



**Convention on the  
Rights of the Child**

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**COMMITTEE ON THE RIGHTS OF THE CHILD**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 44 OF THE CONVENTION**

**Initial report of States parties due in 2003**

**SERBIA**

[30 May 2007]

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## **Introduction**

1. The Republic of Serbia is the legal successor of the State Union of Serbia and Montenegro (SCG). This report relates to the implementation of the Convention on the Rights of the Child in the period 1992-2005 and for that reason, the regulations and practice in the period of the Federal Republic of Yugoslavia (FRY) and SCG will be analysed as well.
2. The Republic of Serbia/SCG/FRY is a party to the Convention on the Rights of the Child ("Official Gazette of the SFRY - International Treaties", No. 15/90 and "Official Gazette of the FRY", Nos. 4/96 and 2/97), the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography ("Official Gazette of the FRY - International Treaties", No. 22/02) and the Optional Protocol on Involvement of Children in Armed Conflicts ("Official Gazette of the FRY - International Treaties", No. 22/02).
3. By ratifying the Convention on the Rights of the Child, the Republic of Serbia/SCG/FRY has undertaken the obligation, in accordance with article 44 of the Convention, of submitting to the Committee on the Rights of the Child reports on the measures adopted which give effect to the rights recognized therein and on the progress made on the enjoyment of the rights of the child. Thus, an initial report on the implementation of the Convention on the Rights of the Child for the period 1992-2005 has been prepared.
4. The present report contains an analysis of the legal system of the Republic of Serbia, the State Union of SCG and the Federal Republic of Yugoslavia in the area of protecting the rights of children, of satisfying a wide range of their current and developmental needs, and the implementation of the principles of the Convention on the Rights of the Child. The report contains information which will provide insight to the Committee on the implementation of the Convention in the mentioned period and the factors and difficulties affecting the degree of realization of the obligations under the Convention.
5. Competent government authorities were involved in the preparation of this report, using also data of the United Nations Children's Fund (UNICEF) Belgrade Office and information provided by national non-governmental organizations (NGOs), primarily the Child Rights Centre - Belgrade and the Child Care Centre.
6. For the purposes of this report, and in order to make the text easier to follow, all three names of the country, i.e. the Republic of Serbia/SCG/FRY, will be used in the report.
7. The Republic of Serbia, pursuant to article 44, paragraph 6, of the Convention, will make this report available to the public in our country.

## **I. GENERAL MEASURES OF IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD**

### **Normative bases**

- International Covenant on Civil and Political Rights ("Official Gazette of the SFRY - International Treaties", No. 7/71)

- Optional Protocol to the International Covenant on Civil and Political Rights (“Official Gazette of the FRY - International Treaties”, No. 4/01)
- Second Optional Protocol to the International Covenant on Civil and Political Rights Aiming at Abolition of the Death Penalty (“Official Gazette of the FRY - International Treaties”, No. 4/01)
- International Covenant on Economic, Social and Cultural Rights (“Official Gazette of the SFRY - International Treaties”, No. 7/71)
- International Convention on the Abolition of All Forms of Racial Discrimination (“Official Gazette of the SFRY - International Treaties”, No. 6/67)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (“Official Gazette of the SFRY - International Treaties”, No. 9/91)
- Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (“Official Gazette of the SCG - International Treaties”, Nos. 16/05 and 2/06)
- Convention on the Rights of the Child (“Official Gazette of the SFRY - International Treaties”, No. 15/90)
- Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography to the Convention on the Rights of the Child (“Official Gazette of the FRY - International Treaties”, No. 22/02)
- Optional Protocol on Involvement of Children in Armed Conflicts to the Convention on the Rights of the Child (“Official Gazette of the SFRY - International Treaties”, No. 22/02)
- Convention on the Elimination of All Forms of Discrimination Against Women (“Official Gazette of the SFRY - International Treaties”, No. 11/81)
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (“Official Gazette of the FRY - International Treaties”, No. 66/02)
- European Convention on the Protection of Human Rights and Fundamental Freedoms and Protocols 11, 4, 6, 7, 12, 13 (“Official Gazette of the SCG - International Treaties”, No. 9/03)
- Protocol No. 14 to the European Convention on the Protection of Human Rights and Fundamental Freedoms (“Official Gazette of the SCG - International Treaties”, No. 5/05)
- United Nations Convention Against Transnational Organized Crime (“Official Gazette of the FRY - International Treaties”, No. 6/01)

- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (“Official Gazette of the FRY - International Treaties”, No. 6/01)
- Protocol Against the Smuggling of Migrants by Land, Sea and Air (“Official Gazette of the FRY - International Treaties”, No. 6/01)
- Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition to the Convention against Transnational Organized Crime (“Official Gazette of the FRY - International Treaties”, No. 11/05)
- Framework Convention for the Protection of National Minorities (“Official Gazette of the FRY - International Treaties”, No. 9/02)
- Convention on Maternity Protection (“Official Gazette of the FPRY - Appendix”, No. 9/55)
- Convention on Enforcement of Alimony Claims Abroad (“Official Gazette of the SFRY - Appendix”, No. 2/60)
- Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (“Official Gazette of the SFRY - International Treaties”, No. 13/64)
- Convention on Civil Law Aspects of International Abductions of Children (“Official Gazette of the SFRY - International Treaties”, No. 7/91)
- ILO Convention No. 182 on the Worst Forms of Child Labour and ILO Recommendation No. 190 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (“Official Gazette of the SFRY - International Treaties”, No. 8/03)
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (“Official Gazette of the SFRY - International Treaties”, No. 2/00)
- European Convention on the Recognition and Enforcement of Decisions on Custody of Children and Reestablishment of Custody Relations (“Official Gazette of the SFRY - International Treaties”, No. 8/01)
- Rome Statute of the International Criminal Court (“Official Gazette of the SCG - International Treaties”, No. 5/01)
- United Nations Convention against Corruption (“Official Gazette of the SCG - International Treaties”, No. 12/05)
- WHO Framework Convention on Tobacco Control, with annexes (“Official Gazette of the SCG - International Treaties”, No. 16/05)

- European Charter for Regional or Minority Languages (ETS No. 148) (“Official Gazette of the SCG - International Treaties”, No. 18/05)
- Agreement on Promoting Cooperation in the Area of University Education within the Central European Exchange Programme for University Studies (CEEPUS II), (“Official Gazette of the SCG - International Treaties”, No. 3/05)

**A. Rights of the child in the highest legal documents of the Republic of Serbia/SCG/FRY**

**Constitution of the FRY (“Official Gazette of the FRY”, No. 1/92, repealed in 2003)**

8. According to the Constitution of the FRY, the family and mother and child enjoy special protection. The children born out of wedlock have the same rights and duties as the children born in wedlock (art. 61). Education is available to everyone, under equal terms, and elementary education is compulsory, in accordance with the law, and no tuition fee is paid for it (art. 62).

**Charter on Human and Minority Rights and Civil Liberties (“Official Gazette of the SCG”, No. 6/03, repealed in 2006)**

9. Pursuant to the Charter, human and minority rights are guaranteed by generally accepted rules of international law as well as by international treaties in force in the State Union (art. 7).

10. Article 25, paragraph 2, of the Charter determines that the children born out of wedlock have equal rights as the children born in wedlock, and in article 36 it determines that the age of majority is attained at the age of 18 years.

11. The Charter also guarantees special protection of the family, mother and child. Pursuant to article 39, the family, mother and child enjoy special protection of the society and State parties. Also, the mother’s right to have support and protection of the State parties in the period prescribed by law before and after the childbirth is guaranteed.

12. The right to education is guaranteed by the provisions of article 43 of the Charter. Elementary education is compulsory and the State parties are obliged to provide it. Establishment of schools and universities is regulated by the laws of the State parties.

**Constitution of the Republic of Serbia (“Official Gazette of the RS”, No. 1/90, repealed in 2006)**

13. In accordance with the provisions of article 27 of the Constitution, it is a human right to freely decide on having children. The mother and child have special protection, and special protection is also provided to juveniles without parental care, as well as to persons incapable of taking care of themselves and their rights and interests (art. 28).

14. Furthermore, according to the provisions of article 29, the family has special protection. Marriage and marital and family relations are governed by law. Parents have the right and duty to take care of their children’s upbringing and education, while children are obliged to take care of their parents who need help. Children born out of wedlock have the same rights and obligations as the children born in wedlock.



15. The Constitution determines that everyone has the right to health care. Children, pregnant women and old persons have the right to health care from public revenue when they cannot realize that right on other grounds, while other persons have that right under the conditions determined by law (art. 30).

## **B. Institutional protection of the rights of the child**

### **Council for the Rights of the Child of the Government of the Republic of Serbia**

16. In May 2002, the Government formed the Council for the Rights of the Child consisting of the representatives of competent government authorities and representatives of the non-governmental sector.

17. In 2004, the Council for the Rights of the Child prepared a National Action Plan (NAP) in which the country's general policy towards children for the period until 2015 was defined.

18. On the basis of the goals in protecting the rights of the child defined in international documents on child protection to which the Republic of Serbia/SCG/FRY is a party, as well as on the basis of the estimates made by the Council for the Rights of the Child, priorities were defined that determined the NAP structure. These priorities are child poverty reduction, high-quality education for all children, better health for all children, improvement of the status and rights of disabled children, protection of the rights of children without parental care, protection of children against abuse, neglect, exploitation and violence, and strengthening the country's capacity for resolving children's problems.

19. For the purpose of ensuring NAP implementation, the Council for the Rights of the Child took the following measures:

- In the NAP preparation, it proceeded from the programmes defined by certain government authorities or institutions because of their competencies, which were already undertaking these programmes. This solved the problem of basic programme financing. For particular items in the Poverty Reduction Strategy, for example, appropriate funds were also allocated in the budget of the Republic of Serbia;
- The NAP was adopted after a wide consultation process involving all important partners that would also be involved in its realization, thereby mobilizing from the very beginning those who would be the main actors in the process of NAP realization;
- Some NAP items were developed in the form of fairly thought-out, clear and feasible projects for which financing could be sought afterwards (from domestic and foreign donors, public and private sector, local government authorities);
- The NAP was developed concretely in the form of actions (activities) to be undertaken and, whenever possible, in the form of operational and quantified indicators, and indicators of goals that should be reached upon the NAP completion;

- A time frame was defined for the realization of each specific NAP goal and the main actors identified. Also, mechanisms for monitoring and evaluating the NAP implementation process and realization effects were included;
- Three local action plans were developed for the city of Kragujevac and the Pirot and Sjenica municipalities, and an initiative was launched to prepare local action plans for all municipalities in the Republic of Serbia;
- A General Protocol for the Protection of Children against Abuse and Neglect was prepared, which provides for intersector cooperation to ensure better protection of children in all phases, from the detection of abuse or neglect to taking care of children and their recovery.

20. The basic guarantee for the NAP realization is the introduction of a system of monitoring of the implementation process and the results achieved in that implementation. Monitoring and evaluation are conducted in two manners:

- By trying to define the main part of the NAP in the form of a system of operationalized indicators, i.e. concrete actions being planned and, whenever possible, in the form of quantified indicators that should be realized in a specific time period;
- By developing a computerized information system (ChildInfo), which is used in many countries and will be adapted to the specific needs in our country. This information system is being developed in cooperation with UNICEF and the Republic Statistical Office, and is operationally maintained by the line ministries and the Council for the Rights of the Child;
- Data collection through the Devinfo database started in 2004. In October 2005, when the latest database was issued, the Poverty Reduction Strategy was also added into the local set of indicators (which included the National Action Plan for Children), so the base contains 396 indicators, while data exist for 312 indicators.

## Courts

21. As of 1 July 2006, specialized judges or specialized panels conduct proceedings concerning family relations. With regard to judges and lay-judges acting in cases regarding family relations, according to article 203 of the Law on Family Relations ("Official Gazette of the RS", No. 18/05) a special training is provided on the rights of the child for professional judges, while in case of lay-judges the law provides that they should be selected among expert persons who possess experience working with children. The implementation of this programme of specialized trainings for judges conducting proceedings on family relations is organized by the Judicial Centre for Training and Advanced Training (Regulation on the Programme and Manner of Acquiring Special Knowledge in the Area of the Rights of the Child by Judges Conducting the Proceedings Concerning Family Relations - article 10, "Official Gazette of the RS", No. 44/06).

22. As of 1 January 2006, by the entry into force of the Law on Juvenile Delinquents and Penal Law Protection of Juveniles ("Official Gazette of the RS", No. 85/05), first instance proceedings against juvenile delinquents (Law on Juveniles) are conducted before a district court juvenile judge and juvenile panel, while second instance proceedings are within the competence of the juvenile panel of the immediately higher court (currently, it is the juvenile panel of the Supreme Court of Serbia, until the moment the court of appeals becomes operational). Juvenile judges and judges on juvenile panels must be persons who have acquired specialized knowledge in the area of the rights of the child and juvenile delinquency. Specialization has also been set as a requirement for juvenile prosecutors, juvenile defence attorneys and police representatives.

23. The Law on Juveniles, in part III, contains special provisions on the protection of juveniles as injured parties in criminal proceedings. These special provisions also relate to the necessity for all actors in the criminal proceedings to acquire specialized knowledge in the area of the rights of the child and penal law protection of juveniles. When adult perpetrators are tried for 27 itemized criminal offences, if the injured party in the criminal proceedings is a juvenile, these actors are: the president of the panel, the public prosecutor, the investigative judge, the representatives of the Ministry of the Interior, and the injured party's attorney (arts 150, 151 and 154).

24. Acquisition of specialized knowledge and advanced training are a concern of the Judicial Centre for Training and Advanced Training, in cooperation with line ministries, scientific institutions, expert and professional associations and NGOs. The Judicial Centre issues appropriate certificates of performed knowledge tests and advanced training (art. 166).

### **Provincial Ombudsman**

25. A Provincial Ombudsman has been established as an independent and autonomous authority ("Official Gazette of the AP of Vojvodina", Nos. 23/02, 5/04 and 16/05) which takes care of the protection and promotion of human rights and liberties of each person guaranteed by the Constitutional Charter, Constitution, ratified and published international treaties on human rights, the generally accepted rules of international law and regulations of the Autonomous Province (AP) of Vojvodina.

26. In particular, the Ombudsman protects human rights against violations committed by provincial and municipal administrations, organizations and public services exercising administrative and public authority emanating from the province or a municipality. Moreover, The Ombudsman supervises the implementation of regulations, verifies the legality, suitability and efficiency of administrative agencies' actions and may investigate the work of administrative agencies for the purpose of protecting human rights.

27. The head office of the Provincial Ombudsman is in Novi Sad, and its local offices are in Subotica and Pančevo, although they may be established in other places in the territory of the AP of Vojvodina as well.

28. The Ombudsman has five deputies, one of whom is elected for each of the following areas: national minority rights, rights of the child and gender equality.

29. Pursuant to article 13 of the Decision on the Provincial Ombudsman, the Ombudsman is authorized to perform the following activities:

- Monitor the implementation of international standards in the area of human rights;
- Collect information about the implementation of laws and other regulations in the area of human rights;
- Prepare the annual report on the realization of human rights;
- Receive and examine complaints relating to violation of human rights;
- Mediate an amicable resolution of disputes relating to human rights violations;
- Initiate criminal, disciplinary and other procedures before competent authorities in case of human rights violations;
- Organize and participate in the organization and preparations of conferences on the realization and observance of human rights;
- Organize and participate in organization and preparations of campaigns to inform the public about issues significant for the realization and observance of human rights;
- Initiate and encourage training about human rights in all spheres of life;
- Cooperate and exchange experience with other ombudsmen in the country and abroad;
- In exceptional cases, perform the duties of Deputy Ombudsman from this decision as needed;
- Perform other activities in accordance with the law and the Assembly regulations.

30. Once a year, not later than by the end of November, the Ombudsman submits to the Assembly a report on his/her activities, and the status of human rights and legal security in the Province. The report includes in particular the number and nature of complaints, a general assessment of the work of administrative agencies from the aspect of regulation implementation, observed shortcomings and recommendations for their elimination, as well as criticism and commendations to particular administrative agencies and officials.

31. The report is required to contain sections about the situation in the area of national minority rights, rights of the child and gender equality, prepared by competent deputy ombudsmen. The report may also contain an initiative to amend or adopt particular regulations for the purpose of eliminating shortcomings and for a more efficient work of administrative agencies. The report is published in the “Official Gazette of the Autonomous Province of Vojvodina” and in the media.

32. Moreover, the Ombudsman may submit a special report to the Assembly if he/she deems it necessary due to particularly important reasons or if the Assembly requests such a report from him/her. At the Ombudsman's request, the Assembly will put such report on the agenda and discuss it. The special report is also published in the "Official Gazette of the Autonomous Province of Vojvodina" and in the media. There are children's ombudsmen in several municipalities in the Republic of Serbia.

### **Ombudsman**

33. In 2005, the Republic of Serbia passed the Law on Ombudsman ("Official Gazette of the RS", No. 79/05) by which the Ombudsman is established as an independent government authority that protects the rights of citizens and supervises the work of government authorities, the authority competent for legal protection of property rights and interests of the Republic of Serbia, as well as of other authorities and organizations, enterprises and institutions entrusted with public authority. The Ombudsman takes care of the protection and promotion of human liberties and rights (art. 1).

34. The Ombudsman is independent and autonomous in performing the activities determined by the Law and no one has the right to influence his/her work and actions. In performing the activities within his/her competence, The Ombudsman acts in accordance with the Constitution, laws and other regulations and general by-laws, as well as the ratified international treaties and generally accepted rules of international law (art. 2).

35. The Ombudsman is authorized to supervise the observance of the rights of citizens, to determine violations committed by administrative agencies' documents, actions or failure to act, if violations of the laws, other regulations and general by-laws of the Republic are involved. Also, he/she is authorized to supervise the legality and regularity of the work of administrative agencies, but is not authorized to supervise the work of the National Assembly, President of the Republic, Government, Constitutional Court, courts and public prosecutors' offices (art. 17).

36. The Ombudsman is authorized to submit to the Government or to the National Assembly an initiative to amend laws and other regulations and general by-laws, if he/she deems that violations of the rights of citizens occur due to deficiencies in the regulations, as well as to initiate the passing of new laws, other regulations and general by-laws, when he/she deems it significant for the realization and protection of citizens' rights. The Government or the competent committee of the National Assembly are obliged to consider the initiatives submitted by the Ombudsman. In the process of preparing regulations, the Ombudsman is also authorized to give his/her opinion to the Government and to the National Assembly on draft laws and other regulations, if they govern the issues of significance for the protection of citizens' rights (art. 18).

37. The Ombudsman is authorized to initiate proceedings before the Constitutional Court for the assessment of legality and constitutionality of laws, other regulations and general by-laws which govern issues related to the liberties and rights of citizens (art. 19).

38. Administrative agencies are obliged to cooperate with the Ombudsman and to provide him/her with access to their premises and to place at his/her disposal all the data available to

them, which are of significance for the procedure he/she conducts or for the realization of the goal of his/her preventive activity, regardless of the degree of their confidentiality, except when it is contrary to the law (art. 21, para. 1).

39. The Ombudsman has the right of free access to correctional institutions and other places where persons deprived of liberty are held, as well as the right to speak in private with those persons (art. 22).

40. The President of the Republic, the Prime Minister and members of the Government, the Speaker of the National Assembly, the President of the Constitutional Court and officials in administrative agencies are obliged to receive the Ombudsman at his/her request not later than within 15 days (art. 23).

41. The Ombudsman submits regular annual reports to the National Assembly, which contain data on the activities in the previous year, information on observed deficiencies in the work of administrative agencies, as well as proposals for improvement of the status of citizens in relation to administrative agencies (art. 33).

### **C. Promotion and dissemination of the Convention on the Rights of the Child**

42. The complex political situation in the country in the past 10 years has contributed to difficulties in the realization of the Convention on the Rights of the Child. Nevertheless, some NGOs, and particularly the Child Rights Centre - Belgrade and the Friends of the Children of Serbia, have launched numerous initiatives such as, for example, the initiative to introduce the Children's Ombudsman institution, the campaign for integrating the rights of the child in the national legislation, "Rights of the Child and Health" project, the project for enrolment of the children of internally displaced persons from the territory of the AP of Kosovo and Metohija in schools in the Republic of Serbia, and the project for the prevention of child abuse for political purposes, and similar.

## **II. DEFINITION OF THE CHILD (art. 1)**

### **Normative bases**

- Constitution of the FRY ("Official Gazette of the FRY", No. 1/92)
- Constitutional Charter of the State Union of Serbia and Montenegro ("Official Gazette of SCG", No. 1/03)
- Charter on Human and Minority Rights and Civil Liberties ("Official Gazette of SCG", No. 6/03)
- Constitution of the Republic of Serbia ("Official Gazette of the RS", No. 1/1990, repealed)
- Law on Yugoslav Citizenship ("Official Gazette of the FRY", Nos. 33/96 and 9/2001, repealed)
- Law on Basic Labour Relations ("Official Gazette of the FRY", No. 29/96, repealed)

- Labour Law (“Official Gazette of the RS”, Nos. 70/01 and 73/01, repealed)
- Labour Law (“Official Gazette of the RS”, Nos. 24/05 and 61/05)
- Law on the Army of Yugoslavia (“Official Gazette of the FRY”, Nos. 43/94, 28/96, 44/99, 74/99, 3/02 and 37/02, “Official Gazette of SCG”, Nos. 7/2005 and 44/2005)
- Defence Law (“Official Gazette of the FRY”, Nos. 43/94, 28/96, 44/99 and 3/02)
- Law on Marriage and Family Relations (“Official Gazette of the RS”, Nos. 22/80, 24/84, 11/88, 22/93, 25/93, 34/94, 46/95 and 29/01)
- Law on Family Relations (“Official Gazette of the RS”, No. 18/05)
- Law on Inheritance (“Official Gazette of the RS”, No. 46/95)
- Basic Penal Law (“Official Gazette of the RS”, No. 39/2003, repealed)
- Penal Law of the Republic of Serbia (“Official Gazette of the SRS”, Nos. 66/77, 28/77, 43/77, 20/79, 24/84, 39/86, 51/87, 6/89, 42/89 and 21/90 and “Official Gazette of the RS”, Nos. 16/90, 21/90, 26/91, 75/91, 9/92, 49/92, 51/92, 23/93, 67/93, 47/94, 17/95, 44/98, 10/02, 11/02, 67/03 and 80/03)
- Penal Code (“Official Gazette of the RS”, Nos. 84/05, 88/05 and 107/05)
- Law on Juvenile Delinquents and Penal Law Protection of Juveniles (“Official Gazette of the RS”, No. 85/05)
- Law on Public Order and Peace (“Official Gazette of the RS”, Nos. 51/92, 53/93, 67/93, 48/94, 85/05 and 101/05)
- Regulation on the Procedure for Determining and Changing Personal Name (“Official Gazette of the RS”, No. 6/83)

43. In accordance with article 34 of the Constitution of the FRY, a Yugoslav citizen who has attained the age of 18 years is entitled to elect and be elected to government institutions.

44. Pursuant to the Charter on Human and Minority Rights and Civil Liberties, majority is attained at the age of 18 years (art. 36). Also, a SCG citizen who has attained the age of 18 years is entitled to elect and be elected to local self-government institutions, government institutions of a member State and institutions of the State Union, in accordance with the Constitutional Charter and the laws of the State parties (art. 33, para. 2).

45. According to the Constitution of the Republic of Serbia, in the area of the freedoms, rights and duties of the man and the citizen, the constraints for persons who have not attained the age of 18 years relate only to their incapability to elect and be elected to the National Assembly and other elected bodies.

46. Pursuant to the provisions of article 11 of the Law on Family Relations, majority is attained at the age of 18 years.

47. Full legal capacity is attained at majority and when getting married before majority with the court's permission. The court may grant attainment of full legal capacity to a juvenile who has attained the age of 16 years and who has become a parent and attained physical and mental maturity necessary to independently take care of himself/herself, his/her rights and interests. The court decides on the attainment of full legal capacity in non-contentious proceedings.

48. The child who has not attained the age of 14 years may undertake legal transactions by which he/she acquires only rights, legal transactions by which he/she acquires neither rights nor obligations, and legal transactions of minor importance, while the child who has attained the age of 14 years may undertake all other legal affairs referred to in article 193, paragraph 3, of the Law, with prior or subsequent consent of his/her parents, or consent of the guardianship authority. Furthermore, the child who has attained the age of 15 years may undertake legal transactions by which he/she manages and disposes of his/her earnings or the property he/she has acquired by his/her own work (art. 64).

49. A male person who has attained the age of 16 years and who is mentally competent may recognize paternity (art. 46). The recognition of paternity must be subject to the consent of the mother if she has attained the age of 16 years and if she is mentally competent (art. 48, para. 1). Furthermore, the recognition of paternity must have the consent of the child if he/she has attained the age of 16 years and if he/she is mentally competent (art. 49, para. 1).

50. The court may, for justified reasons, permit marriage to a juvenile who has attained the age of 16 years and attained physical and mental maturity necessary for exercising the rights and duties in marriage (art. 23, para. 2).

51. In accordance with the Law on Inheritance, a child over 15 years of age who is mentally competent may dispose of his/her property by a will (art. 79).

52. Pursuant to the Labour Law, employment relations may be established with a person who is at least 15 years old and fulfils other conditions for work in particular jobs determined by the law or by the regulation on job organization and classification (art. 24).

53. According to the Law on the Army of Yugoslavia, the conscription obligation arises at the beginning of the year in which the child attains the age of 17 years, while the conscription takes place in the year in which the child attains the age of 18. However, a conscript may, at his own request, be conscripted when he has attained the age of 17 years (arts. 288-291).

54. From the aspect of criminal liability, no criminal sanctions may be introduced and no other measures provided for by the law can be taken against a person who, at the time of committing the unlawful act specified as a criminal offence in the law, has not attained the age of 14 years (art. 2).

55. Pursuant to article 3 of the Law on Juveniles, a juvenile is any person who, at the time of committing the offence, has attained the age of 14 and has not attained the age of 18 years. A junior juvenile is any person who, at the time of committing the offence, has attained the age



of 14 and has not attained the age of 16 years. A senior juvenile is any person who, at the time of committing the offence, has attained the age of 16 and has not attained the age of 18 years. A junior adult person is any person who, at the time of committing the offence, has attained the age of 18 years but who, at the time of the trial, has not attained the age of 21 years.

56. Corrective measures, juvenile prison sentences and remedial measures, except for the prohibition of performance of profession, business activity or duty, may be pronounced against juveniles for committed criminal acts. Only corrective measures may be pronounced against junior juveniles, while corrective measures and, exceptionally, a measure of juvenile prison sentence may be pronounced against senior juveniles (art. 9).

57. By the provision of article 11 of the Law on Public Order and Peace, it is prescribed that any person who, when selling alcoholic drinks consumed immediately, gives an alcoholic drink to any clearly inebriated person or a juvenile who has not attained the age of 16 years will be fined or sentenced to up to 30 days' imprisonment. A fine for infringement against legal entity, entrepreneur and responsible person is also provided for by the same article.

58. Pursuant to the Penal Code, if an adult person lives in a common law marriage with a juvenile, he/she will be sentenced to up to three years' imprisonment. The parent, adoptive parent or guardian who enables or induces a juvenile to live in a common law marriage with an adult person will be given the same sentence. If the parent, adoptive parent or guardian commits the aforementioned act for greed, he/she will be sentenced to from six months' to five years' imprisonment (art. 190).

### **III. GENERAL PRINCIPLES**

#### **Normative bases**

- Constitution of the FRY ("Official Gazette of the FRY", No. 1/92)
- Constitutional Charter of the State Union of Serbia and Montenegro ("Official Gazette of SCG", No. 1/03)
- Charter on Human and Minority Rights and Civil Liberties ("Official Gazette of SCG", No. 6/03)
- Constitution of the Republic of Serbia ("Official Gazette of the RS", No. 1/90)
- Law on the Protection of the Rights and Freedoms of National Minorities ("Official Gazette of the FRY", No. 11/02)
- Basic Penal Law ("Official Gazette of the SFRY", 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 FRY", Nos. 35/92, 16/93, 37/93, 24/94, 61/01 and "Official Gazette of the RS", No. 39/03 )

- Penal Law of the Republic of Serbia (“Official Gazette of the SRS”, Nos. 66/77, 28/77, 43/77, 20/79, 24/84, 39/86, 51/87, 6/89, 42/89 and 21/90 and “Official Gazette of the RS”, Nos. 16/90, 21/90, 26/91, 75/91, 9/92, 49/92, 51/92, 23/93, 67/93, 47/94, 17/95, 44/98, 10/02, 11/02, 80/03 and 67/03)
- Penal Code (“Official Gazette of the RS”, Nos. 85/05, 88/05 and 107/05)
- Law on Juvenile Delinquents and Penal Law Protection of Juveniles (“Official Gazette of the RS”, No. 85/05)
- Law on Environmental Protection (“Official Gazette of the RS”, Nos. 66/91, 83/92 and 53/95)
- Law on Environmental Protection (“Official Gazette of the RS”, No. 135/04)
- Law on Marriage and Family Relations (“Official Gazette of the RS”, Nos. 22/80, 24/84, 11/88, 22/93, 25/93, 34/94, 46/95 and 29/01)
- Law on Family Relations (“Official Gazette of the RS”, No. 18/05)

#### **A. The right to life, survival and development (art. 6)**

#### **Constitutional and legal guarantees of the right to life, survival and development**

59. Pursuant to the Constitution of the FRY human life is inviolable (art. 21).

60. The right to life is determined as one of the fundamental human rights by the Constitutional Charter of SCG and the Charter on Human and Minority Rights and Civil Liberties. The provision of article 11 of the Charter reads as follows: “Human life is inviolable”.

61. The constitutional principle of the right of a person to decide freely on having children (article 27 of the Constitution of the RS) has also been implemented in the Law on Family Relations (art. 5) in which the right of the woman to decide on having children is determined. This means that the woman in or out of wedlock freely decides on having children.

62. The State protects that right, as one of the primary and inviolable human rights, by penal law provisions (Penal Code - Chapter XIII - Criminal Offences against Life and Body - arts. 113-127). Also, the penal legislation specifies a number of offences against human health (arts. 246-259), against the environment (arts. 260-277), as well as offences against public safety of people and property (arts. 278-289). More specific penal provisions for the offences endangering the environment are included in the Law on Environmental Protection as well. No capital punishment is provided for in the penal legislation.

#### **Practice**

63. According to the data of the Ministry of the Interior, in the period from 1992 to June 2003, 3,606 criminal offences against life and body of juveniles (up to 18 years of age)

were committed in the territory of the Republic of Serbia, most of which were acts of grievous bodily harm (1,524), and actual bodily harm (1,295). Also, 294 murders and attempted murders of juveniles were committed, 75 of which against children of up to 14 years of age.

64. According to data available to the Ministry of the Interior, in the period from 1992 to June 2003, 16 cases of suicide of children of up to 14 years of age and 222 cases of juveniles of 14 to 18 years of age were recorded. The largest number of suicides of children was recorded in 1999 (5 cases), while in 1992, 1997 and in the period from January to June 2003 there were no suicides among children. The largest number of juvenile suicides was recorded in 1997 (28), and the smallest number was recorded in 2001 (12).

65. In accordance with the data of the Republic Statistical Office, 23 suicides of children of up to 19 years of age were recorded in the Republic of Serbia in 2004, with 12 in the area of the Republic of Serbia excluding the autonomous provinces and 11 in the AP of Vojvodina. The corresponding data on suicides in 2005 are 16 and 7 (the data for the Republic of Serbia excluding the AP of Vojvodina and the AP of Kosovo and Metohija) and 9 (AP Vojvodina).

66. Within the framework of the suicide prevention programme SUPRE, the Institute for Mental Health in Belgrade issued a series of manuals during 2004 in cooperation with the World Health Organization (WHO), among which a special manual for teachers and other persons in the educational system, aiming at recognizing risky behaviour and providing adequate assistance to children.

## **B. The best interests of the child (art. 3)**

### **Legal framework**

67. The principle of special protection of mother, child and family is provided for by the Constitution of the Republic of Serbia (art. 28, para. 1, and art. 29, para. 1).

68. It is prescribed by the Law on Family Relations that everyone is obliged to be guided by the best interests of the child in all activities concerning the child (art. 6, para. 1). The Law obligates the court to be always guided by the best interest of the child in the disputes for the protection of the child's rights and in the dispute for exercising or depriving of parental right (art. 266, para. 1).

69. Adoption, organized foster placement and other forms of family placement are the basic forms of protecting the children without parental care. A child who is without parental care is placed under guardianship by the guardianship authority. The purpose of guardianship is to develop the child's personality and to prepare him/her for life by providing care, upbringing and education. In the adoption or foster care establishment procedures, it is stipulated that a child may be adopted and that the foster care may be established only if it is in his/her best interest (arts. 89 and 111).

70. In family law relations, in the dispute for the protection of the child's rights or in the dispute for exercising or depriving of parental right (arts. 261-273), the court is always obliged to be guided by the best interest of the child (art. 266). The action for protection of the child's rights may be brought by the child, the child's parents, the public prosecutor and the

guardianship authority. All children's health-care and educational institutions or children's social care institutions, judicial and other government authorities, associations and citizens have the right and duty to inform the public prosecutor or the guardianship authority of the reasons for the protection of the child's rights.

71. If there are opposite interests between the child and his/her legal representative, the child is represented by the collision guardian. The child who has attained the age of 10 years and who is mentally competent may, by himself/herself or through some other person or institution, ask the guardianship authority to appoint a collision guardian or a temporary representative for him/her due to existence of opposite interests between him/her and his/her legal representative.

72. If the court assesses that, in the dispute for protection of the child's rights or in the dispute for exercising or depriving of parental right, the child as a party is not represented in an appropriate manner, it is obliged to appoint a temporary representative for him/her (art. 265, para. 3).

73. If the court determines that a party in the dispute for the protection of the child's rights or in the dispute for exercising or depriving of parental right is a child capable of forming his/her own views, it is obliged to ensure that the child receives in a timely manner all information he/she needs; to allow the child to express his/her views directly and to give due consideration to the child's views in accordance with the child's age and maturity; to determine the child's views in the manner and at the place that are in accordance with his/her age and maturity, except if it would be obviously contrary to the best interest of the child (art. 266, para. 3).

74. Special measures for the protection of the child's interests are provided for in the area of administration of juvenile justice, so pursuant to article 55 of the Law on Juvenile Delinquents and Penal Law Protection of Juveniles, neither the course of the criminal proceedings against a juvenile nor the decision made in those proceedings may be published without the court's permission. Only the part of the proceedings or only the part of the decision for which there is permission may be published, but in that case the name of the juvenile and other data on the basis of which it could be concluded who the juvenile is may not be stated.

## **Practice**

75. In practice, it is possible to monitor indirectly the observance of the principle of the protection of the child's best interest through a review of the assessment of the situation in different areas of the child's protection (family and alternative care, education, administration of juvenile justice, and other).

76. Within the social care system, professional personnel are provided with training on the rights of the child, primarily the right to life in the family, the child's best interest, the right to protection against neglect, abuse and exploitation, the right to respect of the child's views and other rights under the Convention.

77. Within the reform of the social care system, the Ministry of Labour, Employment and Social Policy has prepared a "Family Placement Development Strategy" project, with the basic aim of developing and improving family placement, giving priority to the youngest children who are accommodated in homes for children, and then the application of family placement as a form

of care for all children in need of temporary or a longer-term care in foster families and, in accordance with that, gradual reduction of the number of children in institutional care, starting from the basic standards of care: the right of every child to live in a family; ensuring the well-being and safety of the child; non-discrimination - the child's right to grow up in as favourable conditions as possible, regardless of racial, ethnic, cultural and religious origin; active participation of the child and respect and consideration of the child's views in all circumstances concerning him/her; care continuity and stability and selection of a family that can ensure preservation of psychological continuity and stability of the child; preservation of child's identity, ensuring continuous contacts with his/her natural family, supporting the return to the natural family, as well as preservation of his/her cultural, ethnic and national identity.

78. Social care and assistance to persons without criminal liability and their families is achieved by the family law and social care measures realized by the social care centres acting as guardianship authority, and regulated by family law and social care law standards. There are 152 social care centres in the Republic of Serbia. Depending on the size of the municipality and the number of beneficiaries, specialized teams for work with children in conflict with the law and children with antisocial behaviour are organized in some centres.

79. At the beginning of 2001, in order to apply the child's best interest principle, preparations started for a comprehensive reform of education, based on international recommendations and reports on the status of the educational system in the Republic of Serbia.

### **C. The right to non-discrimination (art. 2)**

#### **Legal framework**

80. The Constitution of the FRY determines that all citizens are equal irrespective of nationality, race, sex, language, religion, political or other belief, education, social origin, property status and other personal trait. All citizens are equal before the law and everyone is obliged to respect the freedoms and rights of others and is responsible for that (art. 20).

81. The Charter on Human and Minority Rights determines in its article 3 that all citizens are equal before the law and that everyone has a right to equal legal protection without discrimination. It also prohibits any direct or indirect discrimination, on any basis, including the race, colour, sex, nationality, social origin, birth or similar status, religion, political or other belief, property status, culture, language, age, or mental or physical disability. Pursuant to article 49, equality before the law and equal legal protection is guaranteed to members of national minorities, and any kind of discrimination on the basis of the fact that a person is a member of a national minority is prohibited. According to article 51, any provocation and incitement to racial, religious or other inequality, as well as provocation and incitement of national, racial, religious and other hatred and intolerance is prohibited and punishable.

82. The Law on the Protection of the Rights and Freedoms of National Minorities prohibits any form of discrimination on national, ethnic, racial and linguistic basis against the persons who are members of national minorities (art. 3, para. 1).

83. It is prohibited by the Penal Law to provoke, incite and propagate racial and other discrimination and to violate basic human rights and freedoms on the basis of difference in race, colour, nationality or ethnic origin (arts. 317 and 387). The Code criminalizes the violation of equality of citizens, which consists of denying or restricting the civil rights determined by the Constitution, law or other regulation or by a general by-law or ratified international treaty, or granting privileges and favours on the basis of difference in nationality, race, religion, political or other belief, ethnicity, sex, language, education or social status (art. 128).

84. The Labour Law prohibits direct and indirect discrimination against persons seeking employment or employees, on the basis of sex, birth, language, race, skin colour, age, pregnancy, state of health or disability, nationality, religion, marital status, family obligations, sexual orientation, political and other belief, social origin, property status, membership in political organizations, trade unions or some other personal trait (art. 18).

85. Direct discrimination, within the meaning of this law, is any deviation caused by some of the mentioned reasons by which a person seeking employment or an employee is placed in a less favourable position compared to other persons in the same or similar situation. However, indirect discrimination exists when a certain, seemingly neutral provision, criterion or practice places or would place a person seeking employment or an employee, in a less favourable position compared to other persons because of a certain trait, status, orientation or belief referred to in article 18 of that Law (art. 19).

86. Discrimination is prohibited in relation to the conditions for employment and selection of candidates for performance of particular jobs; working conditions and all rights arising from employment; education, training and advanced training; and advancement at work (art. 20). In cases of discrimination, the person seeking employment or the employee may initiate proceedings for damages before a competent court, in accordance with law (art. 23).

## **Practice**

87. Practice has shown that issues relating to the prohibition of discrimination in relation to age, developmental disorders and health problems are not sufficiently regulated in terms of law.

88. Children with developmental disorders face serious problems, considering that the network of institutions for their upbringing and education is not sufficiently developed, as well as that existing institutions are not adapted to their needs in architectural terms.

89. In social and educational terms, the Roma are the most vulnerable national minority. According to data of the 2002 census, 20 per cent of the Roma are completely illiterate, while 78.7 per cent have not completed elementary education and all percentages at higher educational levels are drastically lower than for the rest of the population. Women account for the largest percentage of those because they marry early and focus on running the household or feeding the family.

90. At a meeting held on 27 January 2005, the Government adopted the Action Plan for Roma Education Improvement, which is the first part of the Decade of Roma Inclusion 2005-2010 Programme formally proclaimed by signing the Decade Declaration by the Prime Ministers of the States parties in Sofia on 2 February 2005. It provides for a number of measures that should

lead to ensuring the continuity of education of the Roma including measures relating to the creation of systemic conditions, providing legal regulations for non-segregated inclusion and continuous education, preparation of educational institutions for inclusion of the Roma in education with the systemic support of the Ministry of Education and Sports, as well as measures of direct support to inclusion in preschool programmes, revision of the status of children incorrectly classified into special schools, provision of financial support to needy Roma families whose children receive education, and cooperation of educational institutions with the Roma families. The implementation of the Action Plan will depend to a great extent on available funds.

#### **D. Consideration of the child's views (art. 12)**

##### **Legal framework**

91. The Constitution of the FRY guarantees freedom of belief, conscience, thought and public expression of opinion (art. 35).

92. Article 29 of the Charter on Human and Minority Rights determines that everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive and impart information and ideas by means of speaking, writing, visual means or in any other manner. Everyone also has the right to access the data possessed by government authorities. However, the right to freedom of expression may be restricted by law, if it is necessary for the protection of rights and reputation of other persons, preservation of authority and impartiality of the court, national security, public health and morals, or public safety.

93. The freedom of public expression of opinion is guaranteed by article 45 of the Constitution of the Republic of Serbia and there is no particular restriction of that freedom in relation to children.

94. The child is provided with the opportunity of expressing his/her views in some areas of family life. Pursuant to the provisions of article 65 of the Law on Family Relations, a child capable of forming his/her own view is entitled to free expression of that view. Due consideration must be given to the child's view in all matters concerning him/her and in all proceedings in which his/her rights are decided on, in accordance with the child's age and maturity. The child also has the right to receive in a timely manner all information he/she needs for forming his/her views. The child who has attained the age of 10 years may, by himself/herself or through some other person or institution, refer to the court or an administrative authority and request assistance in exercising his/her right to free expression of view and also freely and directly express his/her view in any judicial and administrative proceedings in which his/her rights are decided on. The court and administrative authority determine the child's view in cooperation with the school psychologist or guardianship authority, family counselling office or other institution specialized in mediation in family relations, in the presence of the person the child has chosen by himself/herself.

95. The child has the right to the determination of maternity and paternity (arts. 43 and 55), as well as the right to challenge maternity and paternity (arts. 44 and 56). Also, adoption or establishment of foster care must be subject to the consent of a child who has attained the age of

10 years and is mentally competent (arts. 98 and 116). Pursuant to article 127, a ward who has attained the age of 10 years and who is mentally competent has a right to propose a person to be appointed his/her guardian.

### **Practice**

96. The Ministry of Labour, Employment and Social Policy directly applies the provisions of article 12 of the Convention, by deciding on complaints against the decisions of social care centres that involve a right in the area of family relations which directly concerns the child (e.g. the right on personal relations of the child with the parent he/she does not live with, the right to use the child's personal name, pronouncement of measures restricting parents in exercising their parental right, changes in the decisions on custody and similar), and Ministry, as a second instance authority, repeals any decision made in the proceedings in which appropriate participation of the child (suitable to his/her age and developmental abilities) has not been ensured, and remands it for reconsideration, with the order to the centre for social work to ensure participation of the child in proceedings prior to making any decision.

97. A research study conducted by the Centre for the Rights of the Child in 1999, which dealt with the exercise of the right of the youth to participation in family and school and possibilities and rights of the child to participation, included 555 secondary-school students, 247 parents and 314 teachers from the whole country.

98. The results of this research, presented in the "Participation Under Scrutiny" publication, revealed that the youth believed that the degree of their participation rights in the school was insufficient. However, the teachers expressed a moderately positive attitude toward the participation of students, in which, in their view, the priority is given to the right to privacy, followed by the right to access information relating to the school and finally, by the right to the pupil's own view and expression of that view.

99. The right of children without parental care in institutions to express their own view exists formally (through home communities), but is of a declarative nature. However, in the area of practice of health-care institutions, this right has gained more importance in recent time, in particular with the introduction of the institution of an appeals body within each individual health-care institution by the Ministry of Health.

## **IV. CIVIL RIGHTS AND FREEDOMS**

### **Normative bases**

- Constitution of the FRY ("Official Gazette of the FRY", No. 1/92)
- Constitutional Charter of the State Union of Serbia and Montenegro ("Official Gazette of SCG", No. 1/03)
- Charter on Human and Minority Rights and Civil Liberties ("Official Gazette of SCG", No. 6/03)
- Constitution of the Republic of Serbia ("Official Gazette of the RS", No. 1/90)



- Law on Ratification of the International Covenant on Civil and Political Rights (“Official Gazette of the SFRY - International Treaties”, No. 7/71)
- Basic Penal Law (“Official Gazette of the SFRY”, 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 FRY”, Nos. 35/92, 16/93, 37/93, 24/94, 61/01 and “Official Gazette of the RS”, No. 39/03)
- Penal Law of the Republic of Serbia (“Official Gazette of the SRS”, Nos. 66/77, 28/77, 43/77, 20/79, 24/84, 39/86, 51/87, 6/89, 42/89 and 21/90 and “Official Gazette of the RS”, Nos. 16/90, 21/90, 26/91, 75/91, 9/92, 49/92, 51/92, 23/93, 67/93, 47/94, 17/95, 44/98, 10/02, 11/02, 67/03 and 80/03)
- Penal Code (“Official Gazette of the RS”, Nos. 88/05 and 107/05)
- Law on Juvenile Delinquents and Penal Law Protection of Juveniles (“Official Gazette of the RS”, No. 85/05)
- Law on Criminal Proceedings (“Official Gazette of the FRY”, Nos. 70/01 and 68/02)
- Law on Civil Registry Books (“Official Gazette of the RS”, No. 15/90)
- Law on Marriage and Family Relations (“Official Gazette of the RS”, Nos. 22/80, 24/84, 11/88, 22/93, 25/93, 34/94, 46/95 and 29/01)
- Law on Family Relations (“Official Gazette of the RS”, No. 18/05)
- Law on Yugoslav Citizenship (“Official Gazette of the FRY”, Nos. 33/96 and 9/01)
- Law on Citizenship of the Republic of Serbia (“Official Gazette of the RS”, No. 135/04)
- The Law on Elementary School (“Official Gazette of the RS”, Nos. 50/92, 53/92, 67/93, 48/94, 66/94, 22/02 and 62/03, 101/05)
- Law on Association of Citizens into Associations, Social Organizations and Political Organizations Established for the Territory of the FRY (“Official Gazette of the SFRY”, No. 42/90)
- Law on Social Organizations and Associations of Citizens (“Official Gazette of the SRS”, Nos. 24/82, 39/83, 17/84, 50/84, 45/85 and 12/89)
- Law on the Protection of Personal Data (“Official Gazette of the FRY”, Nos. 24/98 and 26/98)
- Law on Public Dissemination of Information (“Official Gazette of the RS”, No. 43/2003)
- Labour Law (“Official Gazette of the RS”, Nos. 24/05 and 61/05)

- Law on the Army of Yugoslavia (“Official Gazette of the FRY”, Nos. 43/94, 28/96, 44/99, 74/99, 3/02 and 37/02, “Official Gazette of SCG”, Nos. 7/2005 and 44/2005)
- Advertising Law (“Official Gazette of the RS”, No. 79/05)
- Regulation on Military Service (“Official Gazette of the FRY”, Nos. 36/94, 7/98 and “Official Gazette of SCG”, No. 37/03)
- Regulation on the Procedure for Determining and Changing Personal Name (“Official Gazette of the RS”, No. 6/83)
- Instruction on Administration and Forms of Civil Registry Books (“Official Gazette of the RS”, Nos. 48/90 and 22/91)

### **A. Right to identity (art. 7)**

#### **Legal framework**

#### **Birth registration**

100. The procedure for and the entry of the child’s birth into the birth registry book is governed by the Law on Civil Registry Books and the Instruction on Administration and Forms of Civil Registry Books. The birth of the child is entered, as a rule, into the birth registry book of the registry area where the place in which the child was born is located, but the legislator also prescribes the local jurisdiction of authorities for entry of a child’s birth into the birth registry book in case of its birth in a transport vehicle, as well as in the case of a child whose parents are unknown. Reporting the birth of a child in a health-care institution is the obligation of that institution. Reporting the birth of a child outside health-care institutions is the obligation of the child’s father, and if he is unable to do so, of another member of the family, or the person in whose home the child was born, or the mother as soon as she is able to do so, or the midwife or the doctor who participated in the delivery, and if there are no such persons or if they are unable to report the birth, any person who knows about the birth of the child. The birth of the child has to be reported within 15 days from the day of its birth. In the birth registration form, the data about the parents are entered from the ID card or from their birth or marriage certificates.

#### **The child’s right to a name**

101. Pursuant to the Law on Family Relations, a personal name consists of the first name and surname and is entered into the birth registry book.

102. The child’s name is determined by the parents. They are entitled to have the name of the child registered into the birth registry book in the native language and alphabet of one or both parents. Also, the parents have the right to choose freely the child’s name, but they may not determine a pejorative name, a name by which morals are violated or a name which is contrary

to the customs and views of the community. The child's name is determined by the guardianship authority if the parents are not alive, not known, if they failed to determine the child's name within the time limit stipulated by law, if they are unable to reach an agreement on the child's name, or if they have determined a pejorative name, a name by which morals are violated or a name which is contrary to the customs and views of the community (art. 344).

103. The child's surname is determined by the parents according to the surname of one or both parents. The parents may not determine different surnames to their mutual children. Otherwise, the child's surname is determined by the guardianship authority if the parents are not alive, not known, or if they cannot reach an agreement on the child's surname (art. 345).

### **The right of the child to know and be cared for by his/her parents**

104. The provisions of the Law on Family Relations relating to determination and challenging maternity or paternity are relevant in the context of exercising the child's right to know his/her parents. Paternity in marriage is determined on the basis of assumption that the spouse is the child's father, while paternity out of marriage is determined by recognition or on the basis of a court decision. Both natural parents and the child have the right to initiate proceedings challenging paternity or maternity.

105. In connection with the rights of the child to be cared for by his/her parents, the Law determines that the parental right is derived from the parental duty and exists only to the extent necessary for the protection of the person, rights and interests of the child (art. 67). Parents are obliged to take care of their child, to protect, raise, bring up, educate, represent and support the child, as well as to manage and dispose of the child's property.

### **Practice**

106. The legal provisions relating to identity are mostly observed. A question arises only regarding the efficiency of services and the duration of procedures.

## **B. Preservation of identity (art. 8)**

### **Legal framework**

#### **The right to change the child's personal name**

107. In accordance with the Law on Family Relations, any person who has attained the age of 15 years and who is mentally competent has a right to change his/her personal name. A child who has attained the age of 10 years and who is mentally competent has the right to give consent to the change of his/her personal name (art. 346).

108. A child's surname may be changed by determining maternity or paternity, as well as by challenging maternity or paternity. The surname of an adopted child may be changed according to the surname of one or both adoptive parents. Besides, a child whose surname was changed by adoption may, after the termination of adoption, assume his/her surname by annulment (art. 349).

### **The right to nationality**

109. In accordance with the Law on Yugoslav Citizenship, Yugoslav citizenship was acquired by origin, birth, admission and under an international treaty.

110. The request for entry of a child into the registry book of Yugoslav citizens could be submitted by the parent who was a Yugoslav citizen, or a guardian, if the child was under guardianship, and if the child was over 14 years of age, his/her consent was also necessary. The citizenship acquired in this manner could not cease unless determined by the child's 18 years of age that both parents of that child were foreign citizens, and the child's consent was necessary in case he/she was over 14 years of age.

111. Yugoslav citizenship ceased by release, renouncement and under an international treaty (arts. 19-25). A parent who submitted the request for release from Yugoslav citizenship was able to ask for the release from citizenship for his/her children with the same request. However, if the child was over 14 years of age, his/her consent was necessary as well. Consent of the other parent and the opinion of the competent guardianship authority were submitted along with this request.

112. In accordance with the Law on Citizenship of the Republic of Serbia, the citizens of the Republic of Serbia have the citizenship of the Republic of Serbia (art. 1).

113. The citizenship of the Republic of Serbia is acquired by origin, birth in the territory of the Republic of Serbia, admission and under international treaties. By origin and birth in the territory of the Republic of Serbia, the citizenship of the Republic of Serbia is acquired on the basis of entry of the fact of citizenship into a birth registry book. By admission, the citizenship of the Republic of Serbia is acquired on the basis of a valid decision made by the ministry in charge of internal affairs after conducting the procedure provided for by the Law (art. 6).

114. The citizenship of the Republic of Serbia ceases by release, renouncement, acquisition of the citizenship of another State, and under international treaties (art. 27).

115. Supervision of keeping the records of the citizens of the Republic of Serbia is performed by the ministry in charge of internal affairs (art. 50).

### **Practice**

116. The preservation of the child's identity is realized most frequently through the right to a name and citizenship and through efficient realization of adoption of the children deprived of parental care.

117. Adoption may be proceeded with after an appropriate consideration by the centre for social work that performs full review in order to determine what is in the child's best interest. On that occasion, with the aim of preserving the child's identity, only the child's surname may be changed according to the surname of the adoptive parent.

118. The statistical data on child adoption at the national and international levels show that an increase in international adoptions is evident, although the annual number of adoptions varies.

**Table 1**

| Year | International adoptions |
|------|-------------------------|
|      | Number of adoptions     |
| 1992 | 8                       |
| 1995 | 18                      |
| 1996 | 16                      |
| 1997 | 22                      |
| 1998 | 6                       |
| 1999 | 1                       |
| 2000 | 3                       |
| 2001 | 14                      |
| 2002 | 23                      |

*Source:* Ministry of Labour, Employment and Social Policy.

**Table 2**

| Year | Established domestic adoptions |
|------|--------------------------------|
|      | Number of adoptions            |
| 1992 | 474                            |
| 1995 | 337                            |
| 1996 | 334                            |
| 1997 | 289                            |
| 1998 | 270                            |
| 1999 | 262                            |
| 2000 | 166                            |
| 2001 | 170                            |
| 2002 | 206                            |

*Source:* Ministry of Labour, Employment and Social Policy.

### **C. Freedom of expression and access to appropriate information (arts. 13 and 17)**

#### **Constitutional and legal frameworks of freedom of expression**

119. The Constitution of the FRY guarantees freedom of the press and other forms of public dissemination of information. Citizens have the right to express and publish their views in the media. Publication of newspapers and public dissemination of information by other means is accessible to everyone, without approval, with a registration with the competent authority. Radio and television organizations are established in accordance with the law (art. 36).

120. The right to correct any published incorrect information violating someone's right or interest is also guaranteed. The right to a reply in the media is guaranteed (art. 37). Censorship of the press and other forms of public dissemination of information is prohibited (art. 38, para. 1).

121. Article 29 of the Charter on Human and Minority Rights determines that everyone has the right to freedom of thought and expression, which includes freedom to seek, receive and impart information and ideas by means of speaking, writing, visual means or in any other manner. The right to freedom of expression may be restricted by law, if necessary for the protection of rights and reputation of other persons, preservation of authority and impartiality of the court, national security, public health and morals, or public safety.

122. Article 30 of the Charter guarantee freedom of the media. Pursuant to the provisions of this article, everyone has the right to establish newspapers and other media without approval, and there is no censorship in the State Union. Also, everyone has the right to correct any published untrue, incomplete or incorrectly transmitted information violating his/her right or interest, in accordance with the law. Everyone has the right to reply to any information published in the media, and no one may prevent distribution of printed materials and dissemination of information and ideas by means of other media, unless it is determined by a decision of the competent court that it is necessary for the purpose of preventing war mongering, instigation of direct violence, or advocating racial, national or religious hatred that represents inducement of discrimination, hostility or violence.

123. The Constitution of the Republic of Serbia guarantees freedom of conscience, thought and public expression of views. Freedom of the press and other forms of public dissemination of information is also guaranteed. Citizens have the right to express and publish their views in the media. Publication of newspapers and public dissemination of information by other means is allowed to everyone, without approval, with a registration with the competent authority (arts. 45 and 46).

124. The right to freedom of expression is regulated more specifically by the Law on Public Dissemination of Information. Inter alia, it provides for the protection of juveniles in the media. Pursuant to article 41, for the purpose of protection of the rights of juveniles, special care must be taken in the media that the contents of the media and the manner of their distribution do not harm the moral, intellectual, emotional or social development of juveniles. The contents of the media that may endanger the development of juveniles, within the meaning of paragraph 1 of this article, must be clearly and visibly designated as such in advance and distributed in the manner in which the juvenile is least likely to use it. The juvenile must not be made recognizable in the information likely to harm his/her right or interest.

125. The Advertising Law prescribes special rules of advertising if the message is directed to juveniles and expressly prohibits messages that have scenes of violence, pornographic contents, or that incite them to consume alcohol, cigarettes or narcotics. In addition, advertisements intended for juveniles must not include untrue information about the product (art. 74) and must not include a value judgement about the price (e.g. the words “as little as”, “negligible amount” and similar) and recommendation of medicines and remedies including vitamins is also prohibited (art. 78).

## **Practice**

126. Empirical indicators show that children's and youth programmes are present in all media and that the presentation of the contents and themes is adapted to the capabilities of following it and interests of children of different ages.

127. The Serbian language and alphabet and languages and alphabets of the members of national minorities are used in the media.

128. The usual schedule of radio programmes for children is designed in such a manner that the children's broadcasts of documentary and informative character are most numerous, followed by entertainment, music or feature broadcasts. However, due to the nature of these media, radio ratings are constantly decreasing and the majority of audience are older children who listen to music programmes, while the total ratings of radio programmes lag significantly behind the ratings of TV programmes. During the period 1992-1993 the share of foreign programmes in the total broadcast programme of all TV centres was significantly reduced due to insufficient exchange of international programmes.

129. In 1993, the Committee for the Rights of the Child, which operates within the Friends of the Children of Serbia organization, issued, in cooperation with the former Yugoslav Commission for Cooperation with UNICEF, a Children and the Media Code, which is a manual on the rules of conduct of the media in relation to children. The Code expressly invokes specific articles of the Convention on the Rights of the Child and makes the media give full publicity to the obligations arising from the Convention, reminding the competent and other sectors of society of the needs and rights of the child. The Code also includes directions for media action regarding the following issues: equal treatment of children, informing of the rights of the child, the child's freedom of expression, protection of the child against all forms of exploitation and aid to children affected by armed conflicts.

130. Publication of children's and youth newspapers has a long and rich tradition in the territory of the entire country. Numerous children's and youth newspapers have been established in the AP of Vojvodina, which are printed in the languages of national minorities: Hungarian (weekly newspaper, youth newspaper, children's newspaper - *Kepes Ifjúság, Jo pajtás, Meyes kalás*); Slovak (youth newspaper, children's newspaper - *Uzlet, Zornička*); Romanian (youth newspaper, children's newspaper - *Tribuna finezetulni, Bucuria Copilor*); Ruthenian (youth newspaper, children's newspaper - *Mak, Zagradka*).

#### **D. Freedom of thought, conscience and religion (art. 14)**

##### **Constitutional and legal frameworks**

##### **Freedom of thought, conscience and religion**

131. The Constitution of the FRY guarantees freedom of belief, public or private profession of religion and performance of rituals, and no one is obliged to declare their religious belief (art. 43).

132. In the Charter on Human and Minority Rights and Civil Liberties it is determined that everyone has the right to freedom of thought, conscience, belief or religion, which also includes the freedom to keep one's own belief or religion or change them according to one's own choice. Also, no one is obliged to declare their religious and other beliefs. Everyone is free to manifest their religion or belief in private or in public by professing religion, performing rituals, attending

service and by instruction, individually or in association with others. Freedom of manifestation of religion or belief, pursuant to the Charter, may be restricted by law if it is necessary for protection of public safety, health, morals or rights of other persons. Parents or legal guardians have the right to provide religious and moral education to their children in accordance with their beliefs (art. 26).

133. The Constitution of the Republic of Serbia guarantees freedom of belief, public or private profession of religion and performance of rituals, as well as that no one is obliged to declare their religious belief (art. 41).

134. As regards freedom of thought, according to the Law on Family Relations, parents have the right and duty to direct the child towards the adoption and respect of the values of emotional, ethnical and national identity of their family and society (art. 70). Parents also have the right to provide their child with education in accordance with their religious and ethical beliefs (art. 71, para. 2).

135. Pursuant to the Law on Education System Basis, the optional part of the curriculum includes subjects and programme contents according to educational level and category, of which the pupil must choose one or more subjects according to his/her preferences. One of the mandatory optional subjects is religious instruction or civil education. The pupil who opted for one of the two subjects, religious instruction or civil education, keeps the selected subject until the end of the initiated cycle of elementary education, or until the completion of secondary education (art. 69).

### **Conscientious objection**

136. The Charter on Human and Minority Rights and Civil Liberties determines that conscientious objection is recognized in the State Union of Serbia and Montenegro. No one is obliged to fulfil, contrary to his/her religion or belief, any military or other obligation that includes use of arms; therefore, such a person may be called upon to perform appropriate civil service in accordance with the law (art. 28).

137. The provisions of articles 296-300 of the Law on the Army of Yugoslavia regulate the procedure of exercising the right to “conscientious objection” before the appropriate competent authorities.

138. The Regulation amending the Regulation on Military Service was adopted by the Council of Ministers on 27 August 2003 and came into effect on 15 October 2003. By this regulation, the SCG legal system was harmonized with the EU law in relation to the right to conscientious objection. The solutions it contains provide the persons having the legal obligation of military service and of performing military duties in the reserve units with the following: timely information of the alternative manner of doing military service; deciding on the recruit’s request for doing military service in the form of civil service by the commissions formed by the Minister of Defence, in which there are no professional soldiers; directing the recruit to do such civil service outside the military and the Ministry of Defence to the organizations and institutions performing activities of public interest; and preventing abuses of this right by envisaging the cases when a person may not invoke conscientious objection and when a person loses that right.



## **Practice**

### **Education**

139. Civic education, as an optional subject, was introduced in elementary and secondary schools in autumn 2001. Training of teachers, preparation and publication of necessary handbooks were supported by UNICEF and the United States Government. Intense training through seminars and workshops was organized by the Ministry of Education and Sports. Teachers for this subject were chosen among the existing teaching staff. Since the introduction of the programme:

- 3,491 teachers have been trained;
- 9,423 of a total of 84,536 students of elementary schools (23 per cent) and 4,176 of the 90,780 students of secondary schools (4.6 per cent) attended the classes of civic education in the first year;
- Civic education was introduced as optional subject in the 2002/03 school year with 41.6 per cent students of elementary schools and 53.2 per cent students of secondary schools attending the classes in the first year;
- In the 2002/03 school year, implementation of the “Citizen Project” pilot programme started in the sixth grade in 100 elementary schools in the Republic of Serbia.

140. The practice of advanced teacher training was reflected in the establishment of a system of advanced training accreditation and publishing and dissemination of the first Catalogue of Accredited Programmes. Advanced training is conducted continuously through the accredited programmes organized by the Ministry of Education and Sports or by international partners.

### **Conscientious objection**

141. In terms of exercising the right to conscientious objection, this right was used by 76 recruits in the period from 1994 to 2002.

## **E. Freedom of association and peaceful assembly (art. 15)**

### **Legal bases of freedom of association and peaceful assembly**

142. The Constitution of the FRY guarantees to the citizens freedom of assembly and other peaceful gathering, without permission and with prior registration with the competent authority. Freedom of assembly and other peaceful gathering may be temporarily restricted by a decision of the competent authority for the purpose of preventing endangering health and morals, or for the purpose of safety of people and property (art. 40).

143. Pursuant to article 41, paragraph 1, citizens are guaranteed freedom of political, trade union and other association and activity, without approval, and with registration with the competent authority.

144. The Charter on Human and Minority Rights guarantees the right and freedom of peaceful assembly. No prior permit or registration is necessary for assembly in closed areas, while the laws of the member States may prescribe an obligation of registration with the competent authority for assemblies and demonstrations in the open area. Also, the freedom of gathering may be restricted by the laws of the member States if this is necessary to protect public safety, public health and morals, national security or the protection of other person's rights (art. 31).

145. The provisions of article 32 of the Charter determine that everyone has the right to freedom of association, including the right not to be a member of an organization. Political, trade union and other organizations can be established without prior approval, by registration with the competent authority. The right to freedom of association may be restricted by the laws of the member States if it is necessary for the protection of public safety, public health and morals, national security or the protection of other persons' rights. Organizations whose activity is directed to violent destruction of the constitutional system, abolishment of guaranteed human rights or incitement of racial, national or religious hatred may be banned by a decision of the competent court.

146. The Constitution of the Republic of Serbia also guarantees the right to freedom of peaceful gathering and the possibility of its restriction, as well as freedom of political, trade union and other association and activity of citizens, without approval and with registration with the competent authority (arts. 43 and 44).

147. Exercising the right to association is regulated by the Law on Association of Citizens into Associations, Social Organizations and Political Organizations Established for the Territory of the FRY, which provides that only citizens who have voting rights or who are over 18 years of age may found an association. However, in the statute of any association, it may be stipulated that children can be members of the association and the law sets no prohibitions in that regard.

## **Practice**

148. In November 2001, the Ministry of Education and Sports founded a Youth Unit within the Pupil and Student Standard Department with the aim of coordinating the process of preparing a national youth strategy and policy. To this end, it establishes cooperation with youth and professional organizations and institutions operating at local, national and international levels, supports youth initiatives, projects and organizations in the Republic of Serbia, establishes and maintains international relations with institutions dealing with youth issues, and represents the Republic of Serbia in international institutions.

149. The most important activities of the Youth Unit so far are the following:

- Summer camps in 2002 - the project was realized during July and August 2002 at 19 locations, with 12,000 students going through the camp programmes. The long-term goal of the programme was directed to preventing different forms of behaviour such as drug addiction and alcoholism;
- Seminars and conferences - An international conference "Bases for Cooperation of the Youth from the EU and Southeast Europe" was held in 2002. The first meeting of the members of the "Youth against Violence" European Network was supported, whose

members are European NGOs engaged in violence prevention, and the participants represented 23 countries. In June 2003, a seminar was organized on the cooperation of NGOs from Serbia and Montenegro, with trainers from the Council of Europe in charge of its realization;

- Youth parliaments in secondary schools is a pilot project that started in March 2003, which enables participation of youth in the decision-making process in schools as well as at the local authority level. The Youth Unit provided the necessary education for the staff that moderates the work of youth parliaments, in cooperation with NGOs;
- Cooperation with international institutions - The Youth Unit cooperates with the Stability Pact for Southeast Europe, the Council of Europe, UNICEF, the World Bank, the European Commission, and the PRONI Institute of Sweden. In 2002, the Youth Unit became the representative of the Republic of Serbia in the ERYICA (European Youth Information and Counselling Agency).

#### **F. Right to privacy (art. 16)**

##### **Constitutional and legal protection of the right to privacy**

150. The Constitution of the FRY guarantees protection against arbitrary or unlawful interference with private life, home or personal correspondence, as well as against unlawful attacks on the honour or reputation of any person, regardless of whether they are juveniles or adults (art. 22, paras. 1, 31 and 32).

151. The Charter on Human and Minority Rights and Fundamental Freedoms, in its article 24, determines the right to respect of private and family life, home and confidentiality. Pursuant to the provisions of this article, no one may enter somebody else's flat or other premises against the will of their owner, or perform searches in them except on the basis of court decision and, in the absence of court decision, only under the conditions prescribed by law. Furthermore, the inviolability of letters and other means of communication is determined, with exceptions permitted only for a definite time on the basis of a court decision. Protection of personal data is guaranteed. Their collection, keeping and use are governed by law, and use of personal data for purposes other than that for which they have been collected is prohibited and punishable. Everyone has the right to be informed of the data collected about his/her person in accordance with law.

152. It is determined in the Constitution of the Republic of Serbia that human dignity and the right to private life are inviolable (art. 18).

153. Protection of personal data is regulated by the Law on the Protection of Personal Data, which includes procedures and measures to prevent unlawful and unfounded encroachments on the integrity of a person's personality and personal and family life by using his/her personal data. The Law also stipulates punitive measures, so the obligations of the persons handling the collection of personal data are increasingly significant and sanctioned by a fine for an infringement, while a possibility is left to the court to pronounce, in addition to the fine for infringement, a protective measure of prohibiting the performance of activity against certain persons.

154. The Penal Code determines as criminal offences against the freedoms and rights of the person, whose perpetrator may be any person and which relate to the violation of privacy: breach of flat inviolability, unlawful search, unauthorized disclosure of secrets, violating the confidentiality of letters or other parcels, unauthorized tapping and recording, unauthorized photographing, unauthorized publishing and presenting of somebody else's text, portrait and recording, unauthorized collection of personal data (arts. 139-146). Offences such as libel, insults and disclosure of personal and family circumstances are also sanctioned (arts. 170-172).

155. Neither the course of criminal proceedings nor the decisions made in them may be published without the court's permission, and in case such a decision permits it, the name of the juvenile and other data on the basis of which it could be concluded who the juvenile is may not be disclosed (art. 55 of the Law on Juvenile Delinquents).

156. The Law on Public Dissemination of Information prescribes that in case of violation of the right to private life or the right to private recording, the person whose right has been violated may, by means of suit against the editor-in-chief of the media, demand that the information or the recording not be published; that the recording or published recording be handed over, eliminated or destroyed (erasing of video recording, erasing of audio recording, destruction of negatives, removal from publication and similar); indemnification for physical and non-physical damages; publication of the verdict. If, by the published information, a private recording or information from the private life has been used without authorization, the injured party may, by filing a suit, demand from the media a portion of the profit gained by the publication proportionate to the extent to which the use of his/her private recording or information from private life has contributed to generating the profit (art. 46).

157. Protection of personal data is ensured by the Labour Law as well. An employee has the right of insight into the documents containing personal data kept with the employer and the right to demand that data not of direct relevance to the work he/she performs be erased, as well as correction of incorrect data. The personal data relating to an employee must not be available to any third party, except in cases and under conditions determined by law or if it is necessary for the purpose of proving the rights and obligations arising from employment relation or in connection with work. Personal data of employees may be collected, processed, used and delivered to third parties only by the employee, and authorized by the manager (art. 83).

158. According to the provisions of article 323 of the Law on Family Relations, the public is excluded from adoption establishment proceedings. The data contained in the adoption establishment record, written evidence and other documents about the adoption establishment represent an official secret. Insight into these documents will be allowed only to the adoptive parent and to the adoptive child when he/she has attained the age of 16 years.

## **Practice**

159. In accordance with the data of the Ministry of the Interior, 3,274 criminal offences in connection with violation of child's privacy were committed in the period from 1998 to 2002.

**Table 3**

| Criminal offence  | 1988 | 1999 | 2000 | 2001 | 2002 | Total |
|---|------|------|------|------|------|-------|
| Violation of confidentiality of letters and other parcels |      |      |      | 6    |      | 6     |
| Serious offences against public safety                    | 9    | 11   | 15   | 7    | 9    | 51    |
| Endangerment of public transportation                     | 789  | 514  | 584  | 768  | 559  | 3 217 |

*Source:* Ministry of the Interior.

**G. The right of the child to protection against torture and unlawful or arbitrary deprivation of liberty (art. 37)**

**Legal protection against torture and unlawful or arbitrary deprivation of liberty**

160. Pursuant to the Law on Juvenile Delinquents and Penal Law Protection of Juveniles, a detention measure may be pronounced in exceptional cases only against a person who has attained the age of 14 years, on the basis of the decision of a juvenile judge or juvenile panel. The Law emphasizes greater implementation of temporary measures of supervision and placement, which essentially represent an alternative to the detention measure (art. 66). Any deprivation of liberty is included in the duration of the pronounced corrective measure of sending to a correction centre (a novelty in the law) or the juvenile prison sentence. The law determines the duration of detention, depending on the proceedings phase and the juvenile's age (art. 67).

161. Particularly important is the fact that the new law excludes the possibility for the police to detain juveniles (within the meaning of article 229 of the Law on Criminal Proceedings) and that it defines the former possibility (police custody lasting up to 48 hours) as deprivation of liberty that can be ordered only by the court authorities, having in mind the relevant international documents.

162. A juvenile is kept in detention separately from adult persons. Exceptionally, the juvenile judge may order that the juvenile be detained together with an adult person who would not have a negative influence on him/her (art. 68).

**Practice**

163. In the period from 1992 to June 2003, 1,486 junior and senior juveniles were deprived of their liberty, which is 1.4 per cent of the total number of juvenile delinquents. The measure of police custody, repealed in 2001, was pronounced against 2,398 junior and senior juveniles, while the detention measure was pronounced against 159 junior and senior juveniles. However, it should be kept in mind that, according to the data available to the Ministry of the Interior in the territory of the Republic of Serbia, the total number of criminal offences committed by juveniles

and the share of juvenile crime in the total crime is decreasing. The largest share of juvenile criminal offences in the total number of committed criminal offences was recorded in 1993 (15 per cent), followed by a decrease in the share of juvenile crime in the total crime parallel to the tendency of decrease in the total crime.

164. In 2001, this share was 10.3 per cent, while in 2002 it was 8.8 per cent. Also, starting from 1993 the share of juvenile offenders in the total number of reported criminal offenders has been constantly decreasing (from 23.9 per cent in 1992 to 19.8 per cent in 1993, 12.2 per cent in 2001 and 11.7 per cent in 2002).

165. No case of unlawful or arbitrary deprivation of liberty of juveniles and children by the Ministry of the Interior has been recorded so far. Certain criminal offences have been recorded relating to unlawful deprivation of liberty of juveniles, where the perpetrators were individuals who were not members of any judicial, administrative or other public authority and who did not commit these offences upon the order of these authorities. This concerns 84 criminal offences of unlawful deprivation of liberty committed in the period from 1992 to June 2003 against juveniles of up to 18 years of age, 25 of which against children of up to 14 years of age, as well as 36 abductions, 11 of which of children.

## **V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

### **Normative bases**

- Constitution of the FRY (“Official Gazette of the FRY”, No. 1/92)
- Constitutional Charter of the State Union of Serbia and Montenegro (“Official Gazette of SCG”, No. 1/03)
- Charter on Human and Minority Rights and Civil Liberties (“Official Gazette of SCG”, No. 6/03)
- Constitution of the Republic of Serbia (“Official Gazette of the RS”, No. 1/90)
- Law on the Ratification of the Convention on the Rights of the Child (“Official Gazette of the FRY-International Treaties”, No. 5/90)
- Law on Ratification of the Convention on Civil Law Aspects of International Abductions of Children (“Official Gazette of the FRY-International Treaties”, No. 7/91)
- Law on Ratification of the European Convention on the Recognition and Enforcement of Decisions on Custody of Children and Reestablishment of Custody Relations (“Official Gazette of the FRY-International Treaties”, No. 1/01)
- Law on Marriage and Family Relations (“Official Gazette of the RS”, Nos. 22/80, 24/84, 11/88, 22/93, 25/93, 34/94, 46/95 and 29/01)
- Law on Family Relations (“Official Gazette of the RS”, No. 18/05)

- Law on Social Care and Provision of Social Security of Citizens of the RS (“Official Gazette of the RS”, Nos. 36/91, 77/93, 53/93, 67/93, 46/94, 48/94, 52/96, 29/01, 84/04 and 115/05)
- Law on Social Care of Children (“Official Gazette of the RS”, Nos. 49/92, 29/93, 53/93, 67/93, 28/94, 47/94, 25/96, 29/01, 16/02, 62/03 and 101/05)
- Basic Penal Law (“Official Gazette of the SFRY”, 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 FRY”, Nos. 35/92, 16/93, 37/93, 24/94, 61/01 and “Official Gazette of the RS”, No. 39/03 )
- Penal Law of the Republic of Serbia (“Official Gazette of the SRS”, Nos. 66/77, 28/77, 43/77, 20/79, 24/84, 39/86, 51/87, 6/89, 42/89 and 21/90 and “Official Gazette of the RS”, Nos. 16/90, 21/90, 26/91, 75/91, 9/92, 49/92, 51/92, 23/93, 67/93, 47/94, 17/95, 44/98, 10/02, 11/02, 67/03 and 80/03)
- Penal Code (“Official Gazette of the RS”, Nos. 88/05, 88/05 and 107/05)
- Law on Juvenile Delinquents and Penal Law Protection of Juveniles (“Official Gazette of the RS”, No. 85/05)
- Law on Executive Procedure (“Official Gazette of the FRY”, Nos. 28/00, 73/00, 71/00 and “Official Gazette of the RS”, No. 125/04)
- Law on Resolving the Conflicts of the Laws with the Regulations of Other Countries (“Official Gazette of the SFRY”, Nos. 49/82 and 72/82 and “Official Gazette of the FRY”, No. 46/96 and “Official Gazette of the RS”, No. 46/06)
- Law on Passports of Yugoslav Citizens (“Official Gazette of the FRY”, Nos. 33/96, 49/96, 12/98, 16/99, 44/99, 15/00, 7/01, 71/01, 23/02, 53/02, 68/02, 5/03 and “Official Gazette of the RS”, No. 101/05)
- Law on Alien Movement and Stay (“Official Gazette of the SFRY”, Nos. 56/80, 53/85, 30/89, 26/90, 53/91 and 29/94, “Official Gazette of the FRY”, Nos. 28/96 and 68/02 and “Official Gazette of SCG”, No. 12/05 and “Official Gazette of the RS”, Nos. 115/05 and 101/05)
- Law on Financial Support to Families with Children (“Official Gazette of the RS”, No. 16/02)
- Law on Elementary School (“Official Gazette of the RS”, Nos. 50/92, 53/92, 67/93, 48/94, 66/94, 22/02, 62/03 and 101/05)
- Law on Secondary School (“Official Gazette of the RS”, Nos. 50/92, 53/93, 67/93, 48/94, 24/96, 23/02, 25/02, 62/03, 64/03 and 101/05)

## **A. Right to parental care (art. 5)**

### **Legal framework**

166. In the Republic of Serbia, according to the basis of its creation, a family may be based on: marriage, common law marriage and adoption. The parent-child relations are made legally equal, regardless of whether the children were born in or out of wedlock.

167. Parental right is a group of rights and duties of parents exercised for the benefit of their juvenile children, for the purpose of caring for the life and health of the children, their support, upbringing and education, and all other rights and interests, and their property. The legislator's intention is that the parents exercise their rights, as a rule, independently and autonomously, which means that the family has its autonomy. However, since it is derived from the norms of the Law on Family Relations that the rights and interest of the child are special social values, the guardianship authority, as competent authority established by law, has the right and obligation to intervene in a necessary manner, only in the cases stipulated by the law for the purpose of protecting the rights and interests of the child (supervision of exercise of parental right is established only when the parents do not exercise their rights in the interests of the children).

### **Practice**

168. Specialized family counselling services are established within social care centres, which operate in each municipality in the Republic of Serbia as family counselling offices, and they are established mostly in the major cities in the Republic of Serbia: Belgrade, Novi Sad, Niš, Kragujevac. Not all social care centres have specialized family counselling offices; however, they are obliged to provide family counselling services to the families that turn to them for counselling or some specific problem.

169. In addition to the family counselling services provided free of charge within the social care system, counselling offices are gradually developing as private institutions in major cities and certain NGOs develop programmes that include family counselling activities.

170. More significant training programmes focus on the knowledge by which observance of children's rights is promoted, organized within the social care system for groups of experts. These are the School for Parents Programme (representatives of about 40 per cent of the total number of social care centres), the School for Educators Programme (personnel of 14 of the total of 17 homes for children in Serbia), the Family Placement Development Programme (representatives of all social care centres in the Republic of Serbia), the Programme for Protection of Children against Abuse and Neglect (about 20 multidisciplinary teams at the local level) and the Programme of Developing Standards of Expert Work in Social Care Institutions (for the time being, around 10 social care centres participate in the creation of standards).

171. Information and knowledge about the development and capabilities of the child are transferred to parents, either directly in counselling procedures or within a group of parents through the training programmes aimed at increasing parent competence, and to professionals through training programmes, but also through the mechanisms of supervising the expert work of the professionals.



## **B. Parental responsibility (art. 18, paras. 1-2)**

### **Legal framework**

172. Pursuant to the Law on Family Relations, the basic principle of the parent-child relationship is the parental right, which belongs jointly to the mother and father. Parents exercise parental right jointly and by mutual agreement, while the guardianship authority decides in the event of their disagreement.

173. The guardianship authorities are competent to provide assistance to parents in bringing up and educating children, and also have the obligation of intervening in certain cases.

174. According to the Law on Family Relations, parents have the right and duty to take care of the child. Taking care includes protection, raising, upbringing, education, representation, support, and managing and disposing of the child's property.

175. Parents exercise the parental right jointly and by mutual agreement when living together. Parents also exercise parental right jointly and by mutual agreement when not living together, if they conclude an agreement on joint exercise of parental right and if the court assesses that this agreement is in the child's best interest. If parents cannot reach an agreement on the manner of exercising a right or duty from the substance of parental right, the decision is made by the guardianship authority. However, both parents decide on the issues that are essential for the child's development, also in case when only one of them exercises the parental right, provided that the other parent fulfils his/her duties towards the child.

176. The child capable of forming his/her own views is entitled to free expression of those views. He/she has the right to receive in a timely manner all information he/she needs for forming his/her views. Due consideration must be given to the child's views in all matters concerning him/her and in all proceedings in which his/her rights are decided on, in accordance with the child's age and maturity. The child who has attained the age of 10 years may freely and directly express his/her views in any judicial and administrative proceedings in which his/her rights are decided on. The child who has attained the age of 10 years may, by himself/herself or through some other person or institution, refer to the court or the administrative authority and request assistance in exercising his/her right to free expression of his/her views. The court and administrative authority determine the child's view in an informal conversation conducted in a suitable place, in cooperation with the school psychologist or guardianship authority, family counselling office or other institution specialized in mediation in family relations, in the presence of the person the child has chosen by himself/herself.

177. The institutions with expert services providing assistance to parents in fulfilling their responsibilities in bringing up children are: preschool institutions, social care centres, educational and health-care institutions. Concrete measures adopted for children from single-parent families and children belonging to the most vulnerable groups relate to facilities for exercising the right to children's allowances, as well as its increased amount. The local self-government has the right, according to the need and possibilities, to introduce concrete aid measures to vulnerable categories of children.

## Practice

178. Practice has shown that in reality the dispute about the parents' competence for taking care of the child causes complete disintegration of the family and reduces the chances for a successful reorganization of relations. For these reasons, the Law on Family Relations has adopted a concept of joint parental responsibility. According to this concept, responsibility of parents is joint, regardless of their marital status and whether they live together.

### C. Separation from parents (art. 9)

#### Legal framework

##### The child's right to live with his/her parents

179. In the Republic of Serbia, the conditions and manner of separating the child from one or both parents is normatively regulated by the provisions of the Law on Family Relations. Parents may temporarily entrust another person with the child only if that person meets the requirements for being a guardian (art. 69).

180. In cases where separation is not voluntary, the child may be separated from the parents by a court decision only. This decision is always made if it is in the child's best interest and is possible in all situations where a parent is (partially or fully) deprived of parental right, or as a measure of protection against family violence.

181. In order for parents to be able to exercise parental rights and duties toward juvenile children, it is assumed that they live together. On the other hand, it is a child's absolute and personal right to live with her/his parents until acquiring full legal capacity by attaining majority or by emancipation. A parent may not waive his/her parental right or duty to live with his/her child. There are exceptions to the rule that juvenile children live with their parents only if it is in the justified interest of children or in mutual interest of children and parents.

182. When a marriage or common law marriage is terminated, parents may agree on the manner of taking care of the child. In case of marriage termination, parents may conclude an agreement on joint exercise of the parental right. The court assesses such an agreement and if it determines that it is in the child's best interest, the parents jointly exercise the parental right regardless of the fact that they do not live together (art. 75, para. 2). The agreement must also include an agreement on the child's place of residence (art. 76, para. 2), and on the manner of exercising the right. This is a new legal solution, which harmonizes domestic legislation with international conventions. When joint exercise of parental right is not possible, exercise of parental right belongs to the parent the child lives with. Parents may also agree on the exercise of parental right by one parent, and the court has the same powers as in the case of an agreement on the mutual exercise of parental right. Where there is no agreement, the decision on all matters is made by the court, on the basis of the guardianship authority's opinion. Common law marriage parents, in case they fail to reach an agreement, may also demand that the decision be taken by the court. The child over 15 years of age, if he/she is mentally competent, may decide which parent he/she wants to live with and on the modalities of maintaining personal relations with the other parent.

183. The child and the parent he/she does not live with have the right to maintain personal relations, and the parent has the right to participate together with the parent exercising the parental right in decisions regarding the issues that have a material impact on the child's life, such as education, undergoing major medical interventions, changing the place of residence and disposing of the child's property (art. 78). In divorce proceedings, the guardianship authority suggests the manner in which the child will maintain personal relations with the parent he/she does not live with, but the final decision on this is made by the court.

184. By the Law on Ratification of the Convention on the Rights of the Child, a reservation was made concerning article 9, paragraph 1 of the Convention, which in practice meant that the competent authorities (guardianship authorities) may make a decision on depriving a parent of the right to protect and educate the child without prior judicial review. On 29 August 1996, the FRY passed the Law Amending the Law on Ratification of the Convention on the Rights of the Child, whereby it withdrew, by the procedure determined by the Constitution, the reservation to article 9, paragraph 1, of the Convention.

185. In the Law on Family Relations, the parallelism in decision-making (court, guardianship authority) is finally abolished, so decisions on separating a child from his/her parents are made solely by the court in the conditions and by the procedures prescribed by law, without disregarding the preventive and consultative role of the guardianship authority.

186. The court which makes the decision on custody of children to protection and upbringing is obliged to examine in an appropriate manner all circumstances of the case that are of significance for the correct spiritual and physical development and upbringing of the child and to be guided primarily by the child's interests in making such decisions, at the same time taking into account the emotional needs and wishes of the child, about which it obtains the opinion of appropriate experts, when the case and circumstances so require.

### **Justified interests of the child**

187. The Law on Family Relations authorizes the centre for social work to intervene in the family when the child's justified interests so require. This means that it is obliged to react in a preventive manner, using the means available to it, as soon as it becomes aware that the relations between family members are disturbed to such an extent that they endanger the rights and interests of children.

188. *Preventive supervision* of exercising the parental right is performed by the guardianship authority. It is authorized and obliged to make decisions enabling parents to exercise the parental right in all situations placed within its competence by the law (art. 79). Parents may refer to the guardian authority whenever they have a problem and to ask for its assistance in overcoming the problem.

189. *Corrective supervision* performed by the guardianship authority includes making decisions by which parents are corrected in exercising parental right (art. 80, para. 1). The measures the guardianship authority undertakes range from a warning to a referral to the family counselling office or institution specialized in mediation in family relations, a request to give account on the disposal of the child's property, and to initiating court proceedings relating to exercise of parental rights (art. 80, paras. 2, 3 and 4).

190. *Deprivation of parental right*: Decisions by which a parent is deprived of the parental right may only be made by the court. The reasons for which the court may make a decision on depriving of the parental right are prescribed by law, and are divided into two categories depending on the degree of the violation. Thus, the court will make a decision on full deprivation of the parental right when a parent abuses the right or grossly neglects the substance of the parental right (art. 81, para. 1). After the court takes such a decision, the parent is left only with the obligation of child support (art. 81, para. 4). A parent will be partly deprived of his/her right if he/she exercises the rights and duties from the substance of parental right unconscionably (art. 82, para. 1). In this case the court will deprive the parent of some of the rights which he/she has exercised unconscionably. The court is authorized to pronounce, along with a decision on the deprivation of the parental right, some of the measures aimed at protecting the child against family violence that are provided for by the law (art. 81, para. 5 and art. 82, para. 5).

191. The parental right may be given back to the parent when the reasons for which he/she has been deprived of the parental right cease to exist (art. 83). There are no data on the measures for protection against family violence, considering that this is a new institution.

### Practice

192. The following tables present the situation in the Republic of Serbia in connection with the number of children taken away from parents in the period between 1998 and 2002. Also, an overview is presented of other relevant data in connection with the exercise of parental right and prevention from exercising this right in the mentioned period.

**Table 4**

|                                  | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 |
|----------------------------------|------|------|------|------|------|------|------|
| Children taken away from parents | 190  | 195  | 215  | 245  | 348  | 499  | 573  |

*Source:* Data of the Ministry of Labour, Employment and Social Policy and Federal Statistical Office.

**Table 5**

|   | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 |
|---|------|------|------|------|------|------|------|
| Children whose parents have been deprived of parental right | 170  | 178  | 181  | 145  | 207  | 262  | 240  |

*Source:* Reports of social care centres submitted to the Ministry of Labour, Employment and Social Policy.

**Table 6**

| *   | 1998   | 1999  |
|---|--------|-------|
| Court requests for reconciliation and assessment of the eligibility to be entrusted with the child after marriage termination | 10 630 | 9 474 |
| Court requests for assessment of the eligibility for changing the decision on custody   | 843    | 720   |
| Requests of parties for reconciliation and custody after common-law marriage termination                                      | 1 756  | 1 448 |
| Requests of parties for changing the decision on custody after common-law marriage termination                                | 175    | 166   |
| Requests of parties for regulation of visitation of the children by the parent not granted custody                            | 2 121  | 863   |

*Source:* 2\* reports of social care centres for 1998 and 1999, submitted to the Ministry of Labour, Employment and Social Policy.

193. Divorced marriages in 2004 affected a total of 7,538 supported children. After divorce, the children usually stay with their mother (in 76.84 per cent of divorces with supported children). Only 19.20 per cent of fathers are granted custody of the child after divorce, while in 3.34 per cent of cases children are entrusted to both parents. These statistical indicators include only formally divorced marriages, and not the number of children from disintegrated common-law marriages and from marriages that actually do not exist anymore, but where divorce has not been finalized by a court decision.

#### **D. Illicit transfer and non-return of children from abroad (art. 11)**

194. In case of illicit transfer and non-return of children from abroad, which may be classified as a violation of the right to custody of children, or violation of the visiting rights (personal relations), the provisions of the Convention on Civil Law Aspects of International Abductions of Children apply, which was ratified by our country on 20 June 1991. According to article 3 of the Law on Ratification, the central executive authority for the implementation of the Convention is the Ministry of Justice. That Ministry receives from abroad and dispatches to central authorities of other State parties requests for return of children illicitly separated from their parents or persons having parental responsibility.

195. In performing the obligations assumed by the ratification of the Convention on Civil Law Aspects of International Abductions of Children, the procedure of returning an illicitly brought child is conducted by applying the provisions of articles 86-96 of the Law on Resolving the Conflicts of the Laws with the Regulations of Other Countries in Certain Relations. This Law regulates the conditions and procedure of recognition of foreign court decisions, including decisions on child custody, if they have become legally binding according to the law of the country in which they have been made. By a domestic court's recognition of the foreign decision on child custody, this decision is made equal with the domestic court decision and may be

enforced. If a decision on child custody has not been made in the country from which the child has been brought illicitly, or if a decision has been made that may not be recognized,<sup>1</sup> the proceedings upon child return request, in accordance with the Convention, are conducted by the competent family authority, observing the principle of the child's best interest and the child's right to participate in the proceedings and state his/her view in accordance with his/her developmental capacities.

196. For the purpose of combating illicit transfer and non-return of children abroad, on 9 May 2001 the FRY ratified the European Convention on the Recognition and Enforcement of Decisions on Custody of Children and Reestablishment of Custody Relations.

197. The FRY ratified the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography to the Convention on the Rights of the Child on 2 July 2002, with the aim of expanding the measures by which greater guarantees are provided for the protection of children against illicit transfer and non-return abroad, and for the prevention of international trafficking of children.

198. Our country has also concluded a number of bilateral agreements<sup>2</sup> on legal assistance between judicial and other competent authorities and countries in the enforcement of decisions relating to child custody, which should contribute to a more efficient protection of children who are unlawfully separated from their parents.

199. The Penal Code criminalizes the taking away of a juvenile (art. 191). Illicit keeping or taking a juvenile away from a parent, adoptive parent, guardian or other person or institution he/she has been entrusted to, as well as preventing the enforcement of a decision by which a juvenile is entrusted to a specific person is sanctioned by a fine or sentence of up to two years' imprisonment. If this act has been committed for financial motives or if the health, upbringing or education of the juvenile has been endangered due to the act, the perpetrator will be sentenced to three months' to five years' imprisonment. If the court pronounces a suspended sentence, it may impose an obligation on the perpetrator to deliver the juvenile within a specified time limit to the

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<sup>1</sup> Foreign court decision will not be recognized in S&M if, regarding the complaint of the person against whom that decision has been made, it is determined that this person has been unable to participate in the proceedings because the summons, complaint or decision by which the proceedings have been initiated was not delivered personally to him/her, or because personal delivery was not attempted at all, except if he/she engaged in any way in discussion about the main matter in the first-instance proceedings. Foreign court decision will not be recognized if it is contrary to the Constitutional Charter of S&M or public order, if the court in S&M has made a legally binding decision in the same matter or if some other foreign decision made in the same matter has been recognised in S&M (arts. 88-91 of the Law on Resolving the Conflicts of the Laws with the Regulations of Other Countries in Certain Relations).

<sup>2</sup> Our country has concluded conventions, treaties and agreements on legal assistance and cooperation in civil, criminal, family and administrative matters with: Austria, Algeria, Bahamas, Belgium, Bulgaria, Greece, Denmark, Italy, Iraq, Cyprus, Hungary, Mongolia, Poland, Romania, Russian Federation, Turkey, France, Croatia, the Czech Republic and Slovakia.

person or institution which the juvenile has been entrusted to or to enable the enforcement of the decision by which the juvenile is entrusted to a specific person or institution, or the decision determining the manner of maintaining personal relations of the juvenile with the parent or other relatives. However, the court may acquit the perpetrator who voluntarily delivers the juvenile to the person or institution the child has been entrusted with custody to, or enables the enforcement of the decision on juvenile custody.

200. Also, the person who prevents the enforcement of the decision of competent authority which determines the manner of maintaining personal relations of a juvenile with his/her parent or other relative will be punished by a fine or up to one year's imprisonment.

### **Practice**

201. The Ministry of Justice as the central executive authority for the implementation of the Convention on Civil Law Aspects of International Abductions of Children ensures cooperation between competent authorities of State parties for the purpose of preventing illicit transfer or non-return of children, as well as for the purpose of returning the illicitly transferred child to the country of regular residence as urgently as possible. The Ministry acts upon requests of our citizens when the child is abroad, as well as upon requests of aliens if the child is in our country, for the purpose of returning the child to the country of regular residence as quickly as possible.

202. According to data of the Ministry of the Interior, in the period from 1992 to June 2003, criminal charges were brought for 90 criminal offences - taking a juvenile away referred to in article 116 of the Penal Law of the Republic of Serbia then in force. Most criminal charges, i.e. 13, were brought in 1995.

## **E. Child support (art. 27, para. 4)**

### **Legal framework**

203. Issues relating to child support are fully regulated by the Law on Family Relations. Child support is primarily an obligation (and also a right) of the parent. While the child is juvenile, this obligation is absolute, limited only by the parent's actual ability to support the child. Even a parent completely deprived of parental right has child support obligation. The law provides for the obligation of parents to support the child even after he/she has attained the age of 18 years. When there is a dispute over support, the Law prescribes criteria by which the court is guided in deciding on support. These criteria concern the needs of the support recipient (child) and the capacities of the support debtor. It may be ordered as a fixed monthly amount, but if the debtor has regular monthly income, it is determined as a percentage in relation to this income. By the new law, percentages of appropriation from the debtor's monthly income are increased and now amount to 15 to 50 per cent of net monthly income (art. 162, para. 2). The amount of support should enable at least the level of the standard of living which the parent-support debtor enjoys (art. 162, para. 3).

### **Practice**

204. Social care services endeavour to assist each child in exercising the right to be supported by the parents residing outside the territory of our country. In this case, the function of the

dispatching authority is performed by the Ministry of Finance, applying the provisions of the 1956 Convention on Enforcement of Alimony Claims Abroad. By applying this Convention, it is possible to enforce support much faster than by resorting to regular court procedures. In connection with the proceedings on enforcing the claims of foreign creditors, most of which come from Slovenia, Croatia and Poland, the Ministry of Human and Minority Rights of SCG played the role of mediation authority until 2006. That Ministry delivered the received claims to the ministry in charge of social affairs, which forwarded them to competent social care centres for final processing and treatment.

205. In 2003, 84 claims were delivered to the Ministry of Human and Minority Rights, 35 in 2004 and 25 in 2005. All these claims have been updated and necessary measures and actions have been taken regarding all of them.

## **F. Family reunification (art. 10)**

### **Legal framework**

206. Maintenance of personal relations of children with parents may be restricted or temporarily prohibited only for the purpose of protecting the health and other important interests of children. In the Law on Resolving the Conflicts of the Laws with the Regulations of Other Countries in Certain Relations, in resolving the issue of relationship between parents and children and, among other things, entrustment of children for protection, upbringing, support and maintenance of personal relations and contacts, and in determining the applicable law, the interest of the child is stated as the primary interest. This problem has also been resolved by bilateral agreements (on the area of recognition and enforcement of foreign judicial and other decisions, or the specific area mentioned), as well as by the Convention on Civil Law Aspects of International Abductions of Children. According to article 4, the Convention will apply to the child who lived in the State party immediately before any violation of the right to custody or visitation, and the Convention will cease to apply when the child has attained the age of 16 years. Also, in accordance with article 5, for the purposes of the Convention, visiting rights include the right to take the child for a specific time period to a place which is not the permanent place of residence.

207. The rights of the child and parent who are domestic citizens to exit the country and re-enter it for the purpose of maintaining family connections and uniting with the family, is regulated by the Law on Passports, and the rights of the child and parent who are aliens, stateless persons or refugees is regulated by the Law on Alien Movement and Stay. The freedom of movement and settlement and the right to exit the territory of our country, irrespective of whether it regards domestic citizens, refugees, stateless persons or aliens, are subject only to legal restrictions (art. 31, para. 2, of the Charter on Human and Minority Rights and Civil Liberties and art. 17 of the Constitution of the Republic of Serbia). These rights may be restricted only if it is necessary to conduct criminal proceedings, protect public order and peace, prevent spreading of contagious diseases or for the country's defence.

208. Pursuant to the Law on Passports, a juvenile has the right to his/her own passport. At a parent's request, a juvenile of up to 14 years of age may be entered into the passport of one of the parents. A juvenile over 14 years of age must have his/her own passport. Entering the child into the passport of one of the parents may be cancelled by the authority in charge of passport issuance if this is requested by the other parent.



209. A passport is issued at personal request, or at a parent's or guardian's request for a juvenile child. The person whose request has been rejected or whose passport has been temporarily taken away has the right to appeal to the higher authority. Special records are maintained of the reasons for rejecting a request to issue a passport or for taking a passport away (articles 49, 50, 54 and 55 of the Law).

210. The provisions of the Law on Alien Movement and Stay apply in relation to the right of a child or parent who are foreign citizens to enter the territory of the country and stay in it. The conditions for admission of aliens into the territory of our country are contained in the provisions of articles 5, 25 and 26 of that Law. An alien may enter the country and stay in its territory if he/she has:

- A valid national passport or other appropriate travel document recognized by the country;
- A mandatory visa for citizens of those countries with which visa abolishment agreements have not been concluded;
- If he/she possesses enough funds to support himself/herself during the period of stay, or that he/she may in another way be provided with funds.

211. A refugee passport or passport for persons without citizenship provided for by international agreements is issued for travelling abroad to an alien whose refugee status has been recognized in our country, or to a stateless person. These documents are issued with a validity period of up to one year, and their validity may be extended to five years maximum.

212. For the purpose of exiting or entering the country, the competent government authority may, in specific cases, issue an alien travel document to an alien who does not have refugee status or status of stateless person and does not have a valid passport.

213. Passports that the competent government authority, under the conditions determined by law, issues to persons with refugee status, stateless persons and aliens are, as a rule, issued to adult persons, while the data on children are entered into the parent's passport. Exceptionally, the law also provides for the possibility of issuing a passport to the child, if justified reasons exist for that. Although the law does not prescribe expressly what is deemed a justified reason, it may be assumed that a situation when this is necessary for the purpose of exercising the right to family reunification will also be deemed a justified reason.

214. According to that law, aliens may be prohibited from entering our country, their movement may be restricted or prohibited in a certain area, their stay may be refused or their permanent settlement in specific places may be prohibited for the purpose of protecting public order, protecting the interest of the country's defence or for reasons arising from international relations.

## **Practice**

215. In practice the ministry in charge of social affairs takes concrete measures, acting upon requests from nationals as well as foreign citizens for the purpose of regulating the issue of

maintaining personal relations and direct contacts of the child with parents living in different countries, and getting involved directly with the competent authorities in pointing out to parents the obligation of executing the decisions of courts or guardianship authorities.

### **G. Children deprived of family environment (art. 20)**

#### **Legal framework**

##### **Child without parental care**

216. The legal basis for organizing special care of children without parental care exists in the Constitution of the Republic of Serbia, the Law on Family Relations and the Law on Social Care and Provision of Social Security of Citizens.

217. In accordance with the provisions of both laws a child without parental care is a child whose parents are not alive, a child whose parents are unknown or whose parents' place of residence is unknown, and a child whose parents are completely deprived of the parental right or legal capacity.

218. Pursuant to the Law of Family Relations, the child who is without parental care is placed under guardianship. Placing the child under guardianship lies within the competence of the guardianship authority, which is obliged to make a decision on placement under guardianship (art. 125, para. 1). This decision includes a guardianship plan, and by that decision a guardian is appointed, a ward placement is decided upon (art. 125, paras. 2 and 3) and an inventory and assessment of the ward's property is also made if he/she has his/her property (art. 125, para. 5).

##### **Basic forms of family law care of children without parental care**

219. Proceeding from the constitutional provisions, the Law on Family Relations determines the right of the child without parental care to special social care and determines the following as basic forms of family law care: adoption, organized foster placement and other forms of family placement. The Law on Social Care and Provision of Social Security of Citizens, in addition to foster placement of children, provides also for the possibility of placement in social care institutions.

220. The Government, through the guardianship authority, is obliged to provide children left without parental care with appropriate care and protection. Care and protection, whenever it is possible, are provided in the family environment (art. 6, para. 6), but first of all in the family of relatives (art. 125, para. 4).

221. Regarding the selection of the appropriate form of care of children without parental care, a comprehensive consideration of each individual case is provided for by law, so that the solution for each individual child would be in accordance with his/her needs and compensate in the best manner for the loss of parents or parental care.

## Practice

222. The most frequent reasons for absence of parental care, according to the records of social care centres in their annual reports, are:

- Abandonment of children by parents (45 per cent);
- Parents prevented from exercising parental right (27.7 per cent);
- Death of parents (20.3 per cent);
- Inadequate exercise of parental right (5.94 per cent); and
- Unknown parents (1.09 per cent).

**Table 7**

|   | 1995  | 1996  | 1997  | 1998  | 1999  | 2000  | 2001  | 2002  | 2003  | 2004  | 2005  |
|---|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Children of unknown parents   | 91    | 94    | 68    | 62    | 67    | 63    | 65    | 76    | 75    | 54    | 39    |
| Children abandoned by parents                                       | 171   | 188   | 177   | 170   | 178   | 181   | 186   | 211   | 264   | 257   | 287   |
| Children whose parents are prevented from discharging parental duty | 2 486 | 2 444 | 2 392 | 2 298 | 2 384 | 2 328 | 2 385 | 2 271 | 2 383 | 2 392 | 2 500 |
| Children deprived of parental right                                 | 2 059 | 3 199 | 3 064 | 3 167 | 3 168 | 3 142 | 3 469 | 3 482 | 3 496 | 3 647 | 3 388 |

*Source:* Republic Statistical Office.

223. In practice, social and family law care of children without parental care in our conditions is most frequently realized by family placement, by accommodating children in homes, and by adoption.

## Family placement

224. Family placement as a form of care of children in our conditions has a tradition that is 75 years long.

**Table 8**

### Number of children accommodated in foster families

| 1995  | 1996  | 1997  | 1998  | 1999  | 2000  | 2001  | 2002  | 2003  | 2004  | 2005  |
|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| 2 286 | 2 175 | 2 254 | 2 220 | 2 219 | 2 098 | 2 210 | 2 270 | 2 683 | 3 010 | 3 145 |

225. An analysis of the current status of family placement in the Republic of Serbia<sup>3</sup> indicates that the number of foster families and children in family placement fluctuates year after year. The share and concentration of foster families in rural and suburban areas is significantly higher - rural area 55 per cent, as well as unfavourable educational status and age structure of foster families - 4.8 per cent without any education; 28.7 per cent with incomplete elementary education; 31.1 per cent with elementary education. The age average is around 52, with a significant number of foster families over 60 years of age: in the sample of 310 foster families - 21.2 per cent of foster fathers and 28.4 per cent of foster mothers were over 60.

Number of foster families:

1998 - 1,854 foster families  
 1999 - 1,707 foster families  
 2000 - 1,606 foster families  
 2001 - 1,338 foster families  
 2003 - 1,191 foster families  
 2004 - 2,007 foster families  
 2005 - 2,127 foster families

### Placement of children in social care organizations

226. The share of family placement is equal to the share of children's home placement. Such a ratio is a result of the insufficient number of foster families compared to children's needs.

**Table 9**

| 1995  | 1996  | 1997  | 1998  | 1999  | 2000  | 2001  | 2002  | 2003  | 2004  | 2005  |
|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| 4 434 | 4 290 | 4 142 | 4 007 | 3 741 | 3 676 | 3 637 | 3 385 | 3 590 | 3 305 | 3 145 |

*Source:* Republic Statistical Office.

### Reform of social and family care

227. One of the key principles of reform of social and family law care in the Republic of Serbia is the principle of de-institutionalization, or the principle of reaffirming the family as the basic framework of care of particularly vulnerable groups.

228. In the area of care of children without parental care, de-institutionalization or the reduction of existing capacities of institutions for children without parental care may be realized by developing alternative forms of family care of children: family placement and adoption.

<sup>3</sup> Data sources: Kuzmanović, B. and associates, *Children without Parental Care*, Save the Children UK Belgrade, 2002 and Grujić, D., *New Possibilities of Family Accommodation as a Form of Social Care of Children*, MA thesis, 2002, Faculty of Political Sciences.

229. For the purpose of realizing the improvement of family placement, with priority given to the youngest children placed in children's homes, and then the implementation of family placement as a form of care of all children with the need for temporary or longer-term care in foster families, the following is under preparation by the ministry in charge of social affairs: preparation and realization of educational packages for the improvement of family placement and strengthening professional competences of expert workers of social care centres; preparation of the programme of preparing and training foster parent candidates and education of experts who will realize the programme; preparation of the programme of monitoring and supporting foster families; preparation and realization of the programme of family placement campaign; the family placement campaign will be conducted at the Republic level with the aim of providing functional foster families in the entire territory of the Republic of Serbia, whereby possibilities open for placement of children in the environment they originate from, maintenance of connections with the natural family and, in the long term, better integration of children into their social environment; application of new professional standards in childcare which also involves reviewing the care of children in existing foster families and taking appropriate measures in accordance with children's best interests; the establishment of family placement development model in the Republic of Serbia will rely on international experience and partnership with the non-governmental sector as well.

## **H. Adoption (art. 21)**

### **Legal framework**

230. Pursuant to the Law of Family Relations:

- Children without parental care and children to whose adoption the parent has consented may be adopted (art. 91);
- The adoption procedure is conducted by the guardianship authority (art. 88);
- The principle of the child's best interest is the guiding principle in the adoption procedure, so the child may be adopted only if this is in his/her best interest (art. 89), and the adoptive parent may only be a person for whom it has been determined that his/her personal traits are such that he/she will exercise the parental right in the child's best interest (art. 100);
- The adoption must have the consent of the child, provided that he/she has attained the age of 10 years and is mentally competent. In that case the child's consent is necessary and represents a formal condition for adoption validity (art. 98). The view of the child under 10 years of age is not the condition for establishment of adoption, but the guardianship authority is obliged, as in other procedures, to enable the child to express his/her views and to consider those views in accordance with the child's developmental capacities; an adopted child must be over 3 months and under 18 years of age, but not if he/she has acquired full legal capacity before attaining the age of 18 (art. 90). The age difference between the adopted child and adoptive parent may not be less than 18 or greater than 45 years;

- The parent's consent to adoption is a necessary condition except in cases specified in the Law. The parent has the right to withdraw his/her consent within 30 days, but he/she may use that possibility only once (arts. 95 and 96). Consent for a child under guardianship is given by the guardian;
- A child may be adopted only by couples, whether married or common law. A single person may adopt the child only when it is the child of his/her spouse or common law partner and when there are particularly justified reasons for this, which is decided on by the competent minister;
- The general eligibility of the adoptive parent and the adopted child (in terms of age, marital status and personal traits) is established by the guardianship authority, and the decision is made on the basis of findings and expert opinion of the team consisting of a psychologist, a pedagogue, a social worker, a lawyer and a physician, and assistance of the family counselling office or other specialized institutions for mediation in family relations and health-care institutions may be sought as well;
- A special training programme is provided for future adoptive parents, which is mandatory, except when the adoptive parent is the spouse or common law partner of the parent or of the former adoptive parent of the child (art. 102). The thematic units covered are prescribed by the regulation governing the training programme;
- After the selection of adoptive parents, the child is referred to them for the purpose of mutual adaptation, except if the adoptive parent is a foreign citizen. The adaptation period lasts up to six months, with supervision of the competent guardianship authority;
- By adoption, all rights and duties are established between the adoptive parent and adopted child as between the parent and the child, and the parental right of the parent terminates, i.e. the adoptive parent "replaces" the parent (except when adopting the child of the spouse or common law partner) (arts. 104 and 105). One of the tasks of the training of future adoptive parents is building the positive attitude of adoptive parents towards the child's natural parents as well as the importance of preserving the child's identity;
- The Unified Personal Register of Adoption is the record kept by the ministry in charge of family affairs, in which data are entered about future adoptive parents for which it has been determined that they are eligible to adopt the child and data about the children for which it has been determined that they are eligible to be adopted. After the law was passed, a corresponding by-law governing the manner of keeping the Register was also passed;
- Data about adopted children are kept in the Book of Records on Adopted Children, and the manner of its keeping is regulated by the regulation that has been adopted.

### **Termination of adoption**

231. Adoption may terminate by cancellation if, when establishing adoption, some of the conditions were not observed relating to the adoptive capacity of adoptive parents, adopted

children, or the circumstances concerning adoptive parents and adopted children, or the circumstances relating to the form of adoption, provided that such shortcoming is stipulated by law as a reason for invalidity.

### **International adoption**

232. The Law on Family Relations stipulates that foreign citizens may be adoptive parents of children who are citizens of the Republic of Serbia under the following conditions: that no adoptive parents can be found among domestic citizens, and that the minister in charge of family care has agreed with the adoption (art. 103).

233. In exceptional cases, the Minister in charge of family care may allow adoption to a foreign citizen before the expiry of a one-year period from the day of entering the data on the future adopted child into the Unified Personal Register of Adoption if it is in the child's best interest.

### **Practice**

234. On the basis of the data on the number of adopted children in the period from 1995 to 2000, obtained through the unified methodology of monitoring on the basis of reports on the work of social care centres, a slight but constant decrease in the number of adopted children is observed. The number of adopted children in 1995 was 357, while it was 170 in 2001. At the same time, the number of persons interested in adoption increased, which brings about the question whether adoption is applied to the extent required by the needs and interests of children, or what the factors are that impede implementation of adoption as a permanent form of care of children without parental care.

235. Reasons for previous insufficient implementation of adoption could be identified at three global levels: necessary level of protection of natural parenthood was not ensured by the former Law on Marriage and Family Relations, on one hand, while on the other the conditions for implementation of adoption were set too rigidly; the law did not prescribe the obligation of special training of adoptive parents for adoption and parenthood and the obligation of establishing and keeping unified records of children eligible for adoption and persons interested in adoption at the level of the Republic of Serbia. Secondly, in practice, the services of providing assistance to natural parents for the purpose of preserving and establishing their function as parents were not standardized and criteria for defining duration of absence of parental care were not defined. Furthermore, it is harder to find adoptive families for children who have health or developmental problems, and whose family law status is such that adoption could be applied in their case.

## **I. Illegal transfer of children across borders and non-return to their country of origin (art. 11)**

### **Legal framework**

236. Our country is a party to the Convention on Civil Law Aspects of International Abductions of Children. The competent line authority for the implementation of this convention is the Ministry of Justice, which acts upon requests of our citizens when the child is abroad and upon requests of aliens if the child is in our country.

237. Preventing the enforcement of the decision of the competent authority by which the manner of maintaining personal relations of a juvenile with a parent or other relative is determined is deemed a criminal offence pursuant to article 191 of the Penal Law and sanctioned by a fine or up to one year's imprisonment.

238. In accordance with the Law on Resolving the Conflicts of the Laws with the Regulations of Other Countries in Certain Relations, valid decisions according to the law of the other State in which they have been made are recognized under certain conditions. These court decisions are made equal to decisions of domestic courts.

### Practice

239. According to the data of the Ministry of the Interior, the number of criminal offences of taking the child away from his/her parents contrary to the court decision on custody of children increased constantly in the period from 1998 to 2002.

**Table 10**

| Year | No. of committed criminal offences<br>under article 116 |
|------|---|
| 1998 | 1   |
| 1999 | 5   |
| 2000 | 6   |
| 2001 | 7   |
| 2002 | 8   |

*Source:* Ministry of the Interior.

## **J. Protection of children against abuse and neglect (art. 19)**

### **Legal framework**

#### **Family law and penal law responsibility for violent behaviour of a parent**

240. In the legal system of the Republic of Serbia, the measures for the protection of the child against violence are established in penal and family legislation. Certain forms of violent behaviour of parents entail dual responsibility. Within family law, the basic act by which the issue of child protection, including protection of the child against neglect and abuse, is regulated is the Law on Family Relations.

241. All health-care and educational institutions, social care institutions, judicial authorities, civic associations and citizens are obliged to inform the public prosecutor or the guardianship authority of the needs and reasons for child protection (art. 263).

242. The centre for social work, as an authority that should coordinate all phases of the process of child protection and, later, recovery, plays the main role in the process of protecting the child against abuse and neglect. To this end, it may take the following measures:



- Warning the parent about the shortcomings in exercising parental right;
- Referring the parent to the family counselling office or other institution specialized in mediation in family relations for an interview;
- Temporary guardianship protection of the child, including urgent relocation from the family and provision of placement in a foster family or social care institution;
- Initiating court proceedings for the protection of rights.

243. The Law on Family Relations prohibits family violence and defines violence as any behaviour by which the physical integrity, mental health and tranquillity of other family members is endangered (art. 197).

244. The pronounced measures are directed against the parent who abuses and neglects the child, which is a big shift compared to former solutions. The aim is that the child, whenever possible, should remain in his/her home in order to avoid his/her placement in institutions, so that the other parent could continue taking care of him/her. Measures are pronounced by court decision, within special emergency proceedings.

245. The centre for social work is the basic social care service which at the same time performs activities of guardianship authority. This institution has a key position and the largest range of roles and tasks in the prevention and protection of children against violence. The centre's preventive role involves tasks at different levels of prevention of family disruptions and assistance to families in the rehabilitation of its functions. As regards children endangered in their development, the centre for social work provides necessary measures of social and family law care. It is authorized and obliged to make decisions by which it enables parents to exercise the parental right in all situations placed within its competence by law (art. 79). Parents may refer to the guardianship authority whenever they have a problem and ask for its assistance in overcoming the problem.

246. Decisions by which a parent is deprived of parental right may be made only by the court. The reasons for which the court may adopt a decision on deprivation of parental right are prescribed by law. These reasons are described above, in paragraph 190.

247. The parental right may be restored to the parent when the reasons for which he/she has been deprived of the parental right cease to exist (art. 83).

248. The Penal Code criminalizes neglect and abuse of a juvenile (art. 193) and family violence (art. 194). Pursuant to article 193, the parent, adoptive parent, guardian or other person who, by gross negligence of his/her duty of care and upbringing, neglects the juvenile he/she is obliged to take care of will be sentenced to up to three years' imprisonment. In case one of these persons abuses the juvenile or forces him/her to perform excessive work or work not suitable for the juvenile's age or to beg or, from greed as motive, induces him/her to perform other actions that are harmful to his/her development he/she will be sentenced to three months to five years' imprisonment.

249. Any person who, by using violence, by threatening life or body, by insolent or inconsiderate behaviour endangers the tranquillity, physical integrity or mental state of a member of his/her family, will be fined or sentenced to up to one year's imprisonment. If a weapon, dangerous tool or other instrument suitable to provoke severe bodily harm or to severely damage health was used when committing that offence, the perpetrator will be sentenced to three months' to five years' imprisonment.

250. If grievous bodily harm or severe damage to health has occurred due to the mentioned offences or if they have been committed against a juvenile, the perpetrator will be sentenced to one to eight years' imprisonment. The perpetrator will be sentenced to 3 to 12 years' imprisonment if the death of a family member occurred when committing such an offence. Also, the law prescribes that any person who breaches the measures of protection against family violence, which the court has ordered him/her based on the law, will be fined or sentenced to up to six months' imprisonment.

### Practice

251. Parents whose children have been taken away from them and parents deprived of the parental right are those in whose case the cause for taking away and deprivation is neglect or abuse of children and if there is a serious danger to their correct upbringing.

252. It may be assumed that the increase in the number of parents who exercise their parental right inadequately is caused by their timely registration, as well as by an increase in the sensitization of professionals in the system of social services and wider public to children's rights and a more consistent implementation of the Convention on the Rights of the Child. The registered decrease (it is still impossible to define whether it is a trend) in the number of children of parents prevented from discharging the parental duty as the result of the reinforced role of social services in providing support to parents to accept taking care of their children, seems to support that.

253. In Table 11, statistical data are presented about the number of criminal charges for the criminal offence of neglecting and abusing juveniles in the period 2003-2005.

**Table 11**

|   | 2003 | 2004 | 2005 |
|---|------|------|------|
| Republic of Serbia  | 127  | 64   | 148  |
| Data for the Republic of Serbia without AP Vojvodina and AP Kosovo and Matohija | 52   | 39   | 113  |

*Source:* Republic Statistical Office.

254. The data about children accommodated in foster family and social care institutions include various groups of children (children without both parents, abandoned by parents and similar), but the large number of children is also accommodated due to neglect and abuse by parents or persons taking care of them.

255. According to official statistics, 65 criminal charges were brought against parents during 2000 because of the neglect and abuse of juveniles; 22 parents were indicted, and 12 parents were sentenced, 4 of whom to prison sentences, while 8 of them were given a suspended sentence.

### **Measures for improvement of childcare and treatment**

256. Awareness-raising and information campaigns are part of the systematic effort to develop the child protection system based on the Convention on the Rights of the Child, which was started in the late 1990s. The “Prevention, Early Identification and Protection of Children against Violence” research project (1997) is the first study which provided a more comprehensive insight into the scope, types, causes and consequences of child abuse. The results were published in the “Violence against Children” monograph (1998). The former Ministry for Family Care of the Republic of Serbia accepted the initiative and made the issues of protection of these children a priority of its further activities, which the Ministry in charge of social affairs continued to do without interruption. This working group established connections with several international associations such as the BASPCAN (British Association for Study and Prevention of Child Abuse and Neglect), ISPCAN (International Society for Prevention of Child Abuse and Neglect) and others.

257. Training of professionals on child neglect and abuse has been conducted for the last six to seven years within several projects. The most significant are the following: “Assistance to Children and Families in Crisis”, training for 500 experts mainly from the education and health care system (1997); “Multidisciplinary Education of Experts Working in the Field of Child Abuse and Neglect” the result of which was the “From the Group to the Team” manual (2002) and training for 400 experts from relevant systems; “Protection of Rights of Abused and Neglected Children” for a large number of employees in agencies responsible for childcare (social care, health care, education, judiciary, police, media, NGOs and agencies) (1999); “Development of Social Network and Models for Protection of Children against Abuse” (2000); “Development of Network of Multidisciplinary Teams for Protection of Children against Neglect and Abuse” where, during the last three years, a network of multidisciplinary teams was established in six municipalities in the Republic of Serbia (1999-2002). Very important is the establishment of specialized teams for the protection of children against abuse, which were established in two health-care institutions, the Institute for Maternal and Child Health Care of Serbia “Dr. Vukan Čupić” and the Institute for Mental Health, both of them in Belgrade. Several conferences and symposia have also been held: Conference about Protection of Children against Neglect and Abuse (1998), Symposium on the Protection of Children against Neglect and Abuse in Child Placement Institutions (2002), Conference on Child Care and New Approaches of

Protection against Abuse (2003). Each 19 November for the last several years, on the World Day for Prevention of Child Abuse, intensive campaigns have been organized in Belgrade and many cities in the country, when media activity intensifies, promotional material is distributed, and thematic round tables, panels, expert meetings and similar are organized.

258. The experience and research in our environment so far indicate that the main obstacles to more efficient childcare are insufficiently clear steps in the process of childcare as well as unclear roles among the participants in that process. For the purpose of improving the childcare system, the General Protocol on Protection of Children against Abuse and Neglect, adopted by the Government in 2005, provides for an intersectoral approach to this problem, in which social care centres would have the role of main coordinator. The goal is to improve the childcare system in all phases - from reporting and registration of all forms of child abuse and neglect, assessment of received reports on suspected child abuse and neglect, to appropriate intervention in each particular case.

### **K. Periodic review of placement (art. 25)**

#### **Legal framework**

259. Pursuant to article 84 of the Law on Juvenile Delinquents and Penal Law Protection of Juveniles, the juvenile judge of the court which pronounced the corrective measure and the juvenile public prosecutor are obliged to monitor the results of execution of corrective measures by visiting juveniles accommodated in the facility or institution in which the corrective measure is being executed, as well as by direct insight into and review of reports about the progress of execution of the pronounced corrective measure.

260. The competent guardianship authority is obliged to submit a report about the progress of execution of other corrective measures to the juvenile court and public prosecutor every six months. The juvenile judge may request this report in a shorter time period and may also determine that the report be prepared by a particular expert (social worker, psychologist, pedagogue, special pedagogue and other), if there is one in the court.

261. The management of the facility or institution in which the corrective measure is executed is obliged to submit a report about the measure execution results to the juvenile judge of the court which tried the case in the first instance and to the juvenile public prosecutor every six months. The juvenile judge may request this report in a shorter time period as well.

262. The juvenile who, due to a psychophysical disorder or due to psychological disorders, has been pronounced a measure of referring to a special institution for treatment and training is referred to that institution where he/she has equal rights as the other juveniles accommodated in that institution. The juvenile who has been pronounced a measure of referring to the institution for treatment and training instead of remedial measure of compulsory psychiatric treatment and guarding in a health-care institution is referred to a special institution for juvenile treatment and training if guarding and treatment can be provided in that institution, and if the purpose of that remedial measure can be achieved by that (art. 134).

263. Referral of juveniles to a special institution for treatment and training is performed by the guardianship authority according to the residence or temporary residence of the juvenile at the time when the decision by which the corrective measure was pronounced became final. Special institution for juvenile treatment and training is obliged to submit a report about measure execution results to the juvenile judge and public prosecutor (arts. 135 and 136).

## **VI. BASIC HEALTH CARE AND SOCIAL CARE**

### **Normative bases**

- Constitution of the FRY (“Official Gazette of the FRY”, No. 1/92)
- Constitutional Charter of the State Union of Serbia and Montenegro (“Official Gazette of SCG”, No. 1/03)
- Charter on Human and Minority Rights and Civil Liberties (“Official Gazette of SCG”, No. 6/03)
- Constitution of the Republic of Serbia (“Official Gazette of the RS”, No. 1/90)
- Law on Social Care and Provision of Social Security of Citizens of the RS (“Official Gazette of the RS”, Nos. 36/91, 79/91, 33/93, 53/93, 67/93, 46/94, 48/94, 52/96, 29/01, 84/04 and 101/05)
- Law on Health Care (“Official Gazette of the RS”, Nos. 17/92, 26/92, 50/92, 52/93, 25/96 and 18/2002)
- Law on Health Insurance (“Official Gazette of the RS”, Nos. 18/92, 26/93, 23/96, 46/98, 54/99, 29/2001 and 18/2002)
- Law on Environmental Protection (“Official Gazette of the RS”, Nos. 66/91, 83/92 and 53/95)
- Law on Financial Support to Families with Children (“Official Gazette of the RS”, No. 16/02)
- Law on Elementary School (“Official Gazette of the RS”, Nos. 50/92, 53/92, 67/93, 48/94, 66/94, 22/02 62/03 and 101/05)
- Law on Secondary School (“Official Gazette of the RS”, Nos. 50/92, 53/93, 67/93, 48/94, 24/96, 23/02, 25/02, 62/03, 64/03 and 101/05)
- Law on Social Care of Children (“Official Gazette of the RS”, Nos. 49/92, 29/93, 53/93, 67/93, 28/94, 47/94, 48/94, 25/96, 29/01, 16/02, 62/03 and 101/05)

## **A. Child health care (art. 24)**

### **Legal framework**

#### **The right to health care**

264. Pursuant to the Constitution of the FRY, everyone has the right to health care, in accordance with the law. Children, pregnant women and old persons have the right to health care from public revenue if they do not exercise that right on some other basis, while other persons have that right under the conditions determined by law (art. 60).

265. The right to health care is proclaimed by the provision of article 45 of the Charter on Human and Minority Rights. The member States provide health care to children, pregnant women and old persons if they do not exercise that right on other basis. In article 39 of the Charter, it is also determined that the family, mother and child enjoy special protection of the society and member States and that the mother's right to support and protection in the period prescribed by law before and after the childbirth is guaranteed.

266. It is prescribed by the Law on Health Care that the social care of health, under equal conditions, in the territory of the Republic is realized by providing health care to the population groups that are exposed to increased risk of disease, health care of persons in connection with prevention, control, early detection and treatment of diseases of higher social and medical significance, as well as health care of the socially vulnerable population. Health care covers: children up to 15 years of age, schoolchildren and students until the end of prescribed education, but not after 26 years of age, in accordance with law; women in connection with family planning, as well as during pregnancy, childbirth and maternity until 12 months after childbirth; persons over 65 years of age; disabled persons and persons with mental disabilities; persons suffering from HIV infection or other contagious diseases determined by the special law governing the area of protection of population against contagious diseases, malignant diseases, haemophilia, diabetes, psychosis, epilepsy, multiple sclerosis, persons in terminal stage of chronic kidney failure, cystic fibrosis, systemic autoimmune disease, rheumatic fever, addiction disease, ill or injured persons in connection with the provision of emergency medical aid, as well as health care in connection with donation and reception of tissues and organs; monks and nuns; persons without financial security who receive financial benefit in accordance with regulations on social care and protection of veterans, veterans and civilians with disability caused by the war, as well as members of their families if they do not have health insurance; beneficiaries of permanent pecuniary benefits in accordance with social care regulations as well as assistance for placement in social care institutions or foster families; unemployed persons and other categories of socially vulnerable persons whose monthly income is below the income determined in accordance with the law regulating health insurance; aid beneficiaries of members of the family whose provider is doing military service; members of the Roma ethnic group who, due to the traditional way of life, have no permanent residence or temporary residence in the Republic. The Government of the Republic of Serbia regulates the contents and scope, manner and procedure of as well as the conditions for realization of health care of persons, unless regulated otherwise by law (art. 11).

267. Health care in the Republic of Serbia, according to the Law on Health Care, is based on the principles of accessibility (art. 19), equity (art. 20), comprehensiveness (art. 21), continuity (art. 22), permanent improvement (art. 23) and efficiency (art. 24).

268. Pursuant to the Law on Health Insurance, there is compulsory health insurance, which covers the family of the employed person, including children born in and out of wedlock, adopted children and stepchildren and children taken on for support, as well as grandchildren, brothers and sisters supported by the insured person (arts. 8 and 9). The insured person's child has rights arising from health insurance until attaining the age of 15 years, or 26 years if he/she attends regular or part-time education or postgraduate studies.

269. The right to health care also includes the right to a healthy environment. In connection with this, the Law on Environmental Protection regulates the protection system consisting of the conditions and instruments for: sustainable management, preservation of natural balance, completeness, diversity and quality of natural values and conditions for survival of all living creatures; and prevention, control, reduction and remedying of all forms of environmental pollution (art. 2).

## **Practice**

### **Health indicators**

#### *Mortality rates*

270. Infant mortality rate is a complex measure of the risk of death in neonatal period (the first 28 days of life), which decreases with better accessibility of neonatal health care, and the risk of death in the post-neonatal period (from the 28th day until the first birthday), which decreases with better education of mothers, better sanitation, nourishment, larger coverage of infants by immunization and more successful treatment of respiratory diseases at this age. Infant mortality in the Republic of Serbia increased in respect of both risks in 1993, and then in 1996 as well.

271. Mortality of infants in the first week of life has the largest share in neonatal mortality, which is also indicated by the rates of perinatal mortality. This rate, which presents the ratio of the sum of stillbirths and deaths in the first week of life per 1,000 births, in addition to being the indicator of effect of endogenous factors on the health of embryo, at the same time presents a good indicator of the quality of provided health-care services to mothers with children in the countries with organized perinatal health care, in which virtually all deliveries are performed in health-care institutions, as is the case in our country, because it occurs in the periods of intense supervision of health-care service over their health.

**Table 12**  
**Infant mortality rate**

| Territory          |        | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998  | 1999  |
|--------------------|--------|------|------|------|------|------|------|-------|-------|
| FRY                | Total  | 21.7 | 21.8 | 18.4 | 16.8 | 15.0 | 14.3 | 11.8* | 11.2* |
|                    | Male   | 23.5 | 23.0 | 20.3 | 18.1 | 16.4 | 16.2 | 13.0* | 12.5* |
|                    | Female | 19.6 | 20.6 | 16.3 | 15.5 | 13.5 | 12.2 | 10.5* | 9.9*  |
| Republic of Serbia | Total  | 22.3 | 22.3 | 18.6 | 17.2 | 15.0 | 14.3 |       | 11.0* |
|                    | Male   | 24.2 | 23.7 | 20.7 | 18.5 | 16.6 | 16.2 |       | 12.2* |
|                    | Female | 20.3 | 20.8 | 16.3 | 15.7 | 13.5 | 12.2 |       | 9.6*  |

*Source:* Federal Statistical Office.

\* Data excluding the territory of the AP of Kosovo and Metohija.

272. Child health is very delicate not only in the first year of life but throughout the whole pre-school period. Therefore, UNICEF has chosen mortality of children of up to 5 years of age per 1,000 births as the most significant child health indicator in the world, ranking the countries according to the values of this indicator. Like the values of infant mortality rate, the values of this indicator also increased in 1993 and then in 1996.

**Table 13**  
**Mortality rate of children of up to 5 years of age**

| Territory          |        | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998  | 1999  |
|--------------------|--------|------|------|------|------|------|------|-------|-------|
| FRY                | Total  | 24.6 | 24.9 | 21.5 | 19.4 | 17.6 | 16.4 | 13.6* | 12.9* |
|                    | Male   | 26.7 | 26.3 | 23.6 | 20.8 | 19.1 | 18.7 | 14.7* | 14.1* |
|                    | Female | 2.3  | 23.4 | 19.2 | 17.8 | 16.0 | 14.0 | 12.4* | 11.6* |
| Republic of Serbia | Total  | 25.2 | 25.5 | 21.8 | 19.8 | 17.7 | 16.4 |       | 12.7* |
|                    | Male   | 27.4 | 27.0 | 24.1 | 21.3 | 19.2 | 18.6 |       | 13.9* |
|                    | Female | 22.9 | 23.8 | 19.2 | 18.1 | 16.1 | 14.0 |       | 11.3* |

*Source:* Federal Statistical Office.

\* Data excluding the territory of the AP of Kosovo and Metohija.

#### *Access to clean drinking water*

273. Clean drinking water is the basic precondition for good health. The report on the state of health indicates that the diseases in the country caused by poor quality of water did not contribute significantly to the development of chronic and acute diseases. Mortality of newborns and children under 5 years of age, which is a standard indicator of the situation in water supply and sewerage system, was halved during the 1990s, which was associated with improved



household sewerage system and the improvement of diarrhoea and acute respiratory disease treatment. Mortality rates of children of up to 5 years of age in connection with diarrhoea decreased by 38.2 per cent during the period 1990-1997.<sup>4</sup> However, there are indications that this situation is changing. Deterioration of the quality of drinking water may reverse this favourable trend. Some more recent epidemiological research in connection with health and the state of environment have discovered the unfavourable impact of certain living conditions and quality of drinking water on health.<sup>5</sup> The situation is particularly bad in poor urban communities populated by refugees, the Roma and internally displaced persons.

274. Water accessibility has been improved, but the issue of its quality is still a reason for concern. During 2000, 98.4 per cent of the population in the country had access to improved sources of drinking water, based on the definition of: “improved sources of drinking water” as “the water from water supply system, public fountain, well, protected well, spring water or rainwater”. Given the country’s development level, it is more suitable to use a narrowed definition of improved sources of drinking water as the water conducted through water supply system to the flat, house or yard.

275. In spite of almost full accessibility, this sector needs urgent rehabilitation. Although the majority of large water supply systems are in operation, many of them work with not even near full capacity. By researching multiple indicators of the state of health in 2000 it was established that 30 per cent of urban households faced temporary water supply cuts, while 5-7 per cent of households faced water supply cuts on a daily basis.

276. In connection with water quality, the Institute for Public Health of Serbia “Dr. Milan Jovanović-Batut” found that in 1998-1999, 62 per cent of systems subjected to testing did not meet microbiological standards, while 44 per cent of them did not meet chemical and physical standards. The AP of Vojvodina has serious problems regarding physical/chemical as well as bacteriological standards; 67 per cent of water samples do not meet the standards. Children in schools are under threat, since 90 schools in the AP of Vojvodina do not have water supply facilities, while the quality of drinking water in 508 schools is unsatisfactory. The quality of water is adequate only in Belgrade, with more than 90 per cent of water samples being in order.

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<sup>4</sup> UNICEF, 2001.

<sup>5</sup> Mihajlović-Vukmirović et al, 2001.

**Table 14**  
**Percentage of population using improved water supply sources, 2000**

| Territory  | Water supply in house or in flat | Water supply in yard | Public fountain | Bored well | Protected dug well or regulated spring | Unprotected dug well or unregulated spring | Lake, river, brook | Cistern | Other | No data/ does not know | Total incl. improved water sources |      |        |
|--|----------------------------------|----------------------|-----------------|------------|--|--|--------------------|---------|-------|------------------------|------------------------------------|------|--------|
| FRY  | 83.8                             | 2.8                  | 0.6             | 4.4        | 6.8                                    | 0.7  | 0.0                | 0.1     | 0.4   | 0.3                    | 100                                | 98.4 | 18 791 |
| Republic of Serbia   | 83.7                             | 2.6                  | 0.6             | 4.6        | 7.0                                    | 0.8  | 0.0                | 0.1     | 0.3   | 0.3                    | 100                                | 98.6 | 17 564 |
| Serbia excluding the territory of AP of Vojvodina and AP of Kosovo and Matohija                        | 81.3                             | 2.6                  | 0.6             | 4.4        | 9.6                                    | 1.0  | 0.0                | 0.0     | 0.3   | 0.2                    | 100                                | 98.5 | 12 892 |
| Serbia excluding the territory of AP of Vojvodina and AP of Kosovo and Matohija and excluding Belgrade | 77.0                             | 3.1                  | 0.8             | 4.8        | 12.4                                   | 1.3  | 0.0                | 0.0     | 0.4   | 0.2                    | 100                                | 98.1 | 9 442  |
| Belgrade   | 92.9                             | 1.2                  | 0.0             | 3.5        | 1.9                                    | 0.3  | 0.0                | 0.0     | 0.1   | 0.0                    | 100                                | 99.6 | 3 451  |
| Vojvodina  | 90.4                             | 2.5                  | 0.7             | 5.2        | 0.1                                    | 0.0  | 0.0                | 0.3     | 0.4   | 0.5                    | 100                                | 98.8 | 4 671  |
| Mean   |                                  |                      |                 |            |  |  |                    |         |       |                        |                                    |      |        |
| Urban  | 97.5                             | 1.0                  | 0.1             | 0.4        | 0.4                                    | 0.0  | 0.0                | 0.0     | 0.3   | 0.3                    | 100                                | 99.4 | 10 077 |
| Rural  | 68.0                             | 4.8                  | 1.3             | 9.1        | 14.1                                   | 1.6  | 0.0                | 0.3     | 0.5   | 0.3                    |                                    | 97.2 | 8 714  |

*Source:* “Research of Multiple Indicators of the State of Health and Behavior of Women and Children”, UNICEF, 2001.

*Access to improved sanitary services*

277. The majority of population in the country (99.6 per cent) live in households with some kind of sanitary installation; 88.3 per cent of population have a sewerage system or septic tanks. The lowest percentage of toilets connected to sewerage system is in the AP of Vojvodina (44.1 per cent), where the highest percentage of toilets connected to septic tanks is recorded as well (47 per cent). It has been determined that many septic tanks are located contrary to regulations, which creates particular problems if those households supply themselves with well water, which increases the risk of drinking water pollution. The Institute for Public Health of Serbia “Dr. Milan Jovanović-Batut” has determined a high percentage of bacteriological pollution in the wells of Vojvodina.

278. Within the Roma communities throughout the Republic of Serbia, the access to utility and public services does not exist or is limited, and the most serious problems are lack of access to electricity, water, sewerage system and garbage disposal. Such conditions lead to increased risk of disease in the population caused by water.

**Table 15****Percentage of population using hygienic ways of human waste disposal, 2000**

| Territory  | Flushing to sewerage system | Flushing to septic tank | Without flushing and with waterproof tank | Privy | No toilet | Does not know | Total | Total disposal of human waste in hygienic way | No. of persons |
|--|-----------------------------|-------------------------|---|-------|-----------|---------------|-------|---|----------------|
| FRY  | 57.2                        | 31.1                    | 0.7                                       | 10.5  | 0.1       | 0.3           | 100   | 99.6  | 18 791         |
| Republic of Serbia   | 57.0                        | 31.3                    | 0.7                                       | 10.7  | 0.1       | 0.3           | 100   | 99.7  | 17 564         |
| Serbia excluding the territory of AP Vojvodina and AP of Kosovo and Matohija | 61.7                        | 25.6                    | 0.8                                       | 11.6  | 0.1       | 0.2           | 100   | 99.8  | 12 892         |
| Total  |                             |                         |   |       |           |               |       |   |                |
| Belgrade   | 84.5                        | 12.4                    | 0.2                                       | 2.8   | 0.0       | 0.0           | 100   | 100.0   | 3 451          |
| Vojvodina  | 44.1                        | 47.2                    | 0.3                                       | 7.9   | 0.0       | 0.5           | 100   | 99.5  | 4 671          |
| Mean   |                             |                         |   |       |           |               |       |   |                |
| Urban  | 87.5                        | 10.1                    | 0.1                                       | 1.9   | 0.0       | 0.4           | 100   | 99.6  | 10 077         |
| Rural  | 22.2                        | 55.5                    | 1.3                                       | 20.4  | 0.2       | 0.3           | 100   | 99.5  | 8 714          |

*Source:* “Research of Multiple Indicators of the State of Health and Behavior of Women and Children”, UNICEF, 2001.

*Solid waste disposal*

279. It is very difficult to assess the existing quantities of waste in the Republic of Serbia. The basic reason is the lack of data about qualitative and quantitative analysis of waste or, more precisely, of keeping records of quantities, determining characteristics, particularly structure of waste, as well as carrying out waste categorization. According to the data processed from 160 municipalities (National Waste Management Strategy with the EU Accession Programme, the Ministry for Protection of Natural Resources and Environment, 2003) in the territory of Serbia excluding the territories of the AP of Vojvodina and the AP of Kosovo and Metohija, it may be assessed that about 60-70 per cent of the population, i.e. around 5 million citizens, are covered by waste collection by utility companies. The waste produced by about 2.5 million citizens which is not covered by the collection system is disposed of in an uncontrolled manner, at illegal dumps in villages, near the rivers, or burnt. Removal and disposal of solid waste lies within the competence of local public utility companies, which face a number of problems, such as the lack of collection vehicles, waste disposal containers, and poor maintenance. There are 180 official dumps and a large number of illegal dumps in Serbia. The dumps are often without enclosure, they are not covered with earth, so access is possible for children, people and animals, which represents a certain source of infection. A large problem is medical waste that is disposed of without prior treatment in the same dumps, as emphasized in the 2002 World Bank report. Almost all official dumps require urgent closing or rehabilitation.

*Strategic directions of action, measures and activities*

280. The “Water Management Base of Serbia” document, prepared by the Water Management Institute “Jaroslav Černi”, was approved in 2002 and presents the strategy of water supply in the Republic of Serbia during 2002-2012. In order to meet the rising demand and increase in coverage by the water supply network, the document suggests to continue the development of water supply systems initiated in the 1980s, in those regions where the capacities of local sources are exceeded. Completion of construction at all reservoirs where the construction has started is recommended. Also, comprehensive work is recommended on the protection, melioration and restoration of groundwater resources, induction of artificial filling and application of modern treatment technologies where necessary. There are detailed proposals for improvement of water supply systems in Novi Sad, Pančevo, Belgrade, and Niš.

281. The water supply sector is not financially independent. The income from water supply services at present does not cover operating costs. It is necessary to introduce consumption accounting on measurement basis, to carry out price reform and increase the rate of collection for the purpose of solving financial problems. In that process, it is very important to protect poor categories of population and provide adequate subsidies for those categories of population that will not be able to financially bear such an increase.

282. In the last two years, international financial institutions initiated water supply and waste water projects in medium-sized cities, as well as in rural areas facing the most serious problems. This sector needs reforms and new financing. Investments are most urgent in the poorest and urban residential areas that expand rapidly, particularly in those with a large number of refugees and internally displaced persons. As regards human waste disposal, it is very important to determine the places in which the access to sewerage network is inadequate. The regulations relating to septic tanks must be strictly applied, and the state these septic tanks are in must be monitored as well.

283. In July 2003, the Government adopted the National Waste Management Strategy. Thereby the first but great step was made in establishing the waste management system.

## **B. Children with disabilities (art. 23)**

### **Legal framework**

284. The Constitution of the Republic of Serbia states that persons incapable of taking care of themselves and of protecting their rights enjoy special protection, and that persons with partial working capacity are provided with training for appropriate jobs and with conditions for their employment in accordance with law (art. 28, para. 2).

### **Rights in the area of social care**

285. Children with disabilities exercise rights in the area of social care system, which are regulated in more detail by the Law on Social Care and Provision of Social Security of Citizens, as well as by a certain number of by-laws in this area. This law recognizes the following rights to persons with disabilities and their families that are in the state of social need:

- Right to financial benefit. This right belongs to persons who are incapable of working, who do not have means of support, who do not have their own property by which they could support themselves, and who do not have relatives who could support them. Pursuant to article 14, the child is incapable of working until attaining the age of 15 years or, if he/she receives regular education in secondary school, until the end of the period prescribed for that education;
- Right to allowance for assistance and care of other person. This right is exercised by the person who, due to the seriousness and natural state of disease, needs assistance and care for satisfying basic life needs;
- Right to assistance for training for work is recognized to children with disabilities and youth and adult disabled persons who may be trained for particular work according to their psychophysical capacities and age. This right is exercised in the form of referral to training for work, financial benefits, compensation for placement costs, transportation costs and compensation for training costs;

- Right to home care assistance, day care, placement in social care institution or foster family. This right is recognized to the person who cannot be provided with appropriate care by the family and to the person without family care, if appropriate care cannot be provided in another way;
- Children with disabilities may, in accordance with appropriate provisions of the Law or decisions of competent municipal or city authorities, also use other rights such as: equipment of beneficiary for placement in a social care institution or foster family, right to one-shot assistance, or right to social work services.

*Financial support to families with children*

286. The Law on Financial Support to Family with Children aims at improving the conditions to satisfy basic needs of all children, including children with special needs. Within this law, the right to compensation for the costs of care in preschool institutions for children with disabilities is determined as an additional measure of protection of a particularly vulnerable group of children. This measure encourages inclusion of children with special needs into regular preschool groups, but also organization of work with them in special groups when it is necessary. The measure also represents support to parents in their decision that the child stays in the family and develops the maximum within his/her capacities.

*Education of children with special needs*

287. The Law on Elementary School considers children with disabilities as: children with physical and sensory disabilities (physically disabled; blind and with impaired vision; deaf and with impaired hearing), children with mental disabilities (mildly, moderately, severely, and profoundly) and children with multiple disabilities (with two and more disabilities, autistic and other) (art. 84).

288. The child with disabilities is classified by a commission of elementary school for disabled students on the basis of the type and degree of disability, which is assessed by a medical commission. The law also prescribes the possibility of redetermination of the disability degree or type during the period elementary education. A proposal for this procedure may be submitted by the parents, school and health-care institution. The curriculum is made for each degree and type of disability. Schools may perform the activity of preschool upbringing and education, elementary and secondary education for the same type of disability. These schools may organize placement and meals for students and children of preschool age in the students' home, while their care in the school may be day care or permanent care. In these schools, lower-grade instruction (from 1st to 4th grade) is given by special education teachers, while departmentalized instruction mostly requires an appropriate university degree with a short training in special education. Specific legal provisions and by-laws enable special education teachers in different schools for disabled students to give departmentalized instruction even in secondary schools, although they do not receive basic education for appropriate subjects during their education (art. 85).

## Practice

### Social care

**Table 16**

|                                     | 1995  | 1996  | 1997  | 1998  | 1999  | 2000  | 2001  | 2002  | 2003  | 2004  | 2005  |
|-------------------------------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Children with mental disabilities   | 4 818 | 4 839 | 4 828 | 4 632 | 4 682 | 4 715 | 4 881 | 5 029 | 5 235 | 5 382 | 5 379 |
| Children with physical disabilities | 1 774 | 1 793 | 1 852 | 1 892 | 1 823 | 1 994 | 2 225 | 2 520 | 2 816 | 3 130 | 3 395 |

*Source:* Republic Statistical Office.

289. Institutional care is provided in the most serious cases of children with disabilities. These institutions are specialized according to type of disability and according to the law, they provide children with care, upbringing, education and health care, as well as work engagement in accordance with their capacities and expert work in mitigating the consequences of disabilities. These institutions, in addition to permanent care, may organize five-day or daily care of children with disabilities. However, there are several problems, closely related to their work: insufficient resources to maintain nutrition and hygiene standards and provide appropriate therapy; heterogeneous structure of beneficiaries according to degree of disability; care that is prolonged after the necessary period because of the difficulty of employing beneficiaries after the period of care in the institution, or because the family relations do not allow them to return.

**Table 17**

### Children with disabilities - trend in the number of social care beneficiaries

|   | 1996   | 2001   |
|---|--------|--------|
| Children and youth with impaired vision       | 78     | 149    |
| Blind children and youth                      | 109    | 129    |
| Children and youth with impaired hearing      | 190    | 178    |
| Deaf children and youth                       | 202    | 191    |
| Children with speech and voice disorder       | 150    | 157    |
| Children with physical disabilities and youth | 534    | 780    |
| Total physically disabled                     | 1 263  | 1 584  |
| Disabled with combined impediments            | 612    | 925    |
| Total beneficiaries                           | 60 305 | 65 361 |

*Source:* Republic Statistical Office.

290. In October 2000, the NGO Child Care Centre, in cooperation with competent government authorities, launched a campaign for the reconstruction of homes for children with disabilities and children without parental care. After the media campaign

for the “My Name is Andjela” project, the organization collected an amount of DM 12.8 million. Of the mentioned amount, DM 3 million were used for the complete reconstruction of a block of five buildings of the home in Kuline and DM 9.8 million were used for the homes in Stamenica, Pančevo, Kragujevac, Sombor, Novi Sad, Belgrade and Subotica.

291. As part of the traditional Belgrade Marathon during 2001 and 2002, this organization organized a humanitarian campaign named “I Run for Children”. In 2001, 22,000 yellow T-shirts were sold and DM 150,000 were collected by that for aid to the homes for abandoned and children with disabilities, and RSD 6,132,900 were collected in 2002, which were paid directly to the account of the University Children’s Clinic as contribution for complete reconstruction.

## **Education**

### *Current situation*

292. The system of educating children and youth with special needs in the Republic of Serbia is organized in three basic forms:

- Schools for disabled students (schools for children with mental, physical and sensory disabilities and children with social behaviour disorders);
- Special classes in regular schools for these children;
- Classes in regular schools in which children with disabilities and other children with special needs are educated together with all other children.

293. Preschool upbringing and education of children with disabilities and other children with special needs is organized in three forms:

- Together with other children in the same preschool group;
- In developmental groups in regular preschool institutions;
- In special preschool groups in schools for disabled students.

294. The total number of special schools in the Republic of Serbia is 85, the large majority of which are schools for mentally disabled students (61). Elementary and secondary schools are most frequently connected into a single unit in organizational and spatial terms so, in view of this, there are 52 schools in the Republic of Serbia engaged in education of this category.

295. Seventy regular elementary and 11 secondary schools in the Republic of Serbia have special classes. The total number of regular schools with special classes is 77.

296. In recent years, developmental groups have been formed in regular preschool institutions. The data on the number and location of these groups in the Republic of Serbia are incomplete.



297. The network of special schools and special classes in schools is not evenly distributed across the regions of the Republic of Serbia. Schools are located in larger cities, so children from villages and children from smaller cities are separated from the families and accommodated in children's homes, which are mostly organized as part of special schools.

298. According to performed situation analysis

- Children and youth with special needs are often not covered by the system of education and rehabilitation. Just over 1 per cent of children from the total population of students of elementary-school age (about 15 per cent of the population of children with disabilities) attend special schools;
- The system of special schools is more adapted to special needs of disabled students in terms of curriculum, in terms of education of teachers, technical equipment with specific teaching aids as well as in terms of application of specific teaching methods. However, the system of special schools functions in parallel with regular schools and is not connected with them, with a tendency of unjustified retaining of children with special needs within it in certain cases. Also, curricula, textbooks and other teaching materials, instruction methods and approach to children are insufficiently adapted to this population of students;
- Employment of students with special needs after completion of education is very low. According to some research, 87 per cent of disabled persons are unemployed, with a particularly large number of women among them;
- A positive development is the fact that experts are educated at university level at the Faculty of Special Education, who are well versed in the specificities and problems of each disability category, their education and rehabilitation;
- Commissions for classification of children with disabilities work within health-care institutions and the practice is based on the medical model of disability;
- A very small number of children with disabilities attend preschool education, data indicating that only 1 per cent of children with disabilities are covered by preschool education.

#### *Planned reforms*

299. Education of children with special needs has been recognized by the Ministry of Education and Sports as one of the priority areas of comprehensive reform of education in the Republic of Serbia. Thus, an expert working group for reform of education of

children with special needs was formed in that Ministry during 2003, which prepared a report entitled “Analysis of Current Situation and Proposed Reform of Education of Students with Special Needs”.

300. The expert team proposed a model of education of students with special needs that opens the possibilities for inclusion into the education system at different levels, vertically and horizontally, and easy transfer from one segment to another. Three options were proposed, which apply from preschool education until secondary education inclusive, and many modalities and varieties within them:

- Inclusive education, which involves full inclusion of students with special needs in the class with other students, with a possibility of providing him/her with additional support in different forms;
- Partially inclusive education, through special classes in regular schools and special classes in special schools;
- Special education in special schools.

301. In addition to this model, the expert team made a number of recommendations in connection with different aspects of education of children with special educational needs.

### **C. Social care and services and institutions for childcare (art. 26 and art. 18, para. 3)**

#### **Legal framework**

##### **Social care**

302. In accordance with article 58 of the Constitution of the FRY, by compulsory insurance the employees provide themselves and the members of their families with all forms of social insurance, in accordance with law. The Government, in accordance with law, provides financial security to any citizen who is incapable of working and has no means of subsistence.

303. Pursuant to article 42 of the Charter on Human and Minority Rights and Civil Liberties, everyone who has permanent residence in the State Union has the right to social benefits and social insurance, in accordance with law.

304. Social care is regulated more precisely by the Law on Social Care and Provision of Social Security of Citizens. The rights of children without parental care and families with children with disabilities are encompassed as a special group by this law. In connection with this, very significant is the measure relating to the right of these children to services of care in preschool institution free of charge, and the right of children from financially vulnerable families to refund of the costs of care in preschool institutions, depending on the family's financial situation.

305. In the social care system, children may be beneficiaries of the following rights of public interest financed by the Republic of Serbia: financial benefit; allowance for assistance and care of other person; assistance for training for work; placement in social care institutions or foster families and social work services. Request for exercise of these rights is submitted by the child's legal representative (art. 9).

306. A part of social care of children in the Republic of Serbia is also preschool upbringing and education, which is regulated by the Law on Social Care of Children. Preschool institutions realize the following forms of work with children: all-day care, half-day care and programme of upbringing and educational work with children lasting three hours a day in the year prior to starting elementary school.

## **Practice**

### **Right to financial benefit**

307. The right to financial benefit is exercised in the following conditions: the total income of the family in which the child lives should be lower than the level of social security set by the Law on Social Care and Provision of Social Security of Citizens and the family has no possibility of providing that level of social security through work or its property.

308. However, the level of social security determined by that law differs across municipalities, depending on the average wage realized in the municipality, so the status of the beneficiary of this right is unequal.

309. In 2003, 30,971 children (up to 7 years of age: 12,052, 8-15 years of age: 13,774, 16-20 years of age: 5,145) had the right to financial benefit.

### **Allowance for assistance and care of other person**

310. Any child who needs assistance from other person for satisfying basic needs may exercise this right. The allowance amount is 13 per cent of the average wage per employee in the Republic of Serbia.

### **Right to placement in a social care institution**

311. This right is exercised by children without parental care, children with behaviour disorders and children with disabilities, through social care centres.

312. In 2003, 1,855 children were accommodated in 16 homes for children without parental care, of which 1,015 were male and 840 female children; there were 215 children in correction centres, of which 194 were male and 21 female children; and 1,349 children were in homes for disabled children. The number of children in foster families was 1,623.

313. According to data collected for the purposes of the Strategy of Social Care System Development, which the Government adopted during 2005, 1,200 children without parental care and children with disabilities were accommodated in institutions.

#### **D. Standard of living (art. 27, paras. 1-3)**

##### **Legal framework**

314. In order to ensure the right of the child to a standard of living which suits his/her needs and which the parents are not able to provide, the Government has defined social policy measures. The measure defined by the Law on Financial Support to Family with Children, intended for families with lower financial standing, is the children's allowance.

315. Pursuant to article 17 of the Law, the right to children's allowance is exercised by one of the parents who directly takes care of the child, who is a Yugoslav citizen, who has permanent residence in the territory of the Republic of Serbia and exercises the right to health care through the Republic Health Insurance Institute for the first, second, third and fourth child in the order of birth in the family, from the day of request submission, under the conditions provided for by the Law. The child's foster parent and guardian also have the right to children's allowance under these same conditions. The child's foster parent or guardian may exercise the right to a children's allowance for a maximum of four children in the family, including his/her own children living in common household and children without parental care. A foreign citizen working in the territory of the Republic of Serbia exercises the right to a children's allowance if it is determined so by international agreement, under the conditions provided for by this law. The children living and receiving education in the territory of Serbia are entitled to children's allowance, unless determined otherwise by international agreement. The child of up to 19 years of age is entitled to children's allowance if he/she receives regular education as a full-time pupil. Education, for the purposes of this law, is education in elementary school or education as a full-time student in secondary school included in the network of schools whose founder is the Republic of Serbia or the AP of Vojvodina, in accordance with regulations in the area of education.

316. The child who, for justified reasons, has not started education, or who has started education later, or who has discontinued education as a full-time pupil, is also entitled to children's allowance for the whole time during which he/she is prevented from receiving education, but not longer than until 19 years of age. In exceptional cases, the child for which the decision on classification has been made is entitled to children's allowance even after attaining the age of 19 years, as long as he/she is attending an upbringing/educational programme and programme of training for work, and not longer than until 26 years of age for the child for which parental right has been extended.

317. The right to a children's allowance is determined based on financial standing and may be exercised if the applicant and the members of his/her family do not have financial and other liquid assets (shares, bonds and other securities) in the amount higher than the sum of 30 children's allowances per family member at the moment of request submission. The condition is also that the applicant and members of his/her family own no property, except the appropriate residence that is suitable for the needs of the individual or family, and a farmstead of one hectare in area. This right may be

exercised if the applicant and members of his/her family who realize income from agriculture own no property, except the appropriate residence that is suitable for the needs of the individual or family, other necessary farm facilities at the farm and land of up to one hectare in area per family member.

318. Right to children's allowance is exercised: 1. If the total monthly income, net of taxes and contributions, per family member realized in the three months preceding the month in which the request was submitted does not exceed the amount of the limit determined by the Law, and the total monthly cadastral income per family member in the previous year does not exceed the amount of 3 per cent of the average cadastral income per hectare of fertile soil in the previous year or if it has been realized from the land of up to 500 square metres on which a residential building has been constructed; 2. If the total monthly cadastral income per family member in the previous year is up to 7 per cent of the average cadastral income per hectare of fertile soil in the previous year and the family does not realize other income (art. 19).

319. The determined limit is adjusted to the cost of living, and its amount is increased by 20 per cent for single parents, foster parents, guardians and parents of the disabled child for whom a decision on classification has been made and who has not been accommodated in a live-in institution. The amount of children's allowance, which is adjusted to the cost-of-living index, for these categories of parents is also increased by 30 per cent.

320. The family that has no income or income below the level of social security also has the right to financial benefit, defined by the Law on Social Care and Provision of Social Security of Citizens. The level of social security is determined in a percentage amount from the base consisting of the average wage realized per employee in the economic entities of the municipality, and is 16 per cent for individual, 22 per cent for the family of two members, 28 per cent for the family of three, 35 per cent for the family of four and 32 per cent for the family of five members and more.

## Practice

321. The data in the table below indicate the total number of beneficiaries and the number of children receiving children's allowance in the period 1999-2005.

**Table 18**

|  | 1999    | 2000    | 2001    | 2002    | 2003    | 2004    | 2005    |
|--|---------|---------|---------|---------|---------|---------|---------|
| Children's allowance - number of beneficiaries | 374 000 | 288 000 | 378 000 | 388 000 | 257 000 | 254 000 | 254 000 |
| Children's allowance - number of children      | 650 000 | 497 000 | 643 000 | 659 000 | 472 000 | 471 000 | 473 000 |

*Source:* Republic Statistical Office.

## **VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

### **Normative bases**

- The Constitution of FRY (“The Official Gazette of FRY”, No. 1/92)
- The Constitutional Charter of State Union Serbia and Montenegro (“The Official Gazette of SCG”, No. 1/03)
- The Charter on Human and Minority Rights and Civil Freedoms (“The Official Gazette of SCG”, No. 6/03)
- The Constitution of the Republic of Serbia (“The Official Gazette of R Serbia”, No. 1/90)
- The Law on Principles of the Education System (“The Official Gazette of R Serbia”, No. 62/03, 64/03, 58/04, 62/04 and 101/05)
- The Law on Social Care of Children (“The Official Gazette of R Serbia”, No. 49/92, 29/93, 53/93, 67/93, 28/94, 47/94, 48/94, 25/96 and 29/01)
- The Law on Primary Education (“The Official Gazette of R Serbia”, No. 50/92, 53/93, 67/93, 48/94, 66/94 and 22/02)
- The Law on Secondary Education (“The Official Gazette of R Serbia”, No. 50/92, 53/93, 67/93, 48/94, 24/96 and 23/02)
- The Law on Higher Education (“The Official Gazette of R Serbia”, No. 76/05)

### **A. Education, including vocational training and guidance (art. 28)**

#### **Legal framework**

#### **The Right to Education**

322. Pursuant to article 62 of the Constitution of FRY, education is accessible to all, under equal conditions. Primary education is mandatory, in accordance with the Law, and no school fees are paid for it.

323. Article 43 of the Charter of Human and Minority Rights and Civil Freedoms proclaims that everyone is entitled to education. Primary education is mandatory. The establishment of schools and universities is subject to laws of the member States of the State Union. Members of national minorities are entitled to education in their mother tongue in State institutions and are entitled to establish private educational institutions at all levels, pursuant to article 52 of the Charter. In the field of education, the State Union of Serbia and Montenegro and member States promote the spirit of tolerance and inter-cultural dialogue and undertake efficient measures to promote mutual respect, understanding and cooperation between all people living in their territory, irrespective of their ethnic, cultural, linguistic or religious identity, pursuant to article 56 of the Charter.

324. Article 32 of the Constitution of the Republic of Serbia proclaimed that education is equally accessible to all, under equal conditions. Primary education is mandatory. Citizens pay no fees for regular education funded from public revenues. Members of other nations or nationalities are entitled to education in their mother tongue, according to the law.

325. The Law on Principles of the Education System sets out the principles of the system of preschool, elementary and secondary education and guidance. Article 4 of the said law prescribes that everyone is entitled to education and guidance. Citizens of the Republic of Serbia are equal in the exercise of their right to education and guidance, irrespective of sex, race, nationality, religion or language, age, physical or mental constitution, social or cultural origin, property, political belief or other personal trait. In terms of the right and conditions for enrolment in primary schools, persons not having citizenship are equal with persons holding citizenship (art. 92 of the Law).

326. The system of education and guidance provides for: access to education and guidance; entitlement to education and guidance under equal conditions also in economically underdeveloped areas, and in socially or culturally underprivileged environments; quality education and guidance enabling the acquisition of linguistic, mathematical, science, art, health, environmental and IT literacy, needed for living in contemporary and complex societies; education and guidance adequate to the development and needs of the child, i.e. the pupil; equal opportunity for education of children and students with development difficulties; encouragement of children to acquire the highest possible level of education and the maximum inclusion in lifelong learning; maximum horizontal and vertical mobility within the education system, pursuant to the provisions of article 2 of this Law.

327. Article 83 of the above Law prescribes that the Republic of Serbia shall provide free education for students of primary schools and regular students of secondary schools. Non-regular students of secondary schools shall pay school fees in an amount identified by the school and endorsed by the Ministry of Education and Sport. The parent or the pupil may decide to enrol in a school founded by another physical or legal person, in which school fees are paid.

328. For children whose parents are citizens of the Republic of Serbia who temporarily reside in a foreign country primary education and guidance may be organized according to a special programme which, at the proposal of the Education Council, is adopted by the Minister, according to a separate law.

329. The Law on Principles of the Education System, pursuant to article 141, prescribes that funds for the financing of preschool institutions shall be provided from the budget of the Republic of Serbia and budgets of local self-governments, while the activity of primary and secondary schools founded by the republic, the autonomous province or by the local self-government, the funds shall be provided in the budget of the republic and the budget of the local self-government.

## **Types of Education**

### *Preschool education*

330. According to article 89 of the Law on Principles of the Education System, children enrol in preschool activities at the request submitted by parents before enrolment in primary school.

331. Paragraphs 3 and 4 of the above law prescribe that the parent or the legal guardian is obliged to enrol the child aged from 5 to 6½ years in a preschool institution and in primary school and that the programmes attended are free of payment.

332. Punitive provisions of the Law on Principles of the Education System set out the provisions relevant to sentences for violation of provisions by the institution or person in charge of the institution if he/she fails to enrol the child in preschool institution or in primary school in order to attend preparatory programmes and if he/she fails to enrol a child residing in the territory of the school (art. 145, paras. 1 and 2, items 7 and 8).

333. The preparatory programme for enrolment in primary school which is provided within preschool education and guidance during the year before enrolment lasts for four hours a day, for at least six months.

334. Article 35 of the Law on Social Care of Children prescribes that children of preschool and school age, depending on the financial capacity of the family, are entitled to subsidized attendance of preschool institutions. Subsidizing the expenditures of whole-day or half-day stay in the preschool institution for children of preschool age covers 80 per cent of the full-recovery cost on average by child in preschool institutions included in the network of institutions identified by the municipality. The manner and conditions of subsidizing costs is determined by the relevant municipal authority.

335. Starting with the year 2006, the parent-guardian is obliged to enrol the child in a preschool institution in order to attend a preparatory school programme.

### *Primary education*

336. Exercising the right to primary education is regulated by the Law on Principles of the system of Education and Guidance (articles 86 through 90). Primary education lasts for eight years, including mandatory attendance of preparations for school lasting for four months during the year preceding the enrolment of the child in primary education.

337. Primary musical education lasts from four to eight years, and ballet education lasts for six years, and is implemented in three education cycles, according to the separate law and school programme.

338. *Enrolment in first grade of primary school:* The first grade of primary school is attended by children who, at the time of the beginning of the school year, are aged at least 6 and at most 7½ years.



339. A child aged from 6 to 7½ years is enrolled after testing before starting school, and a child aged from 6 to 6½ years after testing for readiness to begin school. Enclosed with the documents required for enrolment, the parent provides evidence of medical examination of the child. The testing of the child before beginning school is implemented by the school psychologist and pedagogue, based on standards recommended by the relevant centre. Tests for readiness to begin school are implemented by the school psychologist based on standards and procedures recommended by the relevant centre.

340. During the testing before school enrolment and during the testing of readiness it is possible to make recommendations:

- To the parent - to postpone the enrolment of the child for one year, if the child is younger than 6½ years before starting school;
- To the school - to implement individualized work with the pupil.

341. Enrolment in first grade of primary school is also open to children older than 7½ years who, for reason of sickness or other justified reason, is not enrolled in school.

342. If, for reason of sickness or other justified reason, a child is not enrolled in first grade, he/she may enrol in the appropriate grade based on previous testing of knowledge and skills, and in accordance with the age.

343. Primary schools are obliged to enrol children with registered residence in the school territory. Primary schools may enrol children from other school territories, at the request of the parent, according to placement capacities of the school.

344. The parent may choose the primary school in which to enrol his child, and shall submit the request for enrolment to such school at the latest by 1 February of the current calendar year to which enrolment refers.

345. Units of local self-management maintain records and inform the schools and parents of children who are of the age to enrol and who have enrolled in schools.

346. *Marks in primary school:* A pupil receives marks in all subjects and a mark in conduct. During the first and second grade of primary school the marks and final success are of descriptive nature. In other grades of primary school and in secondary school, the marks are of descriptive and numerical nature during the school year, except for subjects so identified by the relevant minister. The final conclusive mark is numerical. Conduct is marked with a descriptive mark, according to a separate law.

347. Students receive marks in all subjects and in conduct. During a school semester (half-year) the pupil must receive marks in all subjects at least twice during such period, and in case of conduct he/she receives marks at the end of the first and second semester. General performance is assessed at the end of first and second semester. Marks are publicly accessible. The manner of assessment is prescribed by the Minister of Education (art. 46).

348. Overall success is determined as the arithmetical average of all positive final numerical marks. Overall success may be: excellent, very good, good, satisfactory (art. 49).

349. Students repeat the grade if at the end of the second semester they have more than four unsatisfactory final numerical marks. Students with up to four unsatisfactory final numerical marks shall take corrective examinations during the June and August examination period.

350. Primary school students, their parents or guardians are entitled to file a complaint regarding the mark in line with a separate law. Complaints are to be filed to the school principal within three days, and in the case of students of the final grade such complaint is to be filed within 24 hours of distribution of the school record book or the school certificate.

351. Primary school students, their parents or guardians are entitled to file a complaint regarding the mark received during the course of the school year within three days of the mark being notified. The school principal shall, within three days, in cooperation with the school pedagogical-psychological service, decide about the complaint. If the school principal determines that the complaint is grounded and that the mark was assigned contrary to the law, he shall appoint a commission to assess the knowledge of the pupil. The mark assigned by the commission shall be final (art. 63).

352. *Final examination in primary education and guidance:* After completion of the eighth grade the pupil takes the final examination assessing the degree of achievement of prescribed outcomes of primary education and guidance. After having passed the final examination, the pupil has completed the primary education and guidance and a public document is issued according to a separate law. On the basis of the passed final examination, the pupil is entitled to enrol in secondary school, according to a separate law. The programme of the final examination in primary schools is prescribed by the Minister.

353. *Textbooks:* During the implementation of education and guidance activities, use is made of textbooks and teaching aids which, at the proposal of the Centre for Development of School Curriculum and Textbooks, is approved by the Minister, according to a separate law.

354. In the process of approval, it is determined whether the textbook meets the minimum quality standards. Minimum standards cover the quality of contents, didactic processing, printing and technical design of the textbook. Minimum standards of quality for textbooks are identified by the Education Council, at the proposal of the relevant centre.

#### *General and secondary vocational education and training*

355. Rights of citizens which represent general interest in secondary education and guidance include: secondary education of full-time students lasting for three or four years; secondary education of full-time students with special capacities and talented students; secondary education, education and training of full-time students demented in

development; secondary education of full-time students in the mother tongue of the students or bi-lingual education; vocational training of full-time students lasting for two years; parallel secondary education for students achieving extraordinary performance in education, guidance and students dormitories (art. 11).

356. *Enrolment of students in secondary schools:* Enrolment is open to all persons who have completed primary education. Persons who have completed primary education abroad are entitled to enrol if such certificate is notified. Music or ballet schools are open for enrolment to all who have completed primary music or ballet school, and in case of those who have not completed primary music or ballet school enrolment is possible if the candidate passes an examination at the level of curriculum of education. A person who has not completed primary school, but has completed primary music or ballet school, may enrol in the secondary music or ballet school in order to attend the programme in art or professional subjects. Enrolment in vocational schools, in order to acquire specialization, is open to persons with completed appropriate school, who have at least two years of working experience. The educational plan and curriculum is determined by the school adequate for specialization degrees (art. 38).

357. *Final examination:* Final examinations are taken by the student at the end of the two-year and three-year programmes, diploma examinations are taken at the end of four-year education programme, specialized examinations at the end of the specialist course, and examination for technical skills at the end of vocational training (art. 57).

#### *Higher education*

358. According to the Higher Education Law (art. 8) all persons with completed previous education are entitled to higher education, irrespective of race, colour, sex, sexual orientation, ethnic, national or social origin, language, religion, political or other opinion, status acquired by birth, presence of sensory or motor disability or property.

359. Exceptionally, in compliance with conditions prescribed in the articles of association of the higher education institution, also persons who have not completed secondary education are entitled to higher education if qualifying for study programmes in art.

360. The institution of higher education, in compliance with the law, identifies criteria for classification and selection of candidates (achievements in previous education, type of previous education, special knowledge, skills or abilities, etc.).

361. The National Council for Higher Education consisting of 16 members elected by the National Assembly is appointed for the purpose of ensuring development and improvement of quality of higher education (arts. 9 and 10).

362. The institution of higher education organizes and provides studies during the academic year which, as a rule, begins on 1 October and lasts for 12 calendar months. The academic year may be divided as follows: in two semesters, each lasting for

15 weeks; in three trimesters, each lasting for 10 weeks; in blocks of total duration of 30 weeks, with individual duration set out in the general by-laws of the institution of higher education. Teaching of individual subjects is usually organized during one semester, one trimester or one block, and at the most during two semesters or three trimesters (art. 79).

## **Practice**

### **Literacy**

363. During the period 1991 to 2002, the illiteracy rate of the population of the Republic of Serbia has decreased significantly, and the level of education has improved significantly.

364. According to the data based on the population census of 1991 (including data for AP Kosovo and Metohija) 6.2 per cent of the Serbian population was illiterate.<sup>6</sup> According to the data based on the population census of 2002<sup>7</sup> this percentage dropped to 3.45 per cent of the population (or 1.08 per cent men and 5.66 per cent women). However, with respect to the age group between 10 and 25 there are no major differences in literacy related to gender. In the age group between 15 and 24, 0.6 per cent of the age group is illiterate. Of the total number of the illiterate population, 75 per cent come from rural areas. Highest illiteracy rates are recorded in the south of the country and lowest in Belgrade. With respect to national minorities, the highest illiteracy rate is among the Roma (20 per cent), Vlachs (10.5 per cent), Albanians (7.7 per cent), Bulgarians (5.4 per cent), and Romanians (4.6 per cent). The situation with some other minorities is quite different: the illiteracy rate among the Ruthenians is 0.4 per cent, Slovaks 0.67 per cent and Hungarians 1.9 per cent.

365. Instead of adults' literacy programmes, the Republic of Serbia has primary schools for adult education. According to the data from the Statistical Yearbook for Serbia for the year 2002, there are 12 adult education schools registered, with 133 classes. The total number of persons attending was 1,915. There is no data available about the share of children aged 15 to 18 within this number.

366. The population census for 2002 indicated a significant improvement in the level of education of the population of the Republic of Serbia - 11.6 per cent of the population has completed higher education (compared to 8.9 per cent in 1991). Forty-one per cent of the population has completed secondary education (compared to 32.2 per cent in 1991). twenty-four per cent of the population has completed primary education, and over 20 per cent of the total population has not completed the mandatory education, and 5.7 per cent has no education at all.

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<sup>6</sup> Comprehensive Analysis of Primary Education in FRY, UNICEF, Belgrade 2001.

<sup>7</sup> Census of population, households and homes in 2002, The Republic Statistical Office, Belgrade, 2003.

## **Preschool education**

367. Total coverage of children by preschool guidance in the Republic of Serbia (not including data for the AP of Kosovo and Metohija) is 162,825 or 32.9 per cent of the preschool population.<sup>8</sup> Total coverage of children by preschool guidance is increasing, but it is still insufficient and not adequately distributed.

368. The enrolment rate for preschool institutions in Vojvodina is higher than the republic average at 35.5 per cent, while in the Republic of Serbia, not including the territories of the AP of Vojvodina and the AP of Kosovo and Metohija, it is 31.9 per cent. The average size of preschool groups is between 20 and 26 children.

369. The share of children aged between 5 and 7 is the greatest at 50.6 per cent of the total number of children enrolled in preschool institutions. This group is covered by preschool preparatory programmes.

370. The distribution of children according to duration of stay in preschool indicates that the majority of children spend as much as 11 hours in kindergartens, specifically 31 per cent in AP Vojvodina and 61 per cent in Serbia, without AP Vojvodina and AP Kosovo and Metohija. Half-day programmes, of up to 5 hours, cover almost 30 per cent of the children in the Republic of Serbia, while only 15 per cent of children spend 9 and 10 hours in preschool institutions. The Republic Statistical Office does not have an adequate explanation for such a distribution of children, as original data were collected directly at local level in the form in which they are published.

371. Over the past 10 years (the year 2002-2003 in comparison with 1992-1993) the network of preschool institutions in the Republic of Serbia has grown from 1,537 to 1,776<sup>9</sup> at an average annual growth rate of 1.5 per cent. In underdeveloped municipalities in Serbia not including the territories of AP Vojvodina and AP Kosovo and Metohija the number of preschool institutions is insufficient.

372. Preschool institutions, for physical reasons, are not accessible to children under 3 years of age in eastern parts of the Republic of Serbia, as the average distance of these institutions is 6.4 km, but also in western areas of the Republic of Serbia (5.3 km) and in areas of the Republic of Serbia not including the territories of AP Vojvodina and AP Kosovo and Metohija (4.9 km). The same applies to the age groups 4 to 6: in eastern parts of the Republic of Serbia the distance is 6.3 km, in western parts 5.8 km, and in areas of the Republic of Serbia not including the territories of AP Vojvodina and AP Kosovo and Metohija 4.2 km.

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<sup>8</sup> Statistics for preschool education and guidance, 2002/2003, MES.

<sup>9</sup> Statistics for preschool education, 2002/2003, Ministry of Education and Sports of the Republic of Serbia, Belgrade, 2003.

373. Of the total number of children who were not enrolled due to insufficient vacancies, as many as 96 per cent are in the Republic of Serbia, without the territories of AP Vojvodina and AP Kosovo and Metohija. We should add to this the fact that the share of the poor in rural areas is 25 per cent and that the data regarding access to social services are even less favourable. In the last 10 years a certain number of privately owned preschool institutions have started to operate in Serbia. There are no reliable statistics on the actual number as most of them are not registered in the activity of childcare or preschool activity.<sup>10</sup>

374. Preschool education and guidance has become an integral part of the education system only in 2003, where it rightly belongs, so in order to promote its development the following measures have been undertaken:

- Intensive training of staff on new development methods and approaches, implemented through 39 seminars with 1,355 participants and 132 preschool institutions. There is work under way to build an open programme at the level of preschools in the form of an action research for professional training of staff and improving the quality of teaching in practice;
- Training staff for specialized preschool programmes in institutions which could then serve as a model;
- Training of staff for development and establishing professional standards and codes within the profession as teacher, with the objective of making the staff familiar with teaching standards and professional development;
- Establishing a network of preschool institutions which implement different programmes aimed at improving standards and exchange of best practices.

### **Primary school education**

375. At the beginning of the academic year 2003/04 the total number of primary schools operating in the Republic of Serbia was 3,587 (including schools without separate classes, schools with separate classes and separate classes within primary schools). Approximately 85 per cent of the total number of schools (3,052) is located in the territory of Central Serbia, 15 per cent (535) in AP Vojvodina. The average number of schools per 10,000 inhabitants in Serbia without the territories of AP Vojvodina and AP Kosovo and Metohija is 6 to 7 (6.6 schools), and in Vojvodina between 2 to 3 (2.6 schools).

376. The composition of schools in Serbia without the territories of AP Vojvodina and AP Kosovo and Metohija and that in AP Vojvodina differs significantly. According to the data for school year 2002/03, of the total of 3,055 regular primary schools in Serbia

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<sup>10</sup> Poverty Reducation Strategy, second draft, 2003.

without the territories of AP Vojvodina and AP Kosovo and Metohija, one fourth (24.6 per cent) are independent schools (with or without separate classes), and three quarters (75.4 per cent) are separate classes within original schools. In AP Vojvodina, of the total number of 534 schools, about two thirds (64.6 per cent) are independent schools, and only one third (35.4 per cent) are separate classes.

**Table 19**

| According to composition                     | Serbia not including AP Vojvodina and AP Kosovo and Metohija | AP Vojvodina |
|--|--|--------------|
| Independent schools without separate classes | 213  | 248          |
| Independent schools with separate classes    | 538  | 97           |
| Separate classes within original schools     | 2 304  | 189          |
| Total  | 3 055  | 534          |

*Source:* The Republic Statistical Office.

377. Four-year primary schools are much more frequent in the Republic of Serbia, without the territories of AP Vojvodina and AP Kosovo and Metohija (65.6 per cent) than in AP Vojvodina (25.6 per cent). All four-year primary schools are in the group of separate classes within original schools.

378. The average number of students per one four-year school is 22.2 students in the Republic of Serbia, without AP Vojvodina and AP Kosovo and Metohija, and 32.4 in AP Vojvodina, while in eight-year primary schools the average number of students per school is 422.6 in the Republic of Serbia, without AP Vojvodina and AP Kosovo and Metohija, and 440.6 in AP Vojvodina, meaning that the total number of students in four-year schools is equivalent to one class in a complete primary school. The average number of classes in four-year schools in the Republic of Serbia is 1.88, and in eight-year schools 18.8. The average number of students per class in four-year schools in the Republic of Serbia is 1.9, and in eight-year schools it is 28.2.

379. For one professional associate there is on the average 810.6 teachers in four-year schools (in the Republic of Serbia without the territories of AP Vojvodina and AP Kosovo and Metohija professional associates work only in eight-year schools) and 20.4 teachers in eight-year schools.

380. 48.7 seven per cent of the total number of students enrolled in primary schools in the Republic of Serbia are girls. The overall primary school enrolment rate is 99.7 per cent for the Republic of Serbia, without the territories of AP Vojvodina and AP Kosovo and Metohija, and 94.3 per cent for AP Vojvodina. The difference between enrolment rates for boys and girls is below 1 percentage point.

## Secondary education

381. In the first grade of regular secondary schools, during the school year 2003/04, 30.9 per cent of students opted for three-year education in the Republic of Serbia, without the territories of AP Vojvodina and AP Kosovo and Metohija, and 37.9 per cent of students in AP Vojvodina, and the number of students who opted for four-year education was 69.1 per cent of students in the Republic of Serbia, without the territories of AP Vojvodina and AP Kosovo, and Metohija, and 62.1 per cent of students in AP Vojvodina.

382. Education fields with the highest number of students are grammar schools (with 24.2 per cent of students in the Republic of Serbia, without the territories of AP Vojvodina and AP Kosovo and Metohija, and 22.3 per cent of students in AP Vojvodina) and mechanical engineering with metal processing (12.7 per cent of students in the Republic of Serbia, without AP Vojvodina and AP Kosovo and Metohija, and 12.2 per cent of students in AP Vojvodina). The third ranked area of education in the Republic of Serbia without the territories of AP Vojvodina and AP Kosovo and Metohija is economic-legal area (11.9 per cent of students), and in AP Vojvodina agriculture and food processing (also 11.9 per cent). Fourth ranking in the Republic of Serbia, without AP Vojvodina and AP Kosovo and Metohija, is electrical engineering (11.6 per cent of students), and in AP Vojvodina economic-legal area (10.4 per cent). Lowest ranking professional areas are geology and mining (0.1 per cent in AP Vojvodina and 0.4 per cent in the Republic of Serbia, without AP Vojvodina and AP Kosovo and Metohija), personnel services at 1.2 per cent in both of these territorial units, and culture (in AP Vojvodina 1.3 per cent, in the Republic of Serbia without the territories of AP Vojvodina and AP Kosovo and Metohija, 1.8 per cent), forestry and wood processing (2 per cent in AP Vojvodina, 1.5 per cent in the Republic of Serbia, without AP Vojvodina and AP Kosovo and Metohija).

383. Of the total of education areas within the education system of the Republic of Serbia four imply exclusively four-year education programmes: grammar school; culture, art and public information; health care and social protection; and science-mathematics. Economics, law and administration, as a separate area, could also be classified within this group, as it has only two educational profiles implying three-year education. On the other hand, the area of personnel services has just one profile requiring four-year education. Textile and leather areas also require predominantly three-year education.

384. Of the total number of full-time secondary school students there were 1.9 per cent who repeated for the second time the same grade in the Republic of Serbia, without the territories of AP Vojvodina and AP Kosovo and Metohija, and 3.1 per cent in AP Vojvodina. The success in moving to the next grade is higher in students attending four-year education (1.3 per cent those who repeated for the second time the same grade in the Republic of Serbia, without the territories of AP Vojvodina and AP Kosovo and Metohija, and 1.7 per cent in AP Vojvodina) than in students in three-year education (3.8 per cent in the Republic of Serbia without AP Vojvodina and AP Kosovo and Metohija, 6.2 per cent in AP Vojvodina).



385. The number of those who repeated for the second time the same grade drops with each next enrolled grade: in the Republic of Serbia, without the territories of AP Vojvodina and AP Kosovo and Metohija, the percentage of those who repeated for the second time the same grade was 3.2 per cent in first grade, 2.2 per cent in second grade, 1.1 per cent in third grade and 0.5 per cent in fourth grade; these shares in AP Vojvodina were 4.8 per cent in the first, 3.6 per cent in the second, 2.0 per cent in the third and 0.6 per cent in the fourth grade.

386. With respect to fields of education in Serbia without the territories of AP Vojvodina and AP Kosovo and Metohija, the lowest percentage of those who repeated for the second time the same grade is in grammar schools (0.72 per cent), economics (0.74 per cent) and health-care (1.22 per cent) professions, and the highest in geology and mining (3.81 per cent), science-mathematics (3.47 per cent) and mechanical professions (3.39 per cent). In AP Vojvodina the fields of education are the same and the only difference is in the sequence: economic (0.835), grammar schools (0.88 per cent) and third ranking mechanical (6.28 per cent), followed by traffic (5.34 per cent), while in the Republic of Serbia without the territories of AP Vojvodina and AP Kosovo and Metohija this field of education ranks fourth (with 2.98 per cent), geodesy and construction (5.15 per cent). In AP Vojvodina there is no field of education science-mathematics.

**Table 20**

|         | Schools        |              | Classes        |              | Students       |              | Teachers       |              |
|---------|----------------|--------------|----------------|--------------|----------------|--------------|----------------|--------------|
|         | Central Serbia | AP Vojvodina | Central Serbia | AP Vojvodina | Central Serbia | AP Vojvodina | Central Serbia | AP Vojvodina |
| 1999/00 | 100.0          | 100.0        | 100.0          | 100.0        | 100.0          | 100.0        | 100.0          | 100.0        |
| 2000/01 | 100.6          | 100.0        | 100.1          | 99.1         | 94.8           | 95.0         | 99.9           | 101.5        |
| 2001/02 | 101.1          | 102.4        | 99.9           | 99.6         | 92.0           | 93.0         | 100.3          | 102.6        |
| 2002/03 | 103.4          | 104.1        | 101.8          | 101.0        | 91.6           | 92.9         | 103.7          | 103.9        |
| 2003/04 | 104.5          | 100.8        | 102.0          | 100.3        | 90.7           | 91.7         | 106.5          | 106.8        |

Principal indicators of development of regular secondary education, basic indices, 1999-100.

### Higher education

387. The number of students enrolled in faculties established by the Republic in the academic year 2003/04 was 37,509. Colleges, established by the Republic, enrolled 23,624 students.

388. The number of students enrolled in faculties established by the Republic in the academic year 2004/05 was 36,965. Colleges, established by the Republic, enrolled 25,085 students.

389. In the academic year 2005/06, the number of students applying for entrance examinations in faculties established by the Republic was 27,715 applicants (74 per cent of the planned number). The number of applying students by area of study prescribed by the University law was as follows:

- Technical/technological sciences: 5,544 (56 per cent of the planned number);

- Social sciences and humanities: 13,792 (84 per cent of the planned number);
- Medical sciences: 4,236 (108 per cent of the planned number);
- Bio-technical sciences: 1,205 (46 per cent of the planned number);
- Natural sciences and mathematics: 2,095 (52 per cent of the planned number);
- Arts: 843 (118 per cent of the planned number).

390. In the academic year 2005/06, the number of students applying for entrance examinations in colleges established by the Republic was 17,000.

- Technical/technological sciences: 6,700 (72 per cent of the planned number);
- Business/economics schools: 6,440 (94 per cent of the planned number);
- Others: 2 medical, 1 art and 11 teacher training colleges - 3,860 (106 per cent of the planned number).

391. The Ministry of Education and Sports monitors and records the number of applicants in every enrolment period, through its Department for Higher Education and submits the data to the Republic Statistical Office which publishes them in its reports along with other education related data.

392. By the above figures it is possible to conclude that there is a decrease in faculties and colleges. This, however, is not a sign of decrease, but is a result of dispersion of students to other privately operated faculties; however, the Ministry of Education and Sports still does not have any records regarding the number of students enrolled in such faculties.

### **Teaching staff**

393. Since 1993 there are six teacher training faculties in the Republic of Serbia. These faculties also have departments elsewhere intended to train teachers in primary schools in which teaching is provided in Hungarian, Slovak, Russian and Romanian. The education programme lasts for eight semesters. The content is dominated by theoretical lectures; the students have little practice learning how to work with children, mostly through watching older more experienced colleagues as they work. Training teachers for children with special needs is provided at a special faculty within the University of Belgrade.

394. Teacher training faculties have relevant study groups for primary and secondary school teachers. There are a total of 14 teacher training faculties, of which each has separate departments for different profiles of teachers. The characteristic of training of

teachers who teach individual subjects is that theoretical knowledge of the subject is predominant in comparison to pedagogical and methodological knowledge. The share of pedagogical-psychological classes in the total number of training hours is less than 5 per cent. Development of plans and curricula, performance assessment and similar topics are not studied at all. This education is to a high degree decentralized and not standardized.

395. During the 10-year period of implementation of the Convention on the Rights of the Child, NGOs have been very active in monitoring the status of the rights of the child. The most frequent activities of such organizations are in the area of training or seminars intended for the teaching and other staff in the rights of the child, seminars intended for the children, research projects and publishing publications which promote the Convention on the Rights of the Child.

396. Projects of NGOs supported by UNICEF, which were part of the formal school system and which involved work directly with the teachers and the children include:

- In 1993, the project “Guardians of the Smile” was initiated: this is a programme providing support and promoting the rights of the child in social contexts that had been exposed to the impacts of war. The programme included, directly and indirectly, 8,000 adults and 100,000 children. The programme was selected by the expert team for education programmes for civil society education in the first grade of primary schools in the first semester;
- “The Words are walls and windows (Giraffe language): Education for non-violent communication” - a project implemented as of 1995 with the objective to train adults working with children and children themselves in non-violent and emphatic communication and constructive resolution of conflicts. Until the end of year 2001 over 1,500 teachers and 40,000 children aged 5 to 16 participated in this programme;
- “Classroom of good will” - an education programme for constructive resolution of conflicts. Programme implementation began in 1994 and with changes and amendments, continued until the year 2001. The objective of the programme was to develop knowledge and skills needed for tolerant, constructive and responsible social behaviour and peaceful resolution of conflicts, and was implemented through workshops for lower grades of primary schools, higher grades of primary schools, and secondary schools. A total number of 2,000 staff employed in education and 50,000 students participated. The expert team selected this programme as the basis for education programmes for civil society education in secondary schools;
- In 1995, the organization Friends of Children - Serbia initiated the project “Textbook of the Rights of the Child” within the UNICEF programme Education for Development, Peace and Tolerance. One of the aims was to educate teaching staff in primary schools, psychologists, pedagogues and parents on the topic of the rights of the child. In cooperation with UNICEF, Radda Barnen (Sweden), Save the Children, and the Ministry of Education and Sports, more than 120 seminars were provided educating more than

4,000 adults. Within the project a textbook was developed, *The Textbook of the Rights of the Child* (author Ljubivoje Ršumović), as well as accompanying books - *What to Do* (author Ivan Ivić) and *How to Do Things* (author Ljubica Beljanski-Ristić);

- “Parents and Teachers in Action”: This project resulted from the Textbook of the Rights of the Child and its objective was to raise awareness about the CRC among parents and teachers/educators in preschool institutions. It trained more than 500 educators and implemented more than 100 local actions aimed at improving the social and physical conditions for early child development;
- “How We Can Work Together”: This manual was developed for teachers working with adolescents on the issue of the rights of the child. It was developed by the NGO Yugoslav Centre for the Rights of the Child. It includes role plays assisting the adolescents to better understand why rights and rules are important, activities related to specific rights and exercises of role play regarding rights and responsibilities. This manual was selected by the expert team as the second and third part of curriculum for civil society education for secondary schools;
- The project “The Third Millennium”, supported by the Open Society Fund, was initiated in 1996 as a way to incorporate ITC in teaching and learning. The project was implemented in 40 schools in the Republic of Serbia, of which 5 became regional centres for training of teachers in this area;
- “Programme for Tolerance and Against Prejudice for Children and Adults”: the objective of this programme was to raise awareness among children and adolescents on issues of discrimination, change of attitudes (especially towards the Roma), developing strategies to fight prejudice and improving cooperation and understanding among different people.

397. NGOs also developed training programmes and seminars for children and adolescents:

- Network of Open Clubs (Open Society Fund): the first clubs began to operate in 1996. Established primarily in order to facilitate social and psychological integration of refugee children in the local community, they later developed into workshop centres for theatre, painting, film and literature groups in which the central ideas are those of tolerance, non-violence and democracy;
- Project “In search of content-filled leisure” (Friends of Children, Serbia) started in 1997. It was intended for secondary school students with the aim, after providing information about the CRC, to develop responsibility for participation in exercising one’s rights, motivate them and train them to undertake small-scale actions in the local community. The project covered 18 towns in Serbia. The project also included summer camps as additional education for work in local communities. It led to the development of a new project, the Secondary School Network;

- As a special form of psychosocial assistance for children refugees and children displaced from Kosovo and Metohija, children's creative camps were organized for children up to 15 years of age. During the summers of 2000, 2001 and 2002, the project "More Than Play" was implemented, with the objective to at least partially satisfy the needs of children for all those things that an impoverished family cannot provide (Friends of Children, in cooperation with UNICEF);
- Seminars for children - education regarding the Convention (The Yugoslav Centre for the Rights of the Child, Belgrade): "The Rights of the Child Summer School" (Kotor, 1997, 1998, 2000); "The Rights of the Child Winter School" (Zlatibor, 2001); "How to Achieve Children's Participation" (Belgrade, 1997); "Convention, Participation, Us" seminars for children and professional staff in children residential homes: "Moša Pijade" (Belgrade, 1998); "Miroslav Mika Antić" (Sombor, 1998); "Drinka Pavlović" (Belgrade, 1999); "Joint Evaluation Seminar" (Belgrade, 1999); "Education for children's participation in the schools" (2000); "The rights of the child at school" (2001); "Agenda for the Future", 39 workshops/seminars for adolescents.

398. The programme "School Policemen" was introduced in 2002 in cooperation with the Ministry of Interior. Specially trained policemen were placed in 243 schools (84 primary and 159 secondary).

### **Funding of education**

399. At present, education is funded through a dominantly centralized system. The share of the national budget in total revenues of education institutions in the year 2001 was 72.4 per cent, which is equivalent to the gross salaries of the employees. In 2001, direct payments by citizens were 9.3 per cent of total revenues of education, and donations were 5.2 per cent.

400. The republic budget appropriated a total of CSD 31,988,710,000 for education. The share of preschool education in the overall budget is 0.19 per cent, of primary education 6.57 per cent, of secondary education 3.38 per cent and of higher education 10.04 per cent.

401. From the municipal budgets in 2002 on the average 48.24 per cent appropriations were made relative to prescribed norms.

402. The low level of expenditures for education has a negative effect on access to education for children from poorest groups, non-mandatory levels of education (after primary education) and the quality of education. Municipalities with below average GDP are not in a position to provide the funds for education in the amounts as stipulated by the law as mandatory portion of funds for education.

403. As indicated in a UNICEF analysis, families contribute significantly to cover the expenditures of education. This includes, for instance, the procurement of textbooks and school materials. Through this, only in 1999, US\$ 181 million were used for all levels of education, or about one fourth of all education expenditures. If this were to include the value of used parents' time, this could grow to US\$ 320 million.

404. Expenditures for education, culture and leisure in the structure of personal family expenditures in 2001 have a share of 2.3 per cent of total expenditures. In this context, the Republic of Serbia is undertaking certain measures, paying special attention to household expenditures for education. In this respect, in the Republic of Serbia during the year 2002/03 accommodation of secondary school students was provided in 57 students' boarding schools and these were used by 9,345 or 2.92 per cent of students. Students' loans are used by 9,501 or 2.97 per cent of students, and scholarships by only 250 or 0.08 per cent of students. The amount of loans is CSD 1,500 or 9.98 per cent of the average gross salary (CSD 15,257).<sup>11</sup>

405. The total number of students in the Republic of Serbia entitled to free transportation to schools is 35,371. As a percentage of the total population of students it is distributed as follows: for lower grades of primary school in AP Vojvodina 2.5 per cent, and in the Republic of Serbia, without AP Vojvodina and AP Kosovo and Metohija, 2.4 per cent; for higher grades of primary schools in Vojvodina 6 per cent, and in the Republic of Serbia, without AP Vojvodina and AP Kosovo and Metohija, 8.6 per cent.<sup>12</sup>

## **B. Aims of education (art. 29)**

406. According to article 3 of the Law on Principles of the Education and Guidance System, the activities of education and guidance are implemented in order to ensure and provide optimal conditions for the development of individual and social personality of children, students and adults contributing to their overall development, the development of democracy in society and in the changing world.

407. Aims of education and guidance are: the development of intellectual potential and knowledge of children and students necessary to understand the nature, the society and the world in which they live, according to their development needs, capacities and interests; promotion and development of physical and health capacities of children and students; preparation for work, continued education or independent learning, in line with the principles of life-long learning; preparation for independent and responsible decision-making related to his/her own life, development of awareness of national and ethnic identity, fostering of traditions and cultures; enabling participation in European integration processes; developing awareness of the significance of protection and

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<sup>11</sup> Statistics of the Ministry of Education and Sport, Department for students and students standard.

<sup>12</sup> Statistics for primary education, 2002/03, Ministry of Education and Sport, 2003.

preservation of nature and the environment; adoption, understanding and development of principal social and ethnic values of democratic, humane and tolerant society; the respect for pluralism of values and facilitation, promotion and building of one's own system of values and beliefs founded on the principles of diversity and welfare for all; respect for the rights of children, human and civil rights and fundamental freedoms in a democratic society; development of ethnic and religious tolerance, trust among children and preventing behaviour which disables the exercise of the right to be different; development of friendship and adoption of values of living together and promoting individual responsibility.

408. Article 2 of the Primary School Law prescribes that the objective of primary education and guidance is acquisition of general education, balanced development of personality and preparation for life and continued general and vocational education and training. Through primary education and guidance the following is especially achieved: preparation for life and work and continued education and self-education; acquisition of fundamental elements of modern general education; preparation to implement the acquired knowledge and skills and creative use of leisure time; development of intellectual and physical potentials, critical thinking, independence and interest for new knowledge; learning the fundamental laws applicable to the development of nature, society and human thinking; acquiring and developing awareness of the importance of maintaining health and protecting and preserving nature and the environment; development of humanity, truthfulness, patriotism and other ethnic personality traits; education for humane and cultural relations among people, irrespective of race, religion, nationality and personal beliefs; cherishing and development of cultural needs and preservation of cultural heritage; acquiring fundamental knowledge of adequate conduct in all situations.

409. Article 2 of the Secondary School Law prescribes that the school provides the acquisition of general and technical knowledge and skills for continued education or for work, based on the achievements of science, technology, culture and arts; the acquisition of good conduct and the capacity to cherish ethical and aesthetic values; the development of physical and spiritual potentials; awareness of humanistic values, personal and social responsibility and health care.

### **Aims of the education reform in the Republic of Serbia**

410. Aims of the education reform in the Republic of Serbia include reorganization and modernization of the school system as support to economic recovery, democratic development, and European integration of the country.

411. Specific objectives of the reform of the school system are: development of generative and transfer knowledge, thinking skills and efficient resolution of complex problems, actual information-based process of decision-making and efficient communication, acquisition of living skills and functional literacy needed in modern information society, development of a system of values respecting diversity and justice, human rights and other most valuable elements of national tradition. Specific objectives of the reform are integrated in the Law on Principles of Education and Guidance System, General Foundations of Education Programmes and Special Foundations of Education for the first grade of primary education.

412. The education reforms are to be implemented in three, (partially) overlapping, stages:

- The first stage includes priority areas within which there is immediate need for reforms, in which the first steps have been made: decentralization and democratization of education, professional training of teachers, entrance examinations and quality guarantee, education for democracy and civil society, secondary vocational education in a flexible education system and higher education;
- The second stage includes areas for which concepts have been developed undergoing public debate: the structure of the school programmes and areas of education; structure and organization of the education system; higher technical education and training;
- The third stage includes tackling open issues and implementing reform activities: development of a strategy for the education of minorities, education of Roma, education of children with special needs; evaluation and accreditation of higher education.

413. In order to achieve these aims, the reform requires:

- Decentralization of the system through a redefinition of the role of central administration and local authorities;
- Democratization of the education system by creating conditions for the participation of stakeholders in decision-making and education for democracy integrated in curricula and school activities;
- Improving the quality system in education at all levels by establishing a quality evaluation system and education achievements for education institutions;
- Improving the teacher-training system and establishing a system for continued professional education and development of teachers;
- Developing and promoting friendship, acquiring the values of living together and promoting individual responsibility.

### **The rights of the child and of the student**

414. The rights of the child and of the student are exercised in accordance with the ratified international agreements, this and other special laws, and the institution is obliged to provide for their exercise, especially their right to: quality education, guidance of work, respect of personality, comprehensive personality development, protection against discrimination and violence, prompt and full information on issues relevant to his/her education, information on rights and obligations, filing claims and complaints against the assigned marks and other rights relevant to education, the



freedom to associate in different groups, clubs and organization of students' parliament, participation in the operation of school bodies, starting initiatives for consideration of the responsibility of students in education and guidance process.

415. The student, his/her parent or guardian may file a complaint to the school principal in case of inadequate behaviour of staff towards a student within 15 days of such an incident.

416. The school principal is obliged to consider the received complaint and, in consultation with the student and/or his/her parent or guardian, make a decision regarding it, within 15 days of receipt.

417. The employee of the institution is obliged to inform the director or the management body of any instances of violation of the rights of the child or the rights of the student.

418. Disciplinary procedures against the student may not be initiated nor implemented after the expiration of a 15-day period of finding out about the violation of obligations, or after the expiration of the school year in which the violation was made.

419. The student or his/her parent or guardian is responsible for damage that the student causes to the school, on purpose or through negligence, according to the law.

420. Disciplinary measures may be instituted in respect to the student in view of light violation of obligations of the student in accordance with by-laws and in case of more serious violations - according to a separate law.

421. Disciplinary measures may be instituted in respect to the student only in view of violations done during the current school year.

422. Disciplinary procedures against the student may not be initiated nor implemented after the expiration of a 15-day period of the date when it was found out about the violation, nor after the expiration of the school year in which the violation occurred.

### **C. Leisure, recreation and cultural activities (art. 31)**

#### **Legal framework**

423. The Law on Social Care for Children sets out that the essence of social care, apart from the activities of guidance, education and preventive health care, are nutrition, rest, recreation, cultural, sport and creative activities of children. The rights under the social care of children include rest and recreation of children aged up to 15 in children's resorts, and subsidizing the costs of children's stay in preschool institutions, and subsidizing rest and recreation. The Law also sets out the conditions for the exercise of the right to rest and have recreation in children's resorts (art. 34).

424. The provisions of this Law set out that sports/recreational contents are implemented through organized activities of rest, recreation, climatic recovery and

education in nature and sets out the size of groups in children's resorts (for the age up to 7, the groups are made up of 10 children, for the age 7-15, the groups are made up of 25 children).

425. The Law on Social Care for Children sets out the conditions for the implementation of the annual children's event "Children's Week" which takes place every year during the first week of October. During that week, children take part in cultural-educational and recreational events. Also, funds are raised in different amounts, and credited to the fund intended for continuation and further development of this event.

### **Practice**

426. The conditions for the participation of children in play and recreation and creative use of leisure time in practice depend on the financial ability of the family. Also, the supply of organized activities in the field of culture and arts is very modest and unequally distributed.

427. Over the past decade, the Yugoslav Commission for Cooperation with UNICEF and the NGO Friends of Children - Serbia were very proactive in encouraging the participation of children in cultural life. The role of the NGO was to encourage free play and recreation of children, along with efforts to improve the conditions for leisure activities and creativity of children.

428. The implementing actors for activities encouraging creativity of children were preschool and primary school institutions in which concerts, creative workshops, exhibitions, carnivals, etc. were organized.

429. In 1999, the NGO Child Rights Centre - Belgrade, with the support by UNICEF<sup>13</sup> published results of a survey regarding the views and attitudes of adolescents and secondary school students regarding the educational system. The students assessed that the overall cultural offer in the place of their residence was medium, but only 14 per cent of respondents confirmed that they participated in cultural and educational programmes, 20 per cent did not know what was offered, and 26 per cent expressed interest in joining modern programmes. According to the results of the survey, the respondents mostly used their leisure time to go to discos and cafes, visit friends and go to movies.

## **VIII. CHILDREN IN SPECIAL SITUATIONS**

### **Normative bases**

- The Constitution of the FRY ("The Official Gazette of FRY", No. 1/92)

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<sup>13</sup> M. Pešić and V. Čok, *Yearbook 2000*, YCRC, 2000.

- The Constitutional Charter of the State Union Serbia and Montenegro (“The Official Gazette SCG”, No. 1/03)
- The Charter on Human and Minority Rights and Fundamental Freedoms (“The Official Gazette Serbia and Montenegro”, No. 6/03)
- The Constitution of the Republic of Serbia (“The Official Gazette of R Serbia”, No. 1/90)
- The Law Ratifying the Optional Protocol on participation of Children in Armed Conflicts to the Convention on the Rights of the Child (“The Official Gazette of FRY - International agreements”, No. 22/02)
- The Law Ratifying the Convention on Transnational Organized Crime (“The Official Gazette of FRY - International agreements”, No. 6/01)
- The Basic Criminal Code (“The Official Gazette SFRY”, Nos. 44/76, 36/77, 34/84, 37/84, 74/87, 57/89, 3/90, 38/90, 45/90 and 54/90, “The Official Gazette of FRY”, Nos. 35/92, 16/93, 37/93, 24/94, 61/01 and “The Official Gazette of R Serbia”, No. 39/03)
- The Criminal Code of the Republic of Serbia (“The Official Gazette of SRS”, Nos. 66/77, 28/77, 43/77, 20/79, 24/84, 39/86, 51/87, 6/89, 42/89 and 21/90, and “The Official Gazette of R Serbia”, Nos. 16/90, 21/90, 26/91, 75/91, 9/92, 49/92, 51/92, 23/93, 67/93, 47/94, 17/95, 44/98, 10/02, 11/02, 67/03 and 80/03)
- The Criminal Code (“The Official Gazette of R Serbia”, Nos. 88/2005, 107/05)
- The Law on Adolescent Perpetrators of Criminal Acts and Criminal-Legal Protection Minors (“The Official Gazette of R Serbia”, No. 85/05)
- The Criminal Procedure Act FRY (“The Official Gazette of FRY”, Nos. 70/01 and 68/02)
- The Law on Principles of Labour (“The Official Gazette of FRY”, No. 29/96)
- The Labour Law (“The Official Gazette of R Serbia”, Nos. 70/01 and 73/01)
- The Labour Law (“The Official Gazette of R Serbia”, Nos. 24/05 and 61/05)
- The Safety at Work Law (“The Official Gazette of R Serbia”, Nos. 42/91, 53/93 and 42/98)

- The Law on Public Order and Peace (“The Official Gazette of R Serbia”, Nos. 51/92, 53/93, 67/93, 48/94, 85/05 and 101/05)
- The Law on Yugoslav Army (“The Official Gazette of FRY”, Nos. 43/94, 28/96, 44/99, 74/99, 3/02 and 37/02 and “The Official Gazette Serbia and Montenegro”, Nos. 7/05 and 44/05)
- The Law on Defense (“The Official Gazette of FRY”, Nos. 43/94, 11/95, 28/96, 32/99, 44/99 and 3/02)
- The Law on Refugees (“The Official Gazette of R Serbia”, Nos. 18/92 and 45/02)
- The Law on Care of Refugees (“The Official Gazette of R Serbia”, Nos. 20/92, 70/93, 105/93, 8/94, 22/94, 34/95, 36/04)

#### **A. Refugee children (art. 22)**

##### **Legal framework**

430. Article 66 of the Constitution of the FRY sets out that a foreigner in the Federal Republic of Yugoslavia is entitled to freedoms, rights and obligations set out in the Constitution, federal laws and international agreements. A foreigner may be extradited to another State only in cases included in international agreements binding on the FRY. It also guarantees the right to asylum to foreign citizens and stateless persons who have become refugees because of their efforts for democratic views and due to participation in movements for social and national liberation, for freedoms and rights of human beings, or for freedom of scientific or artistic work.

431. Provisions of article 38 of the Charter on Human and Minority Rights and Fundamental Freedoms sets out that any foreigner who had grounded fear of prosecution due to his/her race, colour, sex, language, religion, nationality, or belonging to a group or political belief, is entitled to refuge in Serbia and Montenegro. The procedure of receiving refuge is set out in the law. Also, anyone who is displaced by force within the territory of Serbia and Montenegro is entitled to effective protection and assistance, according to the law and international obligations of the State Union.

432. The Law on Movement and Residence of Foreign Citizens sets out the status of asylum holders and refugees in our country. Asylum is granted to a foreign national who is persecuted because of his/her efforts for democratic opinions and participation in movements for social and national liberation, for freedoms and rights of human beings, or for freedom of scientific or art work (arts. 44-46). An asylum-seeker is entitled to placement, sustenance and health care. Refugee status may be granted to a foreign national who has left the country of his/her citizenship or the country of permanent residence or to a stateless person in order to avoid persecution for his modern political aspirations or national, racial or religious origins (art. 50). A child of a foreign resident

who has been granted refugee status is entitled to all rights as his/her parent. Refugees are provided with placement, sustenance and health care until leaving for another country or until able to subsist independently, but not longer than for two years after filing the request for refugee status (art. 55).

433. The Law on refugees sets out the status of Serbs and citizens of other nationality who, due to pressure by Croatian authorities or authorities in other republics, due to the threat of genocide or prosecution and discrimination due to their religious or national origin or political beliefs were forced to leave their residence and take refuge in the Republic of Serbia. The decree on care of refugees sets out the right of children refugees, the right to education, the rights of children with disabilities, the right to financial assistance, provision of social security and similar other details.

### **Practice**

434. According to the data of the Commissariat for Refugees of the Republic of Serbia and of the Red Cross, the number of refugees in the Republic of Serbia in 1994 was about 415,000 of which children made up 175,000 or 42.1 per cent of the following age groups:

- 1.9 per cent (8,000) up to 1 year of age;
- 4.3 per cent (18,000) between 1-3 years of age;
- 10.5 per cent (43,000) between 3-7 years of age;
- 16.8 per cent (70,000) between 7-14 years of age;
- 8.8 per cent (36,000) between 14-18 years of age.

435. The number of children without parental care, of whom most are war orphans, was about 1,200, most of them in the age group between 3-7 years of age (725), of which only 5 per cent were accommodated in collective centres. For these children, the same level of parental care was provided as for nationals, and a significant contribution to the protection of children refugees was provided by placement in related families.

436. According to data by UNHCR for 2001, the number of refugees in the country was 451,980, of which children refugees (5-18 years of age) represented 72,625 or 19.26 per cent. Of this number, 348 were children without parental care, and 3,439 children with one parent only. Children aged up to 4 years, who were born in Serbia and Montenegro, formally do not have refugee status, although their parents are refugees; their number is 8,429, which is 2.24 per cent of the total number of refugees.

### **B. The rights of the child in armed conflicts, including the right to physical and psychological recovery and reintegration (arts. 38 and 39)**

### **Legal framework**

437. Our country has ratified all four Geneva Conventions of 1949 and both Additional Protocols of 1977.

438. Article 55 of the Constitutional Charter prescribes that the Army of Serbia and Montenegro shall fulfil its tasks within the defence of SCG in accordance with the principles of international law relevant to the use of force, and the recruitment and service in the Army of SCG is subject to the Law on the Army of SCG.

439. The provisions of article 288 of the Law of the Army of FRY sets out that the recruitment obligation begins at the beginning of the calendar year in which a citizen of SCG becomes 17 years of age and lasts until the beginning of the army service, or until appropriation to the reserve system in case when the service is regulated otherwise. Article 291 of the same Law sets out that recruitment is done in the calendar year in which the recruited person becomes 18 years of age and also that the recruited person may, at his own request, be recruited in the calendar year in which he becomes 17, while the President of SCG may order, during a state of war, recruitment of persons with military obligation who have become 17 years of age.

440. Recruited soldiers are sent to do their military service when they become 21 years of age, while, at personal request, a recruited person may be sent to do their military service when they become 18 years of age.

441. Persons younger than 15 years of age, according to the prevailing legislation, may not be engaged in any activities related to the defence of the country, while those who have become 15, in case of a state of war or a direct threat of war or a state of emergency, become subject to working obligation.

442. According to the provisions of the Law on Defence, in order to provide full care of children, the military obligation shall not apply to pregnant women or women having a child under 7 years of age or two or more children under the age of 10 (art. 23, para. 3), and the working obligation shall not apply in case of a state of war or a direct threat of war or a state of emergency to parents of the child aged under 15 whose partner is performing a military obligation, single parents, or a mother having a child under 7 years of age or two or more children under the age of 10 or a child with serious disability, and to pregnant women, those at delivery and maternity age (art. 24).

### **Practice**

443. The situation in practice is fully aligned with the legislation, namely, there have not been cases in SCG of sending persons under the age of 17 to do their military term nor has there been engagement in armed conflicts or hostilities. Also, the practice of military courts in SCG shows there are no registered cases of illegal engagement of members of armed forces of SCG in relation to children during armed conflicts.

### **C. Children in conflict with the law (art. 40)**

444. Judicial statistical data about the number of persons charged and sentenced for criminal acts in the period 1994-2005 are presented in the following table.

**Table 21**

|           | The Republic of Serbia |                              | Data for the Republic of Serbia without the territories of AP Vojvodina and AP Kosovo and Metohija |                              |
|-----------|------------------------|------------------------------|--|------------------------------|
|           | Total                  | Share of minors in the total | Total  | Share of minors in the total |
| 1994      |                        |                              |  |                              |
| Indicted  | 52 163                 | 4 950                        | 35 654   | 3 341                        |
| Sentenced | 37 024                 | 3 563                        | 24 003   | 2 228                        |
| 1995      |                        |                              |  |                              |
| Indicted  | 57 001                 | 4 965                        | 38 518   | 3 416                        |
| Sentenced | 39 848                 | 3 184                        | 26 022   | 1 961                        |
| 1996      |                        |                              |  |                              |
| Indicted  | 57 344                 | 4 248                        | 37 976   | 2 789                        |
| Sentenced | 39 657                 | 2 451                        | 25 613   | 1 353                        |
| 1997      |                        |                              |  |                              |
| Indicted  | 58 312                 | 4 044                        | 37 067   | 2 432                        |
| Sentenced | 41 813                 | 2 512                        | 26 248   | 1 264                        |
| 1998      |                        |                              |  |                              |
| Indicted  | 65 190                 | 4 014                        | 40 364   | 2 589                        |
| Sentenced | 48 022                 | 2 895                        | 28 977   | 1 725                        |
| 1999      |                        |                              |  |                              |
| Indicted  | 51 445                 | 3 227                        | 35 862   | 2 211                        |
| Sentenced | 36 297                 | 2 330                        | 24 666   | 1 518                        |
| 2000      |                        |                              |  |                              |
| Indicted  | 46 475                 | 3 012                        | 33 041   | 1 952                        |
| Sentenced | 34 223                 | 2 274                        | 24 040   | 1 410                        |
| 2001      |                        |                              |  |                              |
| Indicted  | 48 136                 | 3 277                        | 33 902   | 2 107                        |
| Sentenced | 35 566                 | 2 398                        | 24 469   | 1 426                        |
| 2002      |                        |                              |  |                              |
| Indicted  | 51 535                 | 3 620                        | 37 190   | 2 604                        |
| Sentenced | 35 997                 | 2 322                        | 25 732   | 1 576                        |
| 2003      |                        |                              |  |                              |
| Indicted  | 46 680                 | 3 089                        | 33 281   | 2 250                        |
| Sentenced | 35 097                 | 2 080                        | 24 534   | 1 410                        |
| 2004      |                        |                              |  |                              |
| Indicted  | 47 607                 | 2 726                        | 33 705   | 1 738                        |
| Sentenced | 36 222                 | 1 983                        | 25 014   | 1 188                        |
| 2005      |                        |                              |  |                              |
| Indicted  | 51 102                 | 3 232                        | 37 145   | 2 223                        |
| Sentenced | 39 135                 | 2 234                        | 27 806   | 1 407                        |

Source: The Republic Statistical Office.

### **Criminal legal protection of children**

445. The Law on Juvenile Perpetrators of Criminal Acts and on Criminal Legal Protection of Minors is the implementation of international agreements in the national legislation, some of which are of mandatory nature, such as the Convention on the Rights of the Child and the European Convention on the Protection of Human Rights and Fundamental Freedoms, ratified by our country, but also of many instruments containing provisions that no civilized country could deny: United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”), United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), United Nations Rules for the Protection of Juveniles Deprived of their Liberty, United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), the European rules on community sanctions and measures, and other documents of the Council of Europe, to which our country is a member.

446. With respect to criminal sanctions, the Law affirms to the maximum possible extent the principle of education rather than punishment, emphasizing that the purpose of criminal sanctions with respect to adolescents is through supervision, providing protection and assistance, and through providing general and vocational training to foster the development and empowerment of personal responsibility of adolescents, education and adequate development of his/her personality, with the aim to reintegrate in the society.

447. The prevailing system of criminal sanctions is dominated by a social protective approach, with the maximum interference of the *justice* model. In that respect, the Law for the first time includes provisions regarding guidance orders which are measures *sui generis*, whose purpose is not to initiate criminal procedures (“deter from criminal proceedings”) or to suspend it. The Law starts from the principle of subsidiarity in implementing criminal sanctions and giving preference to out-of-court forms of intervention.

### **Fundamental principles of criminal proceedings against adolescents**

448. The Charter on Human and Minority Rights and Fundamental freedoms sets out the prohibition of retroactive effect, meaning that no one can be deemed guilty or be punished for an act which, before the time of its occurrence, was not punishable by the law (art. 20, para. 1).

449. During the criminal proceedings, the presumption of innocence is the fundamental principle and as such is implemented also with respect to minor persons. Apart from this fundamental principle, in proceedings involving minor persons there are also certain specific principles such as: the principle of opportunity, by the new law extended to criminal acts punishable by prison sentences for a duration of up to five years or by a fine (art. 58), the principle of mandatory defence of minors, exemptions and limited duration of proceedings, and the urgency of proceedings and deadlines which are shorter than in case of perpetrators of criminal acts who are of age. A specific feature lies also in the process role of the guardian body (art. 53), and the specific role of the court in enforcing the corrective measures and control thereof.



450. A whole set of provisions of the Law are designed to enable full implementation of the principle of urgency in proceedings with minor persons. In respect of the right of the minor person to defence the law provides for mandatory defence by defence lawyers for juvenile justice (exclusively attorneys) from the beginning of the procedure for all criminal acts (art. 59). The law also extended the obligation of the prosecutor and the juvenile judge in terms of participation in enforcement and control of corrective measures.

451. According to the rules of process legislation, adolescents are called to appear before the court exclusively through parents or the legal representative, unless that is impossible for reasons of urgency or other circumstances (art. 54, para. 1). These persons cannot be tried in their absence and no one may be relieved of duty to testify on circumstances required to assess the psychological development of the minor person, his personality and circumstances of living (arts. 48 and 50).

452. With respect to the criminal sanctions system, the Law still includes three groups of criminal sanctions: primarily corrective guidance measures, the measure of juvenile prison, and certain security measures. Conditions for their enforcement have not changed significantly, but there are other facts that deserve attention. The number of guidance measures has been increased by introducing new ones, and in case of measures of institutional character, apart from the emphasized principle that they are the last to be implemented; their possible duration has been reduced. The same applies to juvenile prison, which now may be pronounced in the sentence to last for a number of months or years (lasting from 6 months to 5 years, and only exceptionally up to 10 years). In case of guidance measures of institutional nature the possibilities of parole discharge have been widened.

453. The most important novelty is the possibility to pronounce one or more special obligations in a series of guidance measures as independent criminal sanctions (art. 14), or the possibility of pronouncing them alongside with guidance measures of stronger supervision (art. 19). Apart from the guidance measure in form of special obligations, the Law introduced another new guidance measure: that of stronger supervision accompanied with day stay in relevant institutions for juvenile education and guidance. The introduction of this measure is in compliance with modern tendencies of introducing new semi-institutional forms of juvenile guidance, for those with greater or milder behaviour disorders, in order to avoid their separation from the environment in which they live.

454. Also in terms of pronouncing the only sentence to juvenile perpetrators of criminal acts, that of juvenile prison, there are numerous novelties introduced and certain previous unclear provisions have been clarified. We note here those provisions which refer to: deleting the sentence of juvenile prison from the criminal records (art. 34), maintaining records of pronounced guidance measures and sentences of juvenile prison (art. 37) - data on deleted sentences of juvenile prison can practically be made accessible to anyone, except in cases set out in article 102, paragraph 2, of the Criminal Code. Also, for the first time, the Law sets out that the records of pronounced guidance measures and juvenile prison sentences are maintained by the court which adjudicated in the first degree.

455. The Law includes very important provisions regarding the provision of data regarding the pronounced guidance measures. Generally, previously this area was open to many violations of juvenile rights and in this respect article 27 explicitly states:

“Data on pronounced guidance measures may be provided only to the court, the public prosecutors office and the guardian body, and cannot be provided for pronounced measures for criminal acts for which the law foresees monetary fines or imprisonment up to three years, if the person to whom such data refer has 21 years of age.”

## **Practice**

### **Protection of children in conflict with the law, implemented through centres for social work**

456. Protection of children infringing the law implemented through centres for social work consists of:

- Undertaking measures of social and family legal protection in respect of criminally irresponsible minors and minors against whom for reasons of ineffectiveness proceedings have not been initiated;
- Taking part in court proceedings regarding minors against whom proceedings have not been initiated, inquiries of personal, family, living and developmental circumstances and other circumstances of significance for the guidance measure, providing of opinion and proposal to the judge in order to establish an adequate measure;
- Organizing enforcement or practical implementation of guidance measures, monitoring and reporting to the court on results of social reintegration and proposal for the duration or the need to change the guidance measure or its suspension;
- Acceptance of minors after serving institutional measures of criminal sanctions and their reintegration in society;
- Empowering the family as a basic social unit, through providing assistance and support in order to increase guidance competence.

457. The process of social reintegration is a complex, multilayered and dynamic process of changing the personality and the circumstances of a child infringing the law with the aim of fully reintegrating him/her into society, through scientifically grounded concepts and models, through methods and techniques adopted to young persons, through a healthy, cooperative and facilitating approach between two persons or a group of persons with complementary roles and tasks. Social reintegration is implemented in institutions, in institutional conditions, non-institutional conditions and through preventive programmes.

458. In order to improve protection and social reintegration of children infringing the law within centres for social work, numerous projects have been implemented:

- Centre for Social Work Novi Sad - the project “Social-therapy club for minor children with behaviour problems”. The project dealt with children infringing the law aged 14-18, by the method of group work aimed at empowering the child at several levels, through acquisition of new social skills and methods of behaviour in a group, raising motivation for education and improving relations with parents;
- Centre for Social Work Užice, project “Adolescents Club”. The target group are perpetrators of criminal acts and misdemeanours, and parents of children against whom sanctions are pronounced;
- Centre for Social Work Sremska Mitrovica project “The Young in Prevention” with financial support of IRD (USAID);
- Centre for Social Work Požarevac project “The Young and Asocial Behavior” aimed to prevent asocial behaviour of the young;
- Centre for Social Work Vrnjačka Banja “I Want Life, Not Drugs”, research and education of the adolescents and their parents in order to prevent the use of narcotics and empowering parents to face the problem;
- Centre for Social Work Vršac, project “Day 8” group work with children with behaviour disorders and their parents, aimed at correcting negative forms of behaviour through creative workshops, developing positive role models, with financial support of the provincial secretariat for sport;
- Centre for Social Work Petrovac, programme for prevention of abuse of psychoactive substances. The purpose of the project is to train experts in different fields (teachers, social workers, pedagogues, psychologists and others) and to undertake independent and continued activities to prevent the spread of abuse of psychoactive substances at local level;
- Centre for Social Work for municipalities Irig and Ruma project “Lets Grow Up” aimed at secondary and primary prevention of juvenile delinquency and increasing the guidance competence of parents.

#### **Protection of children in conflict with the law implemented in institutional conditions**

459. Social reintegration in institutional conditions, is implemented in the following institutions: shelter homes; acceptance stations; guidance institutes; guidance and corrective homes and juvenile prisons.

460. The network of institutions providing care to children infringing the law and children with asocial behaviour, and which is under the direct jurisdiction of the

ministry in charge of social policy, consists of the following institutes: The Institute for Guidance of the Adolescents Kneževac, The Institute for Guidance of the Young with an Acceptance Station in Niš, and the Institute for Guidance of Children and Adolescents with a Shelter and an Acceptance Station in Belgrade.

**Table 22**

**Institutes for guidance of children and adolescents  
(capacity and the used capacity - year 2002)**

| Institution   | Location  | Capacity | Used capacity |
|---|-----------|----------|---------------|
| “The Institute for Guidance of Adolescents”   | Knjaževac | 129      | 78            |
| “The Institute for Guidance of Adolescents with an Acceptance Station”                            | Niš       | 72       | 69            |
| “The Institute for Guidance of Children and Adolescents with a Shelter and an Acceptance Station” | Belgrade  | 60       | 68            |
|   |           | 30       | 18            |

*Source:* Ministry of Labour, Employment and Social Policy.

**Table 23**

| Age of beneficiary | Sex of beneficiary |    | Institution   | Location  |
|--------------------|--------------------|----|---|-----------|
|                    | M                  | F  |   |           |
| 7-18               | 63                 | 15 | “The Institute for Guidance of Adolescents”   | Knjaževac |
| 15-18              | 69                 |    | “The Institute for Guidance of Adolescents with an Acceptance Station”                            | Niš       |
| 7-18               | 51                 | 17 | “The Institute for Guidance of Children and Adolescents with a Shelter and an Acceptance Station” | Belgrade  |

*Source:* Ministry of Labour, Employment and Social Policy.

461. In order to improve the living and education conditions in institutions for children infringing the law, the following measures have been taken:

- In the Institute for Guidance of Adolescents Knjaževac, sanitary facilities were reconstructed in three placement units and the central boiler of 4,000 litres capacity was installed. The Institute was provided with two PCs and a training course in computer literacy for adolescents; staff and adolescents received training through the programme “Non-Violent Communication”;
- In the Institute for Guidance of Children and Adolescents Belgrade, the programme “Children of the Streets”- was implemented, covering care and protection for 27 Roma children. All children received primary education and underwent a treatment to reduce general tension and insecurity and create preconditions for the re-integration process, giving up the old and accepting new behaviour models; a number of staff from this institute did a study tour with the NGO Centre for the Rights of the Child to Croatia and Slovenia in order to see in practice in providing care to children infringing the law;
- In the Institute for Guidance of Adolescents in Niš, repairs were made on the water supply and sewerage system, the floors in the acceptance station were repaired, and the dormitories were equipped; one member of staff was trained to implement the CRIN method and is now a member of the team for Psychological Crisis Intervention.

#### **D. The right of the child to protection against labour exploitation (art. 32)**

##### **Legislative framework**

462. According to the Labour Law, an employment contract may be made with a person who is at least 15 years of age and who meets other requirements for work in specific posts, as set out by the law, or by the regulation on organization and systematization, which identifies the organizational units, type and degree of qualification and other special requirements for a specific job (art. 24). Employees under the age of 18 and employed disabled persons are entitled to special protection (art. 12).

463. Employment can be concluded with a person under 18 with the approval of his/her parents, adoptive parents or other guardians, provided that such work is not detrimental to the health, ethics of education of the adolescent and provided that it is not prohibited by the law. A person under the age of 18 may be employed only if he/she provides a document issued by the relevant health-care body that the person is capable of performing the tasks for which he/she is employed and that such tasks are not detrimental to his/her health. If the person is registered with the republic authority competent for employment, the costs of the medical examination are covered by that organization (art. 25).

464. An employee younger than 18 years of age cannot work in posts implying very hard physical work, work underground, underwater or at great heights; posts which

imply exposure to hazardous radiation or agents that are poisonous, carcinogenic, causing hereditary diseases, or health risks due to cold, heat, noise or vibrations and which could, according to the finding of the relevant health-care body, have a harmful effect to the health and life of the person in respect to his/her psychophysical abilities (art. 84).

465. Employees aged between 18 and 21 may be employed in posts implying hard physical work, work underground, underwater or at great heights; posts which imply exposure to hazardous radiation or agents that are poisonous, carcinogenic, causing hereditary diseases or health risks due to cold, heat, noise or vibrations and which could, according to the finding of the relevant health-care body, not have a harmful effect on the health and life of the person in respect to his/her psychophysical abilities (art. 85).

466. Full working hours for employees under the age of 18 cannot exceed 35 hours per week and 8 hours per day. Also, overtime work is prohibited for employees under the age of 18. Employees under the age of 18 cannot work at night, except if he/she performs tasks in the field of culture, sport, art or advertising, when it is necessary to continue work interrupted due to the effects of force majeure, provided that such work lasts a specific period and that it must be completed without delay, while at the same time the employer does not have available other employees of age. In cases when an employee under the age of 18 works overtime, the employer is obliged to provide supervision over his work by an employee who is of age (arts. 87 and 88).

467. The Criminal Code sets out that parents, adopted parents or guardians or other persons who abuse minors or force them to work, to accept work not suitable to their age, to beg or who, for reasons of financial gain, incite to undertake actions harmful to his/her development, shall be punished by a prison sentence between three months and five years (art. 193, para. 2).

468. The Law on Public Order and Peace prohibits begging, prostitution and other forms of destructive behaviour (arts. 12 and 14).

## **Practice**

469. There are no available processed statistics regarding the number of employed persons under the age of 18 in our country, although such data is collected through individual questionnaires on labour. According to such data, employees in the age group between 15 and 24 years of age represented a share of 4.2 per cent of the total labour force in 2002.

470. In order to raise awareness of the issue of child labour in the Republic of Serbia, the NGO Centre of the Rights of the Child initiated a project in cooperation with the international campaign Global March against Child Labour which, among other things, proposed the ratification of ILO Convention No. 102. This project is an introduction to other future activities including the building of links between such practice and the regional and the global problem of children trafficking and sale.

471. The number of convictions for begging, prostitution and other forms of destructive behaviour prohibited by the Law on Public Order, is statistically negligible

and no data are available relevant to forcing children to excessive work, begging or prostitution. There is also no knowledge on the number of children, nationals, in the territory of the Republic of Serbia engaging in prostitution or whether the recorded cases of begging are a part of organized labour exploitation of children.

#### **E. The right of the child to protection against sexual exploitation and abuse (art. 34)**

##### **Legislative framework**

##### **International agreements**

472. Our country has ratified the following international instruments relevant to protection against exploitation and abuse: Additional Convention on the Eradication of Slavery, Slave Trafficking and Practices Resembling Slavery; Convention on the Eradication of Human Trafficking and Exploitation and Prostitution of Others; International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment; the Optional Protocol to the Convention on the Rights of the Child on child trafficking, child prostitution and child pornography.

473. The ratification of the Optional Protocol to the Convention on the Rights of the Child implies also the obligation for its implementation and the harmonization of national legislation. Several NGOs have submitted proposals for amendments to existing regulation or adoption of new regulations in the field of protection of children and the family against violence, abuse or exploitation - The Law against Sexual Exploitation of Children, The Law against Sexual Harassment, the Criminal Code (sections on abuse and neglect of children and violence against children and family) and other laws.

##### **Criminal legal protection**

474. The new Criminal Code, in chapter XVIII, includes criminal acts against sexual freedom. As a subject of criminal act, children appear in two criminal acts - in article 180 which incriminates intercourse or other equivalent acts, and in article 185 which incriminates the showing of pornographic materials and the use of children for pornography. In the case of other criminal acts, the minor age of children is taken as a qualifying fact, meaning that the criminal act has a more serious form if committed against a minor person, and if committed against a child (person under the age of 14) the criminal act is considered to be even more serious and stricter punishment is provided.

475. Of significance in terms of protection of children against sexual exploitation are also other criminal acts from chapter XIX - criminal acts against marriage and family. Article 190, paragraphs 1 and 2 (de facto marriage with a minor person) sets out that this criminal act is an act performed by a person of age who lives in such a community

with a minor person but also the parent, adoptive parent or guardian who enables or induces the minor person to live with a person of age in a de facto marriage. A qualified form of the criminal act in paragraph 2 exists if the act is committed for reasons of material gain, meaning if there is also an element of financial exploitation.

476. Incest is incriminated as a separate criminal act (art. 197), defined as when a person of age has intercourse or another equivalent act with a minor relation who is related by direct blood line in the first degree or with a minor brother or sister.

477. The Law on Public Order and Peace in article 14, paragraph 2, provides for 60 days' imprisonment against a person who enabled a minor to have premises in which to engage in prostitution. Article 20 of the same Law provides for a fine or 30 days' imprisonment when a parent or a guardian of a minor person performs acts described in articles 6 to 19 if the act results in a failure to exercise oversight of the minor person, although he/she is capable of exercising such oversight. The said articles (6-19) include a series of misdemeanours: insult or violence against another, inducement to begging or vagrancy, illicit sale of alcohol to persons under 16, gambling or inducement of minors to gamble.

### Practice

478. In the Republic of Serbia, no data are available or systematized regarding the number of children victims of sexual exploitation. Data provided by the Ministry of Interior on the number of criminal acts to the detriment of minors in 2001 and for the period until 31 October 2002 are presented in the following table:

**Table 24**

| Under Article ... of the Criminal Code of the Republic of Serbia | 2001 | 2002 |
|--|------|------|
| 103  | 32   | 27   |
| 104  | 2    | 1    |
| 105  | 6    | 2    |
| 106  | 42   | 37   |
| 107  | 4    | 2    |
| 108  | 88   | 75   |
| 110  | 14   | 12   |
| 111  | 2    | 4    |
| 115  | 26   | 28   |
| 121  | 3    | 2    |
| 251  | -    | -    |

*Source:* Ministry of the Interior.

479. As a response to overall violence committed against children during the war in the beginning of the 1990s, a programme was initiated at national level to develop a network providing psychosocial assistance to children traumatized during the war. At the beginning the programme had the support of the Federal Government and UNICEF, and later also of many other international and local agencies. Several hundreds of



experts for children (doctors, nurses, psychologists, social workers, schoolteachers) who participated in these projects acquired a greater level of sensitivity to the effects of war trauma on children, as well as the effects of family violence against children in time of peace.

## **F. Trafficking, sale and forced abduction (arts. 35 and 36)**

### **Legislative framework**

480. In June 2001, our country ratified the United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children; and the Protocol against the Smuggling of Migrants by Land, Sea or Air.

481. The Criminal Code incriminates human trafficking in article 388. According to the provisions of this article, whoever by force or under threat, disillusionment or holding in misbelief, through abuse of authority trust, or the addiction or difficult circumstances of another person, by withholding of personal documents or giving or taking money or other gain, recruits, transports, transfers, sells, buys, mediates in the sale, hides or holds another person with the purpose of exploitation of work, forced labour, commitment of criminal acts, prostitution or other form of sexual exploitation, begging, use for pornographic purposes, establishing slavery or similar relations, in order to take body organs or parts of the body, or in order to exploit the person in armed conflicts, shall be punished by imprisonment from 2 to 10 years. If such an act is committed against a minor person, the perpetrator shall be punished by a punishment foreseen for such an act even if no force, or threat of other form of commitment was involved. If the criminal act was performed against a minor person, the punishment shall not be less than three years of imprisonment.

482. If the act of human trafficking results in the death of one or more persons, the perpetrator shall be punished by a punishment of 3 to 15 years, and not less than 10 years, respectively.

483. The Criminal Code also includes the following offences:

- Children trafficked for the purpose of adoption (art. 389). A person who takes away a child under the age of 14 for the purpose of its adoption contrary to prevailing laws, or a person who adopts such a child or has an intermediary role in such an adoption, or who for that purpose buys, sells, or transfers a person under the age of 14, or transports, provides placement, or covers it, shall be punished by imprisonment from one to five years. If the criminal act was committed in an organized manner by several persons, perpetrators shall be punished by imprisonment for not less than three years;
- Establishing slavery or transport of persons under slavery (art. 390). A person who, by violating international laws, puts another person into a position of slavery position or an equivalent position, or holds him/her in such a position, buys, sells, transfers to another or has an intermediary role in the buying, selling or transfer of such a person, or who induces a person to sell his/her

freedom or the freedom of a dependent person or person in custody, shall be punished by imprisonment lasting from 1 to 10 years. A person who transports persons in slavery or another equivalent position from one country to another shall be punished by imprisonment lasting from six months to five years. If the act is committed against a minor person, the perpetrator shall be punished by imprisonment from 5 to 15 years;

- Intermediary in prostitution (art. 184). A person who induces or causes another to engage in prostitution or who takes part in transferring a person to another in order to engage in prostitution, or who by use of public information or other media promotes or advertises prostitution shall be punished by a fine or imprisonment of up to three years. If the act is committed against a minor person, the perpetrator shall be punished by imprisonment from 1 to 10 years;
- Showing pornographic materials or exploiting children for pornography (art. 185). A person who sells, shows or publicly presents to a child, or by other means makes available to a child texts, pictures, audio-visual or other objects of pornographic content, or performs a pornographic performance, shall be punished by a fine or imprisonment lasting up to six months. A person who uses a child to produce texts, pictures, audio-visual or other objects of pornographic content, or to perform pornographic performance, shall be punished by imprisonment from six months to five years. A person who sells, shows or publicly or electronically presents, publicly exhibits or makes pictures, audio-visual or other objects of pornographic content resulting from acts described in paragraph 2 of this article shall be punished by imprisonment of up to two years.

## **Practice**

484. In May 2001, with the assistance of the OSCE Mission, the first Yugoslav team was established, which was transformed the next year into the Serbian National Team for Prevention and Suppression of Trafficking in Human Beings (including children). This team is made up of representatives of all relevant government institutions, national NGOs who are active in this field and international organizations. The team is tasked with developing the national strategy for the prevention, suppression, and punishment of perpetrators of human trafficking and providing assistance to victims.

485. Within the activities of this team, there are specific groups of tasks related to the issues of prevention, punishment of perpetrators of human trafficking and assistance and protection of victims.

486. Tasks related to prevention of human trafficking (especially children and women) consist of several components.

487. The first group of tasks include: raising public awareness and especially awareness of risk groups (secondary school adolescents, children in social care institutions) on this phenomenon through lectures, workshops, round tables, panel

discussions; training all profiles of experts who may come in contact with potential victims; publishing materials, brochures of adequate content and posters; and producing TV spots and radio and TV programmes on the topic of human trafficking.

488. A number of State authorities and NGOs are responsible for the implementation of these tasks.

489. Achievements so far include numerous trainings provided to the members of the national team, the network of NGOs across the Republic of Serbia, a significant number of staff of the Ministry of Interior, prosecutors, judges, and professional staff in the field of family-legal and social protection.

490. As implementing partners working with risk groups, the NGOs ASTRA and BEOSUPPORT have held numerous lectures and workshops attended by young people (secondary schools and institutions for children without parents). Printed materials were disseminated and available to a wide range of the public which may be at risk.

491. Several TV spots were produced which are continually broadcast on TV channels, and it is intended that their number be increased and broadcast more frequently.

492. A documentary film “Human Trafficking From a Close-Up”, produced after the survey done on this issue, was shown at the Belgrade International Documentary Festival 2002, with the implementing organization BEOSUPPORT.

493. The second group of tasks is relevant to the police, prosecutors and judges.

494. The third group of tasks concerns the protection and assistance to victims of human trafficking.

495. The achievements of this group of tasks, also implemented by relevant State authorities and NGOs, include:

- The establishment of an SOS telephone line for victims of trafficking;
- A shelter home for victims of trafficking is functional since February 2002, operated by the NGO Counselling Against Home Violence and funded by the Austrian Government. So far, this is the only shelter of its kind and, apart from accommodating victims of human trafficking it also accommodates minor girls who happen to be in the Republic of Serbia as victims. There is no shelter intended exclusively for children;
- Organizing the return of victims to the country of origin, a role taken over from the International Organization for Migration.

496. The Service for Coordination of Protection of Victims of Human Trafficking is an integral part of the Institute for Guidance of Children and Adolescents in Belgrade, but it is active across the territory of the Republic of Serbia. Its role is the coordination of numerous actors who assist and provide protection to victims of human trafficking,

especially children. Another important role of this Service is the maintenance of records and comments on all victims that the Service was in contact with. These records are kept for the whole territory of the Republic of Serbia. According to the records of the Service, in the period from 1 March 2004 to 25 May 2005, through the coordination by the Service, care was provided to 14 minor persons, through centres for social work.

#### **G. The right of the child to protection against illicit use of narcotics and psychotropic substances (art. 33)**

##### **Legal protection**

497. Pursuant to the Law on the Production and Marketing of Narcotics, production and marketing of narcotics is allowed for medical, veterinary, educational, laboratory and scientific purposes, provided that a permit is issued by a competent authority. It also sets out the conditions for the production and marketing of these substances, the keeping of records and the actions by competent authorities in cases of seized narcotics.

498. The Criminal Code in article 246 incriminates the act of production, storage or marketing of narcotics, and in article 247 also the criminal act of enabling the use of narcotics. If the victim of the criminal act is a minor person, it then represents a qualifying circumstance with increased minimum and maximum punishment levels.

##### **Practice**

499. Previous experience in working with the category of addicts and experience from the pilot study of the Special Hospital for Addiction Diseases on a limited sample, the following has been confirmed:

- The age at which abuse begins has decreased progressively to the youngest age - to 10-12 years, for children starting smoking and consuming alcohol, to 13 starting smoking marihuana, and 14 starting taking so-called “heavier” drugs;
- Abuse is most frequent during the adolescent period (12-26 years);
- An increasing number of persons makes the first contact in post-adolescent age (after 26);
- Different forms of drugs are increasingly available on the illegal market;
- It is possible to come by legal drugs without control and selection;
- De-metropolization - an increasing number of drug users are in areas outside cities, even in villages;
- Decentralization - drug abuse is not characteristic of city centres but is moved to suburbs and peripheries;
- Polyaddictions - the use of different kinds of drugs;

- “Tabletomania” - the use of different medicines with similar properties in combination with alcohol, especially frequent in school population;
- Low level of public awareness - parents and teachers are not informed and are not able to recognize problems and symptoms, and are not aware of institutions to contact for assistance; children and adolescents are better informed about the kinds of drugs and their supply on the market, but this knowledge is often burdened with delusions as to the risks implied, addiction capacity, possible success of treatment, etc.

**Table 25**

**Number of hospitalizations with basic diagnosis F10.2 and F11.2 - data for the Republic of Serbia not including AP Vojvodina and AP Kosovo and Metohija**

|          | 1996              | 2000              |
|----------|-------------------|-------------------|
| F10.2    |                   |                   |
| Male     | 2 550             | 4 210             |
| Female   | 339               | 474               |
| Age 7-19 | 22                | 174               |
| Total    | 2 889             | 4 684             |
| F 11.2   |                   |                   |
| Male     | 427               | No data available |
| Female   | 52                |                   |
| Age 7-19 | 47                |                   |
| Total    | 479               |                   |
| F11.25   | 1997 AP Vojvodina | Novi Sad          |
| Male     | 13                | 32                |
| Female   | 3                 | 10                |
| Total    | 16                | 42                |

*Source:* Serbian Institute of Public Health “Dr. Milan Jovanović-Batut”.

**Table 26**

**Average age of registered drug addicts in Belgrade for the years 1993, 1997 and 2001**

| Year of registration | 1993 | 1997 | 2001 |
|----------------------|------|------|------|
| Male                 | 33.6 | 24.9 | 24.1 |
| Female               | 31.4 | 26.3 | 24.7 |
| Total                | 32.9 | 25.2 | 24.2 |

*Source:* Serbian Institute of Public Health “Dr. Milan Jovanović-Batut”.

**Table 27**

**The average share of registered drug addicts by age groups  
in Belgrade 1997-2001**

| Share (%) | Year of registration |       |       |
|-----------|----------------------|-------|-------|
|           | 1997                 | 2000  | 2001  |
| 0-14      | 0                    | 0     | 0     |
| 15-19     | 13.94                | 17.62 | 14.86 |
| 20-24     | 44.95                | 40.98 | 47.61 |
| 25-29     | 21.25                | 27.18 | 25.69 |
| 30-39     | 14.98                | 11.04 | 10.33 |
| 40*       | 4.88                 | 3.18  | 4.03  |

*Source:* Serbian Institute of Public Health “Dr. Milan Jovanović-Batut”.

500. The data available to the Ministry of Interior suggest the problems related to drugs addiction and drug dealing is on the increase. In this, however, it is worth mentioning that the staff of criminal police in charge of suppressing the trafficking of psychotropic drugs enter in their records only persons who were in one way or another involved in illicit production or trade of psychotropic drugs, irrespective of whether they themselves are drug addicts, as they are not obliged to establish such facts, irrelevant to the legal measures against persons of incriminated acts; it is therefore impossible to have accurate data on those consuming psychotropic drugs.

501. Bearing in mind all the above, the Government has undertaken a comprehensive action entitled “School Without Drugs” which was joined by the Ministry of the Interior. Apart from this, special attention is paid to the protection of minors against the use of psychotropic drugs and prevention of trafficking and illicit trade of narcotics among minors, especially through preventive activities implemented by the Ministry of Interior. A special form of preventive action is implemented through coordinated work with health-care professionals, primarily with the Special Hospital for Addiction Diseases. Lectures are also organized in primary and secondary schools in order to educate teaching staff and parents about the seriousness of these problems, types and effects of different types of drugs, how to recognize the symptoms of use of drugs, and whom to contact for assistance, so that parents, teachers, school pedagogues and psychologists, as primary actors in the prevention chain, are able to recognize the problem and act promptly in the most adequate manner. Another form of preventive action is implemented through effective work in intervening in the chains through which narcotics are illicitly traded, through greater number of seizures and increased quantity of seized narcotics, and through successful detection and measures taken against narcotics dealers, as a form of general prevention - averting potential perpetrators from committing these criminal acts.

502. The Ministry of Interior, in cooperation with the Ministry of Education and Sport, is also implementing the project “School Policemen” in order to increase the overall security in education and guidance institutions and in their vicinity, including aspects related to the abuse of narcotics. So far there are school policemen in 243 schools (84 primary and 159 secondary), of which 179 are “school policemen” and 66 reserve

school policemen. Monitoring the implementation of the project has identified that the overall security in these schools is significantly better than in the previous period, as the number of criminal acts has reduced as well as acts disturbing public order and peace.

## **H. Children members of minority groups (art. 30)**

### **Legislative framework**

#### **The right to education**

503. The Constitution of the Republic of Serbia guarantees the freedom of expression of national origin and culture, and the freedom to use one's language and script, and the right to education in one's language according to the law.

504. In line with the Law on Protection of Rights and Freedoms of National Minorities, members of national minorities are guaranteed the right to education and guidance in their language in institutions of pre-school, primary and secondary education (art. 13, para. 1). The Law stipulates that if there is no education in the language of the national minority within the public education system for members of national minorities, the State is obliged to provide bilingual education or the study of the language of the national minority including elements of national history and culture for members of national minorities (art. 13, para. 2). According to the Law, minority education may be organized also when there is no sufficient number of students otherwise required for regular education in the language of the majority population and, also, it stipulates that National Councils of Minorities shall be established which in the future will have a major role in the decision-making process in the area of education of national minorities. In line with provisions of article 13, paragraph 4, education in the language of national minorities does not exclude the mandatory study of the Serbian language.

505. Education curricula for education of members of national minorities, in the part relevant to national content, must to a significant degree include topics on history, art and culture of the national minority. National Minority Councils shall participate in developing the curricula for the subject which expresses the specific features of the national minorities in the language of the national minorities, in bilingual teaching and in learning the minority language with elements of national culture. The competences of these councils is regulated by the Law. Article 14 sets out that for the purpose of education in the language of national minorities within higher education, departments and faculties will be in charge of educating teachers, educators and language teachers in the languages of the national minorities.

506. Faculties should set up lecturing departments in the languages of national minorities so that students who are members of national minorities can also master technical terminology in the language of the national minority. Apart from this, the State is obliged to promote the professional education and improvement of mastery of terminology and to promote international cooperation, with the purpose of enabling members of national minorities to study abroad in their mother tongue and that such diplomas be recognized in the country.

507. The law on identifying certain competences of autonomous provinces sets out that these competences, with respect to curricula and textbooks, school network and other major issues, are delegated to the competent authorities of the autonomous province, meaning that the relevant decision-making regarding the education of national minorities in AP Vojvodina is located at the level where the voice of members of national minorities are heard and can make an impact. Competences from this law are integrated in the Law on Principles of the System of Education and Guidance.

508. The Law on Primary Schools and the Law on Secondary Schools guarantee the right to members of national minorities to have education in the mother tongue or bilingual education, provided that at least 15 students apply for enrolment in the first grade. With the approval of the Minister of Education, the curriculum and the programme may be also implemented in the language of the national minority or bilingually for less than 15 students (art. 5, para. 2). When students members of a national minority receive education in the Serbian language, they are entitled to learn their mother tongue with elements of national culture. In line with this law, when the education is provided in the language of the national minority, the school also keeps its official records in that language.

509. Education and guidance in the languages of national minorities in secondary schools is regulated by the Law on Secondary Schools, based on which, in order to have a curriculum in the languages of national minorities, a minimum of 15 students are required in the classes of the first grade of grammar schools, vocational and art schools (art. 5, para. 1). Education in the languages of national minorities is possible also for a smaller number of students, with the approval of the Minister of Education. These provisions of the Law state as a requirement for secondary education in the language of national minorities that such education is chosen by at least 15 students in already established classes. Having in mind that in already established classes it is difficult to have 15 students who wish to have education in their mother tongue, the schools implement this provision by asking the students to choose the language at the time of enrolment.

510. According to the Law on Textbooks and other Teaching Aids, textbooks are published in the language of national minorities for students for whom the curriculum is implemented in the language of national minorities. The document approved by the Minister of Education which approves the publishing of textbooks also includes provisions on the language and script in which the textbook is to be published (art. 4, paras. 3 and 17).

511. According to the Law on Child Care, education in the mother tongue is also guaranteed at pre-school level.

## **Practice**

### **Organizing education for members of national minorities**

512. The Republic of Serbia is ethnically a heterogeneous community. The most recent census from 2002 indicates that the Republic of Serbia (excluding Kosovo and Metohija) has a population of 7,498,001, of which Serbs make up 82.86 per cent



(6,212,838) followed by Hungarians (3.91 per cent - 293,299), Bosnians (1.81 per cent - 136,087), Yugoslavs (1.08 per cent - 80,721), Roma (1.44 per cent - 108,193), Croats (0.94 per cent - 70,602), Montenegrins (0.92 per cent - 69,049), Albanians (0.82 per cent - 61,647), Slovaks (0.79 per cent - 59,021), Vlachs (0.53 per cent - 40,054), Romanians (0.46 per cent - 34,576), Macedonians (0.34 per cent - 25,847), Bulgarians (0.27 per cent - 20,497), Bunievs (0.27 per cent - 20,012), Muslims (0.26 per cent - 19,503), Ruthenians (0.21 per cent - 15,905), Slovenians (0.07 per cent - 5,104), Ukrainians (0.07 per cent - 5,354), Gorans (0.06 per cent - 4,581), Germans (0.05 per cent - 3,901), Russians (0.03 per cent - 2,588), Czechs (0.03 per cent - 2,211), others (0.16 per cent - 11,711), and those who do not state their nationality (1.44 per cent - 107,732).

513. In the Republic of Serbia education for national minorities is organized in three ways - in their mother tongue; bilingually (the mother tongue subject in the language of the national minority including culture, and in the Serbian language for other subjects); and in Serbian, accompanied by the study of their mother tongue with elements of national culture.

514. The network of schools in which education is provided in the languages of national minorities is adjusted to the distribution of members of the national minorities. Due to the higher number of national minorities and also due to certain socio-economic conditions, the number of classes with education in the language of national minorities is three times higher in Vojvodina than otherwise in the Republic of Serbia without the territories of AP Vojvodina and AP Kosovo and Metohija.

515. Education of national minorities is carried out in eight languages: Hungarian, Romanian, Ruthenian, Slovak, Albanian, Bulgarian (bilingually with Serbian), and, since recently, in Roma and Croatian (there are still no official data for the last two languages).

516. In locations where education is provided only in Serbian, students whose mother tongue is not Serbian are provided with the optional subject "Mother Tongue", with elements of the national culture, two times a week from the first to the eighth grade. Members of national minorities participate actively in developing the plans and curricula for this subject.

517. In the school year 2000/01, 11 primary schools in the territory of the municipalities Preševo and Bujanovac provided education in Albanian. In the municipality Bujanovac there is also one secondary school with education in Albanian, and in the municipality Preševo there are two schools teaching in the Albanian language.

518. Education in Bulgarian for members of the Bulgarian national minority is provided in three primary schools in the municipalities Surdulica and Bosilegrad. In the municipality Bosilegrad there is also one secondary school in which teaching is done in the Bulgarian language.

519. In the territory of AP Vojvodina, students who are members of the Hungarian national minority attend classes in the mother tongue in 83 primary schools (I-VIII grade). Some of these schools teach all subjects in the Hungarian language, while others have bilingual programmes. For disabled children there are four primary schools teaching in the Hungarian language. There are primary music schools teaching in Hungarian in eight municipalities. There are 29 secondary schools which provide either full teaching in Hungarian or bilingual teaching in Hungarian and Serbian. Within higher education, teaching in Hungarian is provided at the Higher Polytechnic College in Subotica and at teacher training colleges in Novi Sad and Subotica, as well as at the Department for the Hungarian Language and Literature of the Faculty of Philosophy in Novi Sad and Belgrade, and partly at the Arts Academy in Novi Sad, and the Faculty of Economics and Faculty of Civil Engineering in Subotica.

520. Students members of the Romanian national minority attend education in their mother tongue in 19 primary schools. There are two secondary schools that provide education in Romanian, and within higher education, teaching in the Romanian language is provided in the Education College in Vršac, at the Department of the Teacher Training College from Belgrade in Vršac and at the Departments for Romanian Language in Novi Sad and Belgrade.

521. Students members of the Slovak national minority attend education in their mother tongue in 17 primary schools, and there is one primary school offering teaching in Slovak for disabled children. There are two secondary schools teaching in Slovak, and within higher education, Slovak is the teaching language at the Teacher Training College in Sombor and at the Departments for the Slovak language in Belgrade and Novi Sad.

522. Students who are members of the Roma national minority have organized education of their mother tongue with elements of national culture. Classes in this language are provided in 29 schools, of which 21 are located in AP Vojvodina, 4 in Obrenovac and 4 in Lazarevac, near Belgrade.

523. According to statistics for the school year 2002/03 on primary education, of the total number of classes in primary schools in the Republic of Serbia, without the territories of AP Vojvodina and AP Kosovo and Metohija, 98 per cent teach in Serbian, 1.7 per cent in Albanian, and 0.3 per cent bilingually in Serbian and Bulgarian. In primary schools in Vojvodina teaching was offered in the Serbian language in 84 per cent of classes, Hungarian in 12 per cent of classes, Slovak in 2.2 per cent of classes, Romanian in 1.6 per cent of classes, and Ruthenian in 0.1 per cent.<sup>14</sup>

524. Significant for the fostering of the culture and the language of national minorities in the education process are special textbooks intended for students members of national minorities. "Language Lessons" is a textbook published in the Serbian language, but

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<sup>14</sup> Primary education statistics, 2002/03, Ministry of Education and Sport, Belgrade 2003.

intended for students of the national minorities. For each national minority there is an additional textbook, “Additional Contents”, to be used for the subject “Mother Tongue with elements of national culture”: it provides additional contents from the history of the national minority as well as contents from art and music of the national minority. Textbooks for the subject History have a significant share of contents relevant to the history of national minorities of their original country. Students who are members of the Albanian, Turkish, Romanian, Ruthenian, Hungarian and Slovak minority have the opportunity in higher grades to receive education in additional contents from the national history.

525. Official textbooks for primary and secondary schools are published by an authorized institution - the Institute for Textbooks and Teaching Aids. This Institute has a branch in Novi Sad which is in charge of developing and publishing textbooks in the following languages of national minorities - Hungarian, Slovak, Romanian, Ruthenian, and Roma, while the Institute in Belgrade publishes textbooks in Albanian, Turkish and Bulgarian. Apart from textbooks, an important part of the activity of the Institute is publishing of literature, reading materials and major literary works in the minority languages.

**Table 28**

| Minority language | Primary school |            | Secondary school |            | University editions | Capital works - special editions | Total |
|-------------------|----------------|------------|------------------|------------|---------------------|----------------------------------|-------|
|                   | Textbooks      | Literature | Textbooks        | Literature |                     |                                  |       |
| Hungarian         | 104            | 52         | 55               | 4          | -                   | 13                               | 228   |
| Slovak            | 91             | 46         | 46               | -          | -                   | 13                               | 196   |
| Romanian          | 85             | 58         | 24               | -          | -                   | 12                               | 179   |
| Ruthenian         | 83             | 36         | 35               | 1          | -                   | 13                               | 168   |
| Roma              | 1              | -          | -                | -          | -                   | -                                | 1     |
| Albanian          | 81             | 13         | 107              | -          | 168                 | 4                                | 373   |
| Turkish           | 60             | 12         | 12               | -          | -                   | 5                                | 89    |
| Bulgarian         | 21             | 8          | 4                | -          | -                   | 2                                | 35    |
| Ukrainian         | -              | -          | -                | -          | -                   | 1                                | 1     |
| Total             | 526            | 225        | 283              | 5          | 168                 | 63                               | 1 270 |

*Source:* Institute for Textbooks.

526. Fostering the religion of national minorities is provided through religious education, and textbooks for religious education are translated into the languages of national minorities.

527. In the area of higher education, the most effective measures for the fostering of culture, history and languages of national minorities provided by the State is the establishment of special departments for the study of national languages and literature. Faculties of philology and philosophy in the Republic of Serbia have study departments for languages of all national minorities. The Faculty of Philology in Belgrade has the following study departments: Bulgarian language and literature, Slovak language and literature, Romanian language and literature, Turkish language and literature, Oriental philology, Albanian language and literature, Hungarian language and literature, and Ukrainian language and literature. The Faculty of Philosophy in Novi Sad has the

following study courses: Hungarian language and literature, Slovak language and literature, Ruthenian language and literature and Romanian language and literature. The Faculty of Philosophy in Niš has a department for Slavic languages and Balkan studies.

528. Training of staff for work in the languages of national minorities in pre-school institutions is provided at special teacher training colleges which provide education in languages of national minorities. Teacher training colleges teaching in the languages of national minorities are the following: college in Novi Sad (teaching in Serbian and Hungarian), college in Subotica (teaching in Serbian and Hungarian) and college in Vršac (teaching in Serbian and Romanian).

529. Training of teachers teaching lower grades of primary schools (I-IV grade of primary schools) is provided at the teaching faculty in Sombor and its departments. The teaching faculty in Sombor trains teachers in the Ruthenian language, and the department of the teaching faculty of Sombor in Subotica teaches teachers to provide education in the Hungarian language, while in Bački Petrovac training is provided for the Slovak language. A department of the Belgrade teaching faculty in Vršac trains students for the title of teacher for education in the Romanian language. There is no training for teachers who teach in Albanian.

530. Since members of national minorities, apart from the opportunity to study at the departments and faculties of languages and literature, also have the opportunity to study other sciences in their mother tongue and in that way they are qualified to provide teaching in their mother tongue in higher grades of primary school and in secondary schools. Students who are members of national minorities and who complete studies in sciences or humanities in the Serbian language may work as secondary schoolteachers in schools in which teaching is provided in the language of their national minority.

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