrust it to another person or organization (Art. 136). Also, the court may deprive an abusive or negligent parent of his/her parental right (Art. 139).

The criminal laws provide for the protection of children against physical and mental violence, injury or abuse, neglect or negligent treatment, mistreatment or exploitation, including sexual abuse. In the group of criminal offences against the dignity of person and morals, the Criminal Law of the Republic of Serbia provides for qualified forms of the statutory rape if committed against an underage female person, as well as coercion to sexual intercourse or unnatural carnal act, coercion to sexual intercourse of, and an unnatural carnal act with, an infirm person, depraved and/or unnatural carnal act and pandering and facilitation of the commission of an unnatural carnal act if committed against a child younger than 14 (Arts. 103-105 and 108-111). A separate criminal offence is an act of coercion to sexual intercourse of, and an unnatural carnal act with, a child younger than 14 (Art. 106). Likewise, the Law provides for the offence of coercion to sexual intercourse and unnatural carnal act by the abuse of power and, in its qualified form, if it is committed by the teacher, educator, guardian, adopter, stepfather or another person who coerces to sexual intercourse, or commits an unnatural carnal act with, a child younger than 14 by the abuse of power (Art. 107). In the group of criminal offences against marriage and the family, the Law provides for the punishment of the neglect and abuse of an underage person if committed by the parent, adopter, guardian or another person taking care of a child (Art. 108).

3. Two subsystems, criminal and family legal subsystems, provide for measures to protect the child against violence in the legislation of Serbia and Montenegro. Some forms of violent behaviour of the parent entail dual responsibility - under family and under criminal law. The basic legal act within family law regulating child protection, including the protection against neglect and abuse, is the Law on Marriage and Family (*Official Journal of the Socialist Republic of Serbia*, No. 22/80). By the conception of general supervision of the exercise of the parental right, the Law defines general and specific measures for the protection of the interests of the child.

Centres for social services provide basic services of social protection and carry out the functions of a guardian agency as well. They play the key role in the prevention of, and the protection of the child against, violence and address a broad spectrum of cases. The preventive role of the centres includes various levels of prevention in dysfunctional families and assistance to families in restoring their functions and comprises the devising of necessary measures for social and legal protection of handicapped children. The guardian agency has a broad range of specific responsibilities, including control and provision of expert assistance to parents, based on voluntary cooperation, and/or taking legal repressive measures against parents, if they refuse to cooperate, and the initiation of legal proceedings to protect the rights of the child and to represent the interests of the child in the proceedings.

Removing the child from the family (Art. 136) is a legal sanction against the parents threatening the development of the child by various forms of violence (abuse and neglect, i.e. deprivation of developmental needs), provided the risk is not serious. The guardian agency will devise expert procedures to train parents to properly play parental roles. The child may temporarily be placed in another family or an institution of social care and, if the parents do not cooperate or are not in a position to continue to take care of the child, it will be entrusted to another person or placed in an institution.

Deprivation of the parental right (Art. 139) is the most serious sanction under family law against the parents committing violence against the child and is pronounced by the court. The family legislation establishes two bases for the imposition of the measure: a) commission - "abuse of the parental right" and b) omission, failure to perform - "gross neglect of parental duties". The abuse implies all forms of physical and mental abuse, including sexual abuse of the child by the parents. The gross neglect encompasses all forms of omission or irresponsible parental behaviour with respect to providing physical protection to the child, its health, education and other developmental needs. The guardian

agency has the obligation and authority to institute legal proceedings, aimed at depriving the parents of their parental right and to represent the child in the proceedings.

Effective intervention in the cases of domestic violence, specifically in the case of the abuse of the child, is hampered by the absence of a unified protocol of procedure. The centres for social services are expected to conduct diagnostic procedures up to the affordable levels and coordinate the procedures adjudged to be necessary in cooperation with other institutions with a view to addressing problems more effectively and making a better use of available resources. Upon completing specialized training programmes on the protection of children against abuse and neglect, mixed inter-departmental community teams have been established in a number of centres, consisting of representatives of the education system, health, the judiciary, police and social protection, while the tasks of monitoring and providing support to the victims and prosecuting the perpetrators are assigned at case conferences.

4. Within a separate group of criminal offences against the dignity of person and the morals, the Criminal Law of the Republic of Serbia provides for the legal basis of the protection of children against mistreatment by incrimination of the following criminal acts:

- **Sexual abuse (Art. 102a)**

(1) He/she who abuses sexually a person or hurts cruelly its dignity in the sphere of sexual life in another way will be fined or punished to up to six months in prison. He/she who commits the offence under paragraph 1 of this Article against a person in a position of subordination or dependence by the abuse of power will be punished to up to one year in prison. (3) The offences under paragraphs 1 and 2 of this Article are prosecuted on the basis of private suits.

- **Rape (Art. 103)**

(1) He who coerces a female person into sexual intercourse by the use of force or by directly threatening the life or the body of that person or a person close to it will be punished to at least one year in prison. (2) If, because of the commission of the offence under paragraph 1 of this Article, grievous bodily harm has been inflicted upon a female person or if the offence has been committed by more than one person or in a particularly cruel or a particularly degrading manner or if it has resulted in pregnancy or a serious communicable disease, the perpetrator(s) will be punished to at least three years in prison. (3) If the offence under paragraph 1 of this Article has been committed against an underage female person or if it has resulted in the death of that person, the perpetrator(s) will be punished to at least five years in prison.

- **Coercion into sexual intercourse or unnatural carnal acts (Art. 104)**

(1) He who coerces a female person into sexual intercourse by threatening to reveal something that would harm that person or a person close to it or damage their honour or reputation or by threatening to cause other serious harm will be punished, in the absence of the characteristics of another criminal act, to one to ten years in prison. (2) He who commits an unnatural carnal act against another person in the manner provided for in paragraph 1 of this Article will be punished in the same way. (3) If the offence under paragraphs 1 and 2 of this Article has been committed by more than one person or in a particularly cruel or a particularly degrading manner or against an underage female person older than 14 or if it resulted in pregnancy or a serious communicable disease, the perpetrator(s) will be punished to at least three years in prison.

- **Coercion into sexual intercourse of, or an unnatural carnal act with, an infirm person (Art. 105)**

(1) He who coerces a female person into sexual intercourse by using the mental illness, temporary mental disturbance, infirmity or any other state of that person because of which it is unable to offer resistance will be punished to one to eight years in prison. (2) He who commits an unnatural carnal act

against another person in the manner provided for in paragraph 1 of this Article will be punished in the same way. (3) If, because of the commission of the offence under paragraphs 1 and 2 of this Article, grievous bodily harm has been inflicted upon an infirm person or if the offence has been committed by more than one person or in a particularly cruel or a particularly degrading manner or if it resulted in pregnancy or a serious communicable disease, the perpetrator(s) will be punished to at least three years in prison. (4) If the offence under paragraphs 1 and 2 of this Article has been committed against an underage person older than 14 or if it resulted in the death of an infirm person, the perpetrator will be punished to at least five years in prison.

- **Coercion into sexual intercourse of, or unnatural carnal acts with, a person younger than 14 (Art. 106)**

(1) He/she who coerces into sexual intercourse or commits an unnatural carnal act with a person younger than 14 will be punished to one to ten years in prison. (2) He/she who commits the offence under paragraph 1 of this Article against an infirm person younger than 14 or by the use of force or by directly threatening the life or the body of that person or a person close to it will be punished to at least three years in prison. (3) If, because of the commission of the offence under paragraphs 1 and 2 of this Article, grievous bodily harm has been inflicted upon an underage person or if the offence has been committed by more than one person or in a particularly cruel or a particularly degrading manner or if it resulted in pregnancy or a serious communicable disease, the perpetrator(s) will be punished to at least five years in prison. (4) If the commission of the offence under paragraphs 1 and 2 of this Article resulted in the death of an underage person, the perpetrator(s) will be punished with at least ten year in prison.

- **Seduction (Art. 109)**

(1) He who by false promises of marriage induces an underage female person older than 14 to sexual intercourse will be punished to three months to three years in prison. (2) The offence will be prosecuted on the basis of private suits.

- **Unnatural carnal acts (Art. 110)**

(1) He/she who coerces another person to commit an unnatural carnal act by the use of force or by threatening the life or the body of that person or a person close to it will be punished to at least one year in prison. (2) If, because of the commission of the offence under paragraph 1 of this Article, grievous bodily harm has been inflicted upon the coerced person or if the offence has been committed by more than one person or in a particularly cruel or a particularly degrading manner or if it resulted in a serious communicable disease, the perpetrator(s) will be punished to at least three years in prison. (3) If the offence under paragraph 1 of this Article has been committed against an underage person older than 14 or if the commission or the offence has resulted in the death of the coerced person, the perpetrator(s) will be punished to at least five years in prison. (4) If an unnatural carnal act has been committed against an underage male person older than 14, the perpetrator(s) will be punished to up to one year in prison.

- **Pandering or facilitation of an unnatural carnal act (Art. 111)**

(1) He/she who panders an underage person will be punished to three months to five years in prison. (2) He/she who facilitates the commission of an unnatural carnal act with an underage person will be punished up to three years in prison. (3) He/she who panders a female person or he/she who facilitates the commission of an unnatural carnal act for a price will be punished as provided for by paragraph 2 of this Article.

- **Exploitation of underage persons for pornography (Art. 111a)**

(1) He/she who takes photographic, film or other pictures of an underage person for the purpose of producing pornographic items or the sale, distribution or presentation of such material or induces a underage person to take part in pornographic shows will be punished to one to five years in prison. (2) If the offence under paragraph 1 of the Article has been committed against a person younger than 14, the perpetrator(s) will be punished to at least three years in prison. (3) The items and other material referred to under paragraph 1 of this Article will be seized.

- **Human trafficking (Art. 111b)**

(1) He/she who by threat, deception or by maintaining deception, abuse of power, trust, i.e. dependence or a difficult circumstance of another person recruits, transports, transfers, delivers, sells, buys, brokers in delivery or sale, hides or holds a person with the aim of obtaining a gain, exploiting its work, committing criminal activity, prostitution or begging, using for pornographic purposes, taking body parts for transplantation or to use them in armed conflicts will be punished to one to ten years in prison. (2) If the offence under paragraph 1 of this Article has been committed against more than one person by abduction, in the course of official duty, within a criminal organization, in a particularly cruel or a particularly degrading manner or if a serious injury has occurred, the perpetrator(s) will be punished to at least three years in prison. (3) If the offence under paragraph 1 of this Article has been committed against an underage person or if the aggrieved party dies, the perpetrator(s) will be punished to at least three years in prison. (4) If the offence under paragraph 1 of this Article has been committed against a person younger than 14, the perpetrator(s) will be punished by the sentence provided for the offence even if no force, threat or any other of the said manners of commission has been used.

The criminal legislation sanctions also the common law union with an underage person and provides for the punishment of a person who enters into such union with a person older than 14. It also provides for the punishment of parents, adopters or guardians who allow an underage person (older than 14) to live in common law union with another person or induce it to do so; the punishment will be harsher if the offence has been committed for material gain (Art. 115 of the Criminal Law of the Republic of Serbia). Likewise, incest, i.e. sexual intercourse with a blood relative once removed or with a sibling, belongs in this group of criminal offences (Art. 121 of the Criminal Law of the Republic of Serbia).

The Law on Public Peace and Order of the Republic of Serbia (*Official Journal of the Republic of Serbia*, Nos. 51/92, 53/93, 67/93 and 48/94) provides in its Article 14, paragraph 2, for a sentence of imprisonment of up to 60 days for a person who provides premises to an underage person to engage in prostitution. Article 20 of the same Law provides for a fine of a sentence of imprisonment of up to 30 days for a parent or a guardian of an underage person who commits an offence under Articles 6 to 19 if the offence has been a consequence of his/her failure to exercise due supervision over an underage person even though he/she is in the position to exercise such supervision. The afore-mentioned Articles encompass a number of offences: insulting of, or violence against, another person, inducement to begging and drifting, unlawful sale of alcoholic beverages to underage persons younger than 16, gambling and inducement of underage persons to gambling.

5. The Criminal Law of the Republic of Serbia incriminates also neglect and abuse of an underage person and domestic violence (Arts. 118 and 118a).

- **Neglect and abuse of an underage person (Art. 118)**

(1) The parent, adopter, guardian or another person who by gross neglect of his/her duty of caring and raising neglects an underage person of whom he/ she is duty-bound to take care will be punished to up to three years in prison. (2) The parent, adopter, guardian or another person who mistreats an underage person or forces it to excessive work or a work unbecoming the age of the underage person or to begging or induces it for material gain to commit other actions harmful to its development will be punished to three months to three years in prison.

- **Domestic Violence (Art. 118a)**

(1) He/she who by use of force or serious threat against the life or body hurts or threatens the physical or mental integrity of a family member will be fined or punished up to three years in prison. If in the commission of the offence under paragraph 1 of this Article a weapon, a dangerous implement or a means suitable to inflict a grievous injury or serious harm to health has been used, the perpetrator will be punished to six months to five years in prison. (3) If due to the commission of an offence under paragraphs 1 and 2 of this Article a grievous injury or lasting and serious harm to the health of a family member has been committed or if the offence has been committed against an underage person, the perpetrator(s) will be punished to two to ten years in prison. (4) If due to the commission of an offence under paragraphs 1 and 2 of this Article a family member dies, the perpetrator will be punished to at least ten years in prison.

6. The laws of Serbia and Montenegro do not provide for death penalty and life imprisonment.

7. The Criminal Law of the Republic of Serbia incriminates in its Article 107 coercion into sexual intercourse or unnatural carnal acts by the abuse of power.

(1) He/she who by abuse of power coerces into sexual intercourse or an unnatural carnal act a person in a position of subordination or dependence will be punished to six months to five years in prison. (2) The teacher, educator, guardian, adopter, stepfather or another person who by abuse of power coerces into sexual intercourse or an unnatural carnal act an underage person older than 14 entrusted to him for teaching, education, keeping or caring will be punished to one to ten years in prison. (3) If the offence under paragraph 2 of this Article has been committed against a person younger than 14 and if it resulted in pregnancy or a serious communicable disease, the perpetrator(s) will be punished to at least three years in prison.

9. The Constitutional Charter and the Constitutions of the member-states guarantee freedom of movement in the state union. The free movement of people, goods, services and capital and the banning of the prevention of their free flow among the member-states is provided for by Article 13. Article 37 of the Charter of Human and Minority Rights and Civil Liberties regulates freedom of movement in greater detail, while the regulation of the entry and stay of foreigners in the territory of Serbia and Montenegro is left to the law.

The status of asylum-seekers and refugees in Serbia and Montenegro is regulated by the Law on the Movement and Stay of Foreigners (*Official Gazette of the Socialist Federal Republic of Yugoslavia*, Nos. 56/80, 53/85, 39/89, 26/90 and 53/91 and *Official Gazette of the Federal Republic of Yugoslavia*, No. 68/02). The children of foreigners who have had the refugee status recognized enjoy all the rights granted to their parents who have had that status recognized. The regulation of the member-states relative to the refugees from the territory of the former Socialist Federal Republic of Yugoslavia provide for the right to humanitarian aid and education assistance to children and for cooperation with the United Nations and other international organizations.

The Law on Refugees of the Republic of Serbia (*Official Journal of the Republic of Serbia*, No. 18/92) provides for the resources to meet the basic needs and for social insurance to Serbs and members of other ethnic communities, forced to leave their homes because of the pressure of the Croatian authorities and the authorities in other Republics, threat of genocide or persecution on the national, religious or political basis and flee to the territory of the Republic of Serbia. Such refugees, including children refugees, have the right to temporary accommodation, special food aid, comprehensive health protection and material and other assistance. Internally displaced persons in Serbia are citizens of Serbia and, as such, enjoy the same social benefits and legal protection as all other citizens of the Republic.

11. In 2004, the Government of the Republic of Serbia adopted the National Plan of Action for Children, devising general policy for children until 2015. Considering that it has been established that the protection of children from abuse and neglect within the justice system in Serbia and Montenegro is

insufficient, the creation of a comprehensive system of the protection of children from abuse and neglect, aimed at ensuring protection of children in accordance with the principles of the Convention on the Rights of the Child and at respecting the principle of the child as paramount, has been established as a strategic goal. To that end, it is necessary to achieve the four specific objectives:

- a) Increase the awareness and knowledge of experts and laymen, as well as of children themselves, of the questions relative to the rights of children to protection against all forms of abuse, neglect, exploitation and violence;
- b) Develop an efficient and operative inter-sectoral network for protection of children against abuse, neglect, exploitation and violence;
- c) Harmonize the legal framework for protection of children with the Convention on the Rights of the Child, Child-Friendly World and other international documents relative to the protection of children against abuse, neglect, exploitation and violence; and
- d) Devise and adopt a comprehensive national strategy for the protection of children against all forms of abuse, neglect, exploitation and violence.

Judicial control of enforcement measures against children

13. Under Art. 501 of the Law on Criminal Procedure (*Official Gazette of the Federal Republic of Yugoslavia*, Nos. 70/01 and 68/02), the management of the institution in which a re-education measure against an underage person is applied is duty-bound to submit to the court which imposed the re-education measure a report on the conduct of the underage person every six months. The juvenile court judge himself/herself may visit underage persons placed in the institution. Through the guardian agency, the judge may obtain information on the enforcement of other re-education measures and/or order that it be obtained by an expert (social worker, special education teacher and others) if his/her services are available to the court.

Consensual sex

14. The Criminal Law of the Republic of Serbia incriminates sexual intercourse with a person younger than 14 even in the case of the consent of the underage person (Art. 106). However, the criminal offence of unnatural carnal act incriminates a consensual sexual intercourse between men if one of them is an underage person older than 14 (Art. 110, para. 4). Consequently, different ages are provided for consensual sex: 14 years for a heterosexual person and 18 years for a homosexual male person.

15. Under the Law on Marriage and Family of the Republic of Serbia, marriage may be contracted upon turning 18 or 16 with the permission of the court. If the court allows an underage person older than 16 to contract marriage, the person acquires full business capacity which he/she cannot lose in case of dissolution of marriage (Art. 49).

Sexual exploitation of children

16. The protection of children against sexual exploitation is provided by the sanctioning of these activities in the criminal legislation.

Pornography and harmful information

17. There is no evidence of websites being placed on the Internet in Serbia and Montenegro with the aim of promoting human trafficking or exploiting children sexually.

18. The sale, showing or making available by public presentation or in another way of an act, picture, a video or another item of pornographic content or a staging of a pornographic show to a person younger than 14 will be punished under the provisions of Article 252 of the Basic Criminal Law (*Official Gazette of the Socialist Federal Republic of Yugoslavia*, Nos. 44/76, 36/77, 34/84, 37/84, 74/87, 57/89,

3/90, 38/90, 45/90 and 54/90, *Official Gazette of the Federal Republic of Yugoslavia*, Nos. 35/92, 16/93, 37/93, 24/94 and 61/01 and *Official Journal of the Republic of Serbia*, No. 39/03).

Obligation to report cases of violence against children

19. The Law on Marriage and Family provides for the duty of State agencies and institutions and of citizens to report to guardian agencies the cases in which an underage person is at risk (Arts. 132 and 133). However, rather than a direct legal sanction, the duty is a moral obligation of citizens, while agencies and institutions, i.e. professionals working in them, are duty-bound to report such cases by the rules of service and professional ethics. The institutions responsible to deal with the abuse of children are health institutions, schools, police, public prosecutor and the court, as well as specialized services dealing with the problem of domestic violence, such as the Helpline Telephone and others. Within the scope of their professional activity, centres for social services, as services of social protection, are duty-bound to develop a network of relevant institutions, services and individuals working with children that may be sources of information relative to cases of abuse.

At present no proper records are being kept on the incidence of neglect and abuse of children, so that the exact number of cases is unavailable.

Measures, fully aligned with the Convention on the Rights of the Child, aimed at promoting positive and non-violent forms of discipline, care and treatment of the child have been included in the programme of training for educators in institutions for children deprived of parental care. Children placed in the institutions were also included in the programme, and relevant Articles of the Convention were discussed at separate workshops within the programme dealt in a manner befitting the interests and needs of the children. After a certain period of time and as a result of the support the children had been given by the programme, a number of cases of child abuse in the institutions by their employees were reported. The cases were investigated and the trespassers have been dealt with accordingly, while the abused children received treatment in specialized institutions.

Judicial proceedings

20. The protection through the reporting of criminal offences, institution of judicial proceedings and the punishment of perpetrators is regulated by the Code of Criminal Procedure.

Under Article 46 of the Code, the basic right and the basic duty of the State prosecutor is to prosecute the perpetrators of criminal offences. A request or a private suit on behalf of an underage person, deprived of business capacity, is filed by his/her legal representative (Art. 55). An underage person older than 16 may file a request or a private suit by himself/herself. Likewise, if the aggrieved party is an underage person or a person deprived of business capacity, his/her legal representative is authorized to make statements and take all actions to which the aggrieved party is entitled by the Code. An aggrieved party older than 16 is entitled to make statements and take actions in a proceedings himself/herself (Art. 65, para. 2).

23. The Code of Criminal Procedure provides for the obligation of particularly careful and considerate treatment in taking statements from a child, i.e. an underage person, aggrieved by a criminal offence so as to avoid harmful effects on its mental condition. If necessary, the taking of statements from an underage person will be carried out with the help of a pedagogue or another professional person (Art. 102, para. 4). The guardian agency is authorized to take part in the legal proceedings whenever it finds that it is justified by the interests of the child, a party in the proceedings. As a participant in a proceedings, the guardian agency is entitled to submit proposals for the protection of the rights and interests of the child, particularly in situations of suspected abuse, to present facts that the parties failed to present etc. The court is duty-bound to summon the guardian agencies to all hearings and to send them all decisions.

24. Criminal offences against the dignity of person relative to the abuse of children are punished to three months to ten years in prison.

25. Under the provisions of the Basic Criminal Law, no criminal sanctions can be imposed on a child that, at the time of the commission of a criminal offence, was younger than 14. A child older than 14 and younger than 16 at the time of the commission of a criminal offence may be imposed only a re-education measure, while the child older than 16 and younger than 18 may be imposed a re-education measure and only exceptionally a sentence of imprisonment (in the case of a criminal offence which carries a punishment harsher than 5 years in prison where the imposition of a re-education measure would be too light a sentence in view of the severe consequences of the offence and the high level of criminal responsibility). The Law provides for three types of re-education measures: disciplinary measures (reprimand and placement in a juvenile disciplinary centre), measures of increased supervision (increased supervision by parents or guardians, in foster families and in institutions of guardian agencies) and institution measures (placement in re-education, juvenile-offender or special institutions). The placement in a re-education institution implies putting under public supervision and may last at least 6 months and at most 5 years. The institution provides schooling, contacts with parents and occasional furloughs and is under the special control of the court. The Law also provides for the conditions for imposition each of those measures, as well as the possibility for the court to suspend the execution of a re-education measure or to replace it with another more appropriate measure (Arts. 72-75).

II. INSTITUTIONAL FRAMEWORK AND MEANS RELATIVE TO VIOLENCE AGAINST CHILDREN

26. The Ministry for Human and Minority Rights of Serbia and Montenegro monitors the implementation of the Convention on the Rights of the Child, including protection of children in special circumstances.

At the initiative of the Organization for Security and Cooperation in Europe, a Yugoslav Team to combat human trafficking, consisting of representatives of relevant government institutions and non-governmental and international organizations, was established in May 2001 and assigned the task of developing a mechanism for suppressing human trafficking. In March 2002, the Team was re-structured into two National Teams, one for Serbia and one for Montenegro. The target groups of the National Teams are most often women and children, victims of the criminal offence of human trafficking. To combat trafficking in children and to protect children, victims of human trafficking, a Working Group to combat trafficking in children has been set up within the Team to combat human trafficking of the Republic of Serbia, composed of representatives of relevant government, non-governmental and international organizations dealing with the protection of children¹.

Below is the list of the State agencies and other institutions of the Republic of Serbia and/or the state union of Serbia and Montenegro, the representatives of which make up the Team to Combat Human Trafficking of the Republic of Serbia, the national coordinator of the struggle against human trafficking.

1. Supreme Court of Serbia
2. Office of the Public Prosecutor of the Republic of Serbia
3. Ministry of Justice of the Republic of Serbia
4. Ministry of Labour of the Republic of Serbia
5. Ministry of Foreign Affairs of Serbia and Montenegro
6. Ministry of Finance of the Republic of Serbia
7. Ministry of Internal Affairs of the Republic of Serbia
 - Special police teams

¹ In addition, three other Groups have also been established: Working Group for Prevention and Education; Working Group for Assistance and Protection of Victims; and the Working Group for Law Enforcement Officials.

- Border Police, Foreigners and Administrative Affairs Department
- Organized Crime Department
- Criminal Police Department
- Police Department
- Traffic Police Department
- (Special police teams within police departments)
- 8. Ministry of Health of the Republic of Serbia
- 9. Ministry of Social Affairs of the Republic of Serbia
- 10. NGO Astra
 - Centre for Counselling and Coordination of the Protection of Victims of Human Trafficking
- 11. Domestic Violence Counselling Centre
- 12. NGO Victimological Society of Serbia
- 13. NGO Beosupport
- 14. IOM
- 15. OSCE
- 16. Working Group to Combat Trafficking in Children
- 17. Working Group for Prevention and Education
- 18. Working Group for Assistance and Protection of Victims
- 19. Working Group for Law Enforcement Officials

The Government of the Republic of Serbia established the Council for the Rights of the Child in 2002, comprising prominent pedagogues and other professionals. The Council plays a very important role in proposing Government measures for child protection, particularly the protection of children against neglect and abuse.

27. Within the process of the reform of the system of social protection, the Ministry of Social Affairs of the Republic of Serbia prepared the Project of the Development of Procedures in Child Abuse Situations, providing for comprehensive protection of children against neglect and abuse. The Project further provides for devising external and internal proceedings protocols, establishing and formalizing procedures in cases of suspected or ascertained abuse of children in the home, in foster families or institutions of social protection and for educating social workers and creating databases.

III. ROLE OF THE CIVIL SOCIETY IN THE PROTECTION OF CHILDREN AGAINST VIOLENCE

35. Non-governmental organizations actively cooperate with government institutions in providing assistance to children victims of violence. With its work and programmes of children representation, promotion of child protection legislation, children's rights and as a sponsor of important projects in the transformation of the system of protection of juvenile delinquents, institutions of social protection, the judiciary and other institutions, the Centre for the Rights of the Child has been the hub of these activities. The Centre is also engaged in publishing activities and has issued the Child Abuse Protection Handbook used widely in centres for social services and by professionals.

"Save the Children" has been active in promoting the work of multi-professional teams in local communities in 8 towns and cities in Serbia. Similarly, "Trust Network" gathers together most active NGOs, particularly those within the women's rights groups, and representatives of health institutions and services, police and social services. The cooperation has yielded significant results, in contrast, in particular, to the previous decade and made possible more effective use of resources, such as shelters for women with children, Helpline Telephones etc.

Important steps have been taken in Serbia in recent years to suppress human trafficking. In cooperation between the Serbian non-governmental organization "Shelter for Women and Children Victims of Domestic Violence" and IOM, an open shelter for women victims of human trafficking, called "Safe House", was opened in Belgrade in February 2002.

36. In the last 6-7 years, there has been a number of projects of increasing the awareness of, and training professional workers for dealing with, neglect and abuse of children. The most important among the projects have been "Assistance to Children and Families in Crisis" and the training of 500 professionals, mainly educators and health workers (1997); training of 400 professionals working within relevant systems, "Protection of the Rights of Abused and Neglected Children" for employees of agencies responsible for protection of children (social protection, health, education, the judiciary, police, the media, non-governmental organizations and agencies) (1999); "Development of a Social Network and Models for Protection of Children against Abuse" (2000); "Development of a Network of Inter-Departmental Teams for Protection of Children against Neglect and Abuse", within which a network of inter-departmental teams was established in 6 municipalities in Serbia (1999-2000); and the "Development of "Inter-Departmental Education of Professionals Dealing with Abuse and Neglect of Children" which accounted for the publication of the handbook "From Group to Team (2002). Particularly important was the establishment of Specialized Teams for Protection of Children against Abuse in the Mother and Child Institute and the Institute for Mental Health in Belgrade. The Teams provide specialized medical, psychiatric and forensic assistance in cases of child neglect and abuse. Also, a number of conferences and seminars have been held: Conference on the Protection of Children against Neglect and Abuse (1998); Seminar on Protection of Children against Neglect and Abuse of Children Place in Institutions (2002) and the Conference on Protection of Children and New Approaches to Protection against Abuse (2003).

37. In recent years a campaign is being organized each 19 November, World Child Abuse Prevention Day, in towns and cities in Serbia (particularly those with inter-departmental networks for the protection of neglected and abused children), with wide publicity in the media, distribution of promotion material, organization of theme round table conferences, panel discussions, expert meetings etc.

V. PROGRAMMES OF CHILD PROTECTION AGAINST VIOLENCE

41. The National Plan to Combat Human Trafficking has been adopted and special police teams to combat human trafficking have been set up within the Ministry of Internal Affairs of the Republic of Serbia and its relevant Police Departments.

44. Within regional police cooperation, the Ministry of Internal Affairs of the Republic of Serbia conducted Operation "Mirage" between 7 and 16 September 2002, aimed at suppressing smuggling and trafficking in women and children and their coercion to prostitution and other illicit activities.

The Mobile Team of the relevant national mechanism of Serbia was set up in October 2002 and assigned the task of taking complete protection of the victims of human trafficking. The Team is composed of representatives of the Ministry of Social Affairs of the Republic of Serbia and the Astra and Domestic Violence Counselling Centre non-governmental organizations. The targeted groups of the Mobile Team are children-foreign nationals, victims of human trafficking, smuggled to Serbia for sexual exploitation, children-Serbian and Montenegrin nationals, trafficked within Serbia for exploitation purpose (largely begging) and children-Serbian and Montenegrin nationals, smuggled to the European Union for sexual exploitation or other forms of exploitation.

VI. COLLECTION OF DATA, ANALYSIS AND RESEARCH

45. Awareness-raising and information campaigns are part of the systematic efforts, launched in the late 1990s, to develop a child protection system, based on the Convention on the Rights of the Child. The research project "Prevention, Early Identification and the Protection of Children against Violence" (1997) was the first study to provide a comprehensive insight in the scope, type, causes and consequences of child abuse. Its results were published in the monograph "Violence against Children" (1998). The Inter-Departmental Working Group on Child Abuse and Neglect gathered together a number of non-governmental organizations and competent government agencies to help develop a child abuse and neglect protection system. The then Ministry for Family Care included the questions relative to child abuse and neglect among its priorities and these questions were subsequently taken over as

priority issues also by the Ministry of Social Affairs. The Working Group established contacts with a number of international associations, such as the British Association for Study and Prevention of Child Abuse and Neglect (BASCPAN), International Society for Prevention of Child Abuse and Neglect (ISCPAN) and others.

VII. RAISING OF AWARENESS AND THE TRAINING OF PERSONNEL

56. In March 2000, the Ministry for Social Affairs of the Republic of Serbia launched, in cooperation with the Institute for Mental Health, the Centre for the Rights of the Child non-governmental organization and Belgrade centres for social services, a pilot project for protection of children against abuse and neglect. The project implied systematic training of the personnel of centres for social services, raising of the awareness, creation of a network of relevant institutions and child protection experts (health workers, teachers, police officers, judges, representatives of the civil sector). In March 2000, the Institute for Mental Health put together a child protection team.

In the second half of 2001, various projects were started in the field of human trafficking:

- a) Guidelines for the National Human Trafficking Mechanism, devised by the OSCE Mission in Serbia and Montenegro;
- b) New draft laws on trafficking in human beings;
- c) Project of regional cooperation with groups dealing with violence against women and children;
- d) OSCE project for the strengthening of cooperation between police and non-governmental organizations in order to develop victims protection mechanisms;
- e) Training, exchange and cooperation project to address human trafficking problems in Southeastern Europe in cooperation with IOM; and
- f) Development of a regional centre for collecting information for National Victim Assistance and Protection Networks.