

FSC.EMI/133/11
10 May 2011



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***Permanent Mission of the Republic of Serbia
to the OSCE and other International Organizations in Vienna***
*Rennweg 3, Vienna, tel. 714 13 45, fax. 714 13 41
e-mail: mission.vienna@mfa.rs*

No. 649-2/2011 PS-0702/A/VIII-1-a)

Note Verbale

The Permanent Mission of the Republic of Serbia to the OSCE presents its compliments to all Permanent Missions/Delegations to the OSCE and to the Conflict Prevention Centre and, in accordance with Decision 2/09 of the Forum for Security Co-operation, has the honor to provide the Serbian reply to the Information Exchange on the Code of Conduct on Politico-Military Aspects of Security, valid as of 15 April 2011.

The Permanent Mission of the Republic of Serbia to the OSCE avails itself of this opportunity to renew to all Permanent Missions/Delegations to the OSCE and to the Conflict Prevention Centre the assurances of its highest consideration.



Vienna, 10 May 2011

All Missions/Delegations to the OSCE
The Conflict Prevention Centre

REPUBLIC OF SERBIA
Exchange of Information on the
OSCE Code of Conduct

ENGLISH only

on Politico - Military Aspects of Security
(submitted 15 April 2011)

Section I: Inter-State elements

1. Account of measures to prevent and combat terrorism

1.1 To which agreements and arrangements (universal, regional, sub regional and bilateral) related to preventing and combating terrorism is your State a party?

a) Agreements/arrangement related to combating terrorism which the Republic of Serbia is a Party are listed below:

- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, Official Gazette of the SFRY –International contracts, number 9/85;

- International Convention against the Taking of Hostages, Official Gazette of the SFRY – International contracts, number 9/85;

- International Convention for the Suppression of the Financing of Terrorism, Official Gazette of the SRY –International contracts, number 7/2002;

- International Convention for the Suppression of Terrorist Bombings, Official Gazette of the SRY –International contracts, number 12/2002;

- International Convention for the Suppression of Acts of Nuclear Terrorism, Official Gazette of the Serbia and Montenegro –International contracts, number 2/2006;

- Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention Against Transnational Organized Crime, Official Gazette of the Serbia and Montenegro –International contracts, number 11/2005;

- Convention on Offences and Certain Other Acts Committed on Board Aircraft, Official Gazette of the SFRY – International contracts, number 47/1970;

- Convention for the Suppression of Unlawful Seizure of Aircraft, Official Gazette SFRY International contracts, number 3/72;

- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Official Gazette of the SFRY –International contracts, number 9/85;

- Convention on the Physical Protection of Nuclear Material, Official Gazette of the SFRY – International contracts, number 9/85;

- Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Official Gazette of the SFRY –International contracts, number 14/89;

- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, Official Gazette of the Serbia and Montenegro –International contracts, number 2/2004;

- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, Official Gazette of the Serbia and Montenegro –International contracts, number 6/2004;

- European Convention on the Suppression of Terrorism, Official Gazette of the SRY –International contracts, number 10/2001;

- Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism, Official gazette Republic of the Serbia –International contracts, number 19/2009;

- Protocol on European Convention on the Suppression of Terrorism, Official Gazette Republic of Serbia –International contracts, number 19/2009;

- Council of Europe Convention on the Prevention of Terrorism, Official Gazette Republic of the Serbia –International contracts, number 19/2009;

- European Convention on Extradition, Official Gazette FRY – International contracts no. 10/2001, 12/10;

- Additional Protocol to the European Convention on Extradition - Official Gazette FRY, International contracts no. 10/2001;

- Second Additional Protocol to the European on Convention Extradition, Official Gazette FRY – International contracts no. 10/2001;

- European Convention on Mutual Legal Assistance in Criminal Matters, Official Gazette FRY, International contracts no. 10/2001;

- Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters, Official Gazette FRY, International contracts no. 10/2001;
- Second Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters, Official Gazette Serbian and Montenegro- International contracts no. 2/2006;
- European Convention on Transfer of Proceedings in Criminal Matters, Official Gazette FRY, International contracts no. 10/2001;
- Convention on Cybercrime, Official Gazette Republic of Serbia, International contracts no. 6p.19/2009;
- United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (hereinafter: Vienna Convention), adopted in 1988 ('SFRY Official Gazette – International Agreements', No. 14/90);
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (hereinafter: Strasbourg Convention), adopted in 1990 ('FRY Official Gazette - International Agreements', No. 7/02 and 'SCG Official Gazette – International Agreements', No.18/05);
- United Nations Convention Against Transnational Organized Crime with its Additional Protocols (hereinafter: Palermo Convention, adopted in 2000 ('FRY Official Gazette - International Agreements', No. 6/01) ;
- 1999 Council of Europe Criminal Law Convention on Corruption ('FRY Official Gazette - International Agreements', No. 2/02 and 'SCG Official Gazette – International Agreements', No.18/05);
- United Nations Convention against Corruption, adopted in 2003 ('SCG Official Gazette – International Agreements' No, 12/05);

Agreements/arrangements related to sub regional cooperation:

- Police Cooperation Convention for Southeast Europe (5th May 2006),
- Agreement among the Governments of the BSEC Participating States on Cooperation in Combating Crime, in Particular in Its Organised Forms with the 2008 Additional Protocol on Combating Terrorism),
- Protocol on Enhanced Trilateral Cooperation in Combating Crime and Especially Trans-Border Crime (Serbia, Romania and Bulgaria).

The Republic of Serbia has concluded bilateral agreements/arrangements, referring cooperation in criminal matters in respected area with the following states: Bosnia and Herzegovina, Montenegro, Bulgaria, Croatia, Austria, Romania, the Slovak Republic, Russia, Greece, Italy, Cyprus, Hungary, Belgium, Switzerland, Israel and France.

Ministry of Justice is in the process of finishing the negotiations of a bilateral agreement between the United States of America and the Republic of Serbia on extradition.

Protocols on cooperation which Ministry of Justice of the Republic of Serbia signed with ministries of justice of other countries, such as member states of the European Union, neighbouring countries and other countries from the region in the period from 2004 to 2011 are following:

1. Agreement on cooperation between Ministry of Justice of the Republic of Serbia and Ministry of Justice of the Russian Federation (12.02.2008.)
2. Agreement on cooperation between Ministry of Justice of the Republic of Serbia and Ministry of Justice of the Republic of Belarus (05.11.2007.)
3. Protocol on cooperation between Ministry of Justice of the Republic of Serbia and Ministry of Justice of the Republic of Romania (30.01.2007.)
4. Protocol on cooperation between Ministry of Justice of the Republic of Serbia and Ministry of Justice of the Federation Bosnia and Herzegovina (28.04.2006.)
5. Memorandum on cooperation between Ministry of Justice of the Republic of Serbia and Austrian Federal Ministry of Justice (27.03.2006.)
6. Protocol on cooperation between Ministry of Justice of the Republic of Serbia and Ministry of Justice of the Republic of Greece (09.02.2006.)
7. Protocol on cooperation between Ministry of Justice of the Republic of Serbia and Ministry of Justice of the Republic of Albania (08.02.2006.)
8. Protocol on cooperation between Ministry of Justice of the Republic of Serbia and Ministry of Justice of the Republic of Croatia (05.12.2005.)
9. Protocol on cooperation between Ministry of Justice of the Republic of Serbia and Ministry of Justice of the Republic of Bulgaria (18.11.2005.)
10. Protocol on cooperation between Ministry of Justice of the Republic of Serbia and Ministry of Justice of the Former Yugoslav Republic of Macedonia (29.09.2004.)
11. Protocol on cooperation between Ministry of Justice of the Republic of Serbia and Ministry of Justice of the Republic of Montenegro (concluded in June 2004, period of existence of the State Union of Serbia and Montenegro)
12. Protocol on cooperation between Ministry of Justice of the Republic of Serbia and Ministry of Justice of the Republic of France (27.10.2008.)
13. Protocol on cooperation between Ministry of Justice of the Republic of Serbia and Ministry of Justice of the Republic of Slovenia (28.09.2004.)
14. Memorandum on cooperation between Ministry of Justice of the Republic of Serbia and Ministry of Justice of the Republic of Hungary (28.09.2009.)
15. Memorandum on cooperation between Ministry of Justice of the Republic of Serbia and Ministry of Justice of the Republic of Montenegro (28.05.2009.)
16. Memorandum on cooperation between Ministry of Justice of the Republic of Serbia and Ministry of Justice of the Slovak Republic (05.05.2009.)
17. Protocol on cooperation between Ministry of Justice of the Republic of Serbia and Ministry of Justice of the Republic of Srpska (07.04.2009.).
18. Memorandum of Understanding between Ministry of Justice of the Republic of Serbia and Ministry of Justice of the Portuguese Republic (24.05.2010)
19. Memorandum on strengthening regional and translational cooperation as a precondition for successful fight against organised crime in South Eastern Europe concluded between Ministry of

Justice, Ministry of Interior and State Prosecutors of Republic of Serbia, Albania, Macedonia, Bosnia and Herzegovina, Montenegro, Romania, Bulgaria, Croatia and Slovenia (5.10.2010)

20. Memorandum of Understanding between Ministry of Justice of the Republic of Serbia and Ministry of Justice of Spain (16.09.2010).

Agreements enclose harmonization of relevant legislation, modernization of judiciary, education and trainings of employees in the Ministry of Justice, reform of the system for enforcement of penal sanctions, as well as cooperation in combating organized crime, terrorism, human trafficking, money laundering, corruption and other criminal offences of great danger for society.

Ministry of justice is in the process of preparing the agreements on cooperation with the following states: Republic of Turkey, Republic of Azerbaijan.

Protocols with following states are in the processes of negotiation: Federal Republic of Germany and Republic of Italy.

1.2 What national legislation has been adopted in your State to implement the above-mentioned agreements and arrangements?

By ratifying the above mentioned international agreements/arrangements, all laws/acts have been integrated into the internal legal order of the Republic of Serbia.

- 1) The Law on Foundations for the Regulation of Security Services of the Republic of Serbia ("Official Gazette of the Republic of Serbia" No. 116/07),
- 2) The Law on Military Security Agency and Military Intelligence Agency ("Official Gazette of the Republic of Serbia" No. 88/09),
- 3) The Law on Security Information Agency ("Official Gazette of the Republic of Serbia" No. 42/02 and 111/09),
- 4) The Law on Prevention of Money Laundering and Financing Terrorism ("Official Gazette of the Republic of Serbia" No. 20/09, 72/09 and 91/10),
- 5) The Law on Organisation and Competencies of State Authorities in Combating High Technology Crime ("Official Gazette of the Republic of Serbia" No. 61/05 and 104/09),
- 6) The Law on Organisation and Jurisdiction of Government Authorities in Suppression of Organised Crime ("Official Gazette of the Republic of Serbia" No. 42/02, 27/03, 39/03, 60/03, 67/03, 29/04, 58/04, 45/05, 61/05 and 72/09),
- 7) The Law on International Legal Assistance in Criminal Matters ("Official Gazette of the Republic of Serbia" No. 20/09),
- 8) The Law on the Execution of the Prison Sentence for Criminal Offences of Organised Crime ("Official Gazette of the Republic of Serbia" No. 72/09 and 101/10).
- 9) The Law on Protection against Ionizing Radiation and on Nuclear Safety (Official Gazette 36/09), and
- 10) The Law on Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (the Official Gazette No. 36/09).

In December 2010, National Assembly of Republic of Serbia adopted the Law on Amendments to the Law on Ratification of the European Convention on Extradition, by which Republic of Serbia

withdrawn the reservation made to the articles 6 (1) (a) and 21 (2) regarding the extradition and transit of its citizens.

In March 2009 National Assembly of the Republic of Serbia adopted Law on recognition of the Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism.

In September 2009 Law on amendments and additions to the Criminal Code and Law on amendments and additions to the Criminal Procedure Code were adopted in order to be in line with international and regional conventions. Provisions of these laws related to financing of terrorism and money laundering were changed and sentences related to these criminal offences were increased in order to be in line with international standards.

Concretely, issue of combating terrorism is stipulated in following chapters and articles of the Criminal Code (Official Gazette of the Republic of Serbia, number 85/2005, 88/2005, 107/2005, 72/2009, 111/2009):

Criminal offences against general safety of people and property (Chapter XXV),
Unlawful Acquiring and Endangerment of Safety with Nuclear Material (article 287),
Criminal offences against road traffic safety (Chapter XXVI),
Endangering Air Traffic Safety by Violence (article 292),
Hijacking an Aircraft, Ship or Other Means of Transport (article 293),
Criminal offences against the constitutional order and security of the Republic of Serbia (Chapter XXIX),
Terrorism (article 312), Offences against public peace and order (Chapter XXXI),
Illegal Production, Possession, Carrying and Sale of Firearms and Explosives (article 348),
Criminal offences against humanity and other rights guaranteed by international law (Chapter XXXIV),
Unlawful Production, Sale and Possession of Forbidden Weapons (article 377),
International Terrorism (article 391),
Taking Hostages (article 392) and
Financing Terrorism (article 393).

Chapter XIX of the Criminal Procedure Code, titled Special Provisions related to Procedure for Criminal Offences of Organized Crime, Corruption and Other Criminal Offences of great danger for society has been adjusted in order to be in line with international standards. More precisely, paragraph 1 of the article 504a predicts that provisions of this title contain special rules of procedure related to criminal offences of organized crime, corruption and other exceptionally severe criminal offences. The other exceptionally severe criminal offenses referred to in paragraph 1 of this article are the following criminal offences: murder (Article 113 of the Criminal Code), aggravated murder (Article 114 of the Criminal Code), abduction (Article 134 paragraphs 1 through 4 of the Criminal Code), robbery (Article 206 paragraph 2 of the Criminal Code), extortion (Article 214 paragraphs 3 and 4 of the Criminal Code), money forgery (Article 223 paragraphs 1 through 3 of the Criminal Code), money laundering (Article 231 paragraphs 1 through 4 of the Criminal Code), unauthorized production and illicit traffic in narcotic drugs (Article 246 paragraphs 1 and 3 of the Criminal Code), criminal offences against constitutional order and security of the Republic of Serbia (Articles 305 through 321 of the Criminal Code), illegal production, carrying and sale of guns and explosives (Article 348 paragraph 3 of the Criminal Code), illegal border crossing and trafficking in persons (Article 350 paragraphs 2 and 3 of the Criminal Code), trade in human beings (Article 388 paragraphs 1 through 6, 8 and 9 of the Criminal Code), trade in minors for adoption (Article 389 paragraphs 1 and 2 of the Criminal Code), international terrorism (Article 391 of the Criminal

Code), taking hostages (Article 392 of the Criminal Code) and terrorism financing (Article 393 of the Criminal Code).

Moreover, the Law on Organisation and Jurisdiction of Government Authorities in the Suppression Against Organised Crime, Corruption and Other Severe Criminal Offences (Official Gazette of RS, no. 42/2002, 27/2003, 39/2003, 67/2003, 29/2004, 58/2004 - oth. law, 45/2005, 61/2005 and 72/2009) prescribes establishment, organisation, jurisdiction and authorities of government authorities and specialised organisational units of government authorities for the detection, criminal prosecution and processing of criminal offences stipulated by this Law. By amendments and supplements of this Law from 2009, the application of this Law was extended (apart from the offences of organised crime) on the, *inter alia*, criminal offences of terrorism, international terrorism, financing of terrorism and criminal offence of money laundering if the property which is the object of money laundering originates from the criminal offences of organised crime, criminal offences against official duties as prescribed by this law, criminal offence of abuse of public office as prescribed by this law and from criminal offence of financing terrorism and international terrorism. Pursuant to this law, the Prosecutor's Office for Organised Crime, Special Department of the Higher Court in Belgrade for Organised Crime, Special Service for Suppression of Organised Crime within Ministry of Interior and special prison unit are competent in the cases of criminal offences referred above.

Law on the execution of the prison sentence for criminal offences of organize crime (Official Gazette of the Republic of Serbia, number 72/2009, 101/2010) stipulates in article 1 that the provisions of the law are also applicable to the execution of the prison sentence for the criminal offence of terrorism specified in Article 312 of the Criminal Code and the criminal offence of international terrorism referred to in Article 391 of the Criminal Code. Special Department for the serving of the prison sentence for organized crime at the closed type, high security penal and correctional institution has been established. Special Department is formed for the execution of the prison sentence imposed for the criminal offences mentioned in Article 1.

National legislation pertaining to the AML/CFT area implements the above-specified international legal instruments, and also incorporates the FATF (Financial Action Task Force) and EU AML/CFT standards (Criminal Code, AML/CFT Law).

The Republic of Serbia also passed following strategies: the National Security Strategy of the Republic of Serbia (Official Gazette of the Republic of Serbia, No. 88/09), the Defence Strategy of the Republic of Serbia (Official Gazette of the Republic of Serbia, No. 88/09), the Strategy for Fight against Organised Crime (Official Gazette of the Republic of Serbia, No. 23/09), the Action Plan for the Implementation of the Strategy for Fight against Organised Crime (Official Gazette of the Republic of Serbia, No. 81/09).

1.3 What are the roles and missions of military, paramilitary and security forces and the police in preventing and combating terrorism in your State?

The position of the Serbian Armed Forces is regulated by the Constitution and the acts generated on the basis of the Constitution (Act on the Armed Forces, Act on Defence). According to the said regulations, the Serbian Armed Forces is an organised armed force defending the Republic of Serbia against external armed threats and it performs other missions and tasks in compliance with the Constitution, law and the principles of international law.

The President of the Republic or the Minister of Defence, upon the authorisation of the President, may decide that the Serbian Armed Forces provide assistance to a competent state body or organisation, autonomous provinces body or local authorities, upon their request in order to protect lives and security of people and property, provide environmental protection or for any other reason stipulated by the Law, and especially in case of non-military challenges, risks and threats to security such as: terrorism, national and religious extremism, organised crime and corruption, natural disasters, industrial and other accidents and epidemics.

The key role within the Ministry of Defence in combating terrorism is played by the Military Security Agency. Its position is regulated by the Act on the Foundations of the Security Services System in the Republic of Serbia and the Act on the Military Security Agency and the Military Intelligence Agency.

Pursuant to Article 33 of the Act on Defence, any form of paramilitary organisations or associations for performing defence tasks is forbidden.

The Department for the Detection and Investigation of Cases of Terrorism within the Criminal Police Directorate is in charge of collecting the operational information on organisations, groups and individuals, leaders of terrorist activities; immediate criminal processing of all the activities directly or indirectly related to terrorism; crime scene investigations; planning and direct realisation of the measures against the suspects and perpetrators, as well as for filing criminal charges, reporting to the prosecutor and the court.

1.4 Provide any additional relevant information on national efforts to prevent and combat terrorism, e.g., those pertaining *inter alia* to:

- Financing of terrorism;
- Border controls;
- Travel document security;
- Container and supply chain security;
- Security of radioactive sources;
- Use of the Internet and other information networks for terrorist purposes;
- Legal co-operation including extradition;
- Safe havens and shelter to terrorists and terrorist organizations.

Financing of terrorism:

Article 393 of the Serbian Criminal Code criminalises "financing of terrorism", as follows:

(1) Whoever, directly or indirectly, provides or collects funds intended for a full or partial financing of the commission of the criminal offence specified in Articles 312, 391, and 392 of this Code, shall be punished by imprisonment of one to ten years.

(2) Whoever aids and abets the provision or collection of funds for the commission of the criminal offence laid down in Articles 312 (*Terrorism*), 391 (*International Terrorism*) and 392 (*Taking of hostages*) of this Code, irrespective of whether such an offence was committed or whether such

funds were used for the commission of such offences, shall be punished by imprisonment of six months to five years.

(3) The funds referred to in paragraph 1 of this article shall be seized.

Pursuant to the Criminal Code, article 91, no one may retain the material gain obtained by a criminal offence. The gain shall be seized under the conditions stipulated by this Code and by a decision of the court which determined the commission of a criminal offence. The provisions on the confiscation of material gain are applied for all criminal acts, prescribed by the Criminal Code, from which a person has obtained the gain. Money, valuables and all other material gains obtained by a criminal offence will be seized from the offender, and if such seizure should not be possible, the offender will be obligated to hand over another material goods corresponding to the value of the assets gained by the commission of the criminal offence, or pay a pecuniary amount commensurate with obtained material gain. Material gains obtained by a criminal offence will also be seized from persons to whom they were transferred without compensation, or with compensation that was obviously disproportionate to their actual value and where material gain is wrongfully obtained for another (article 92 of Criminal Code).

Articles 512-519 of the Criminal Procedure Code (Official Gazette of FRS. no. 70/2001 and 68/2002 and Official Gazette of RS", no. 58/2004, 85/2005, 115/2005, 85/2005 - oth. law, 49/2007, 20/2009 – oth. law, 72/2009 and 76/2010) prescribe the procedure for the confiscation of material gains. According to the said articles, material gain shall be determined *ex officio*. The Code provides also for the *ex officio* issuance of the temporary security measures by the investigative judge or president of the chamber or a chamber (depending on the phase of the proceedings), in accordance with the Law on enforcement (this Law provides for the measures of prohibition of disposing of movable property and their confiscation or keeping in court deposit; prohibition of alienation or encumbering immovable property, prohibition for the debtor to compensate its debt or to surrender some item, as well as the prohibition to receive items, collect claims or surrender items; order to the bank or other financial institution, where the person who accrued material gain has opened accounts, to pay the amount for which the temporary security measure has been issued, to that person or third party; confiscation of cash or securities from the person who accrued material gain and keeping in court deposit).

Also, article 234 of the Criminal Code provides for the possibility for the investigative judge to issue order to the competent public authority, a bank or other financial institutions to temporarily hold the payments, financial transaction, issuance of suspicious money, securities, which are all suspected to originate from the criminal offence or suspected to be aimed for the commission or concealment of criminal offence, under condition that there is a reasonable doubt that the person has committed criminal offence for which imprisonment of at least 4 years is prescribed.

Additionally, the Law on Seizure and Confiscation of the Proceeds from Crime (Official Gazette of the Republic of Serbia" No. 97/08) prescribes the conditions, procedure and competent authorities for the seizure and confiscation of proceeds from crime (property obtained from the criminal offence) from the persons who have obtained it, both directly and indirectly (third parties). This Law applies on the specific criminal offences, prescribed in the article 2 of this Law, which encompass the following:

- 1) Organised crime;
- 2) Showing pornographic material and child pornography (Article 185, paragraphs 2 and 3 of the Criminal Code);

- 3) Crimes against economy (Article 223 paragraph 3, Article 224 paragraph 2, Article 225 paragraph 3, Article 226 paragraph 2, Article 229 paragraphs 2 and 3, Article 230 paragraph 2, and Article 231 paragraph 2 of the Criminal Code);
- 4) Unlawful production, keeping and distribution of narcotics (Article 246 paragraphs 1 and 2 of the Criminal Code);
- 5) Crimes against public peace and order (Article 348 paragraph 3, and Article 350 paragraphs 2 and 3 of the Criminal Code);
- 6) Abuse of office (Article 359 paragraph 3, Article 363 paragraph 3, Article 364 paragraph 3, Article 366 paragraph 5, Article 367 paragraphs 1 through 3, 5 and 6, and Article 368 paragraphs 1 through 3, and 5 of the Criminal Code);
- 7) Crimes against humanity and other goods protected by international law (Article 372 paragraph 1, Article 377, Article 378 paragraph 3, Article 379 paragraph 3, Articles 388 through 390, and Article 393 of the Criminal Code, i.e. financing of terrorism).

Provisions of this Law shall apply to criminal offences provided under Article 185 paragraphs 2 and 3, Article 230 paragraph 2, Article 348 paragraph 3, Article 350 paragraphs 2 and 3, Article 366 paragraph 5, Article 367 paragraphs 1 through 3, 5 and 6, Article 368 paragraphs 1 through 3, and 5, Article 372 paragraph 1, Article 377, Article 378 paragraph 3, Articles 388 through 390, and Article 393 of the Criminal Code if the material gain acquired from crime, that is, the value of objects acquired from crime exceeds the amount of one million five hundred thousand dinars.

Criminal Procedure Code and Law on Seizure and Confiscation of Proceeds from Crime allow international cooperation in the confiscation of material gains and in the seizure and confiscation of the proceeds from crime.

The Law on the Protection Programme of participants in the Criminal Proceedings (Official Gazette of the Republic of Serbia" No. 85/05) provides for the possibility of protection of defendant, witness collaborator, witness, injured party, expert witness and expert person as well as of close person for whom the participant in criminal proceedings demands to be included in the Protection Program in case of the following criminal offences: 1) against the constitutional order and security (which includes terrorism); 2) against humanity and other values protected by international law (which include international terrorism, financing of terrorism, taking of hostages etc); 3) organized crime.

- Legal cooperation including extradition:

The Republic of Serbia has 46 bilateral agreements with 29 states in area of mutual legal assistance in criminal matters.

In 2010, Republic of Serbia concluded and/or ratified the following agreements:

- 1) Agreement with Bosnia and Herzegovina on amendments and supplements to the Agreement on mutual legal assistance in civil and criminal matters, "Official Gazette of RS –International agreements no. 13/10;
- 2) Agreement with Bosnia and Herzegovina on amendments and supplements to the Agreement on mutual execution of court decisions in criminal matters, "Official Gazette of RS –International agreements no. 13/10;
- 3) Agreement with Montenegro on legal assistance in civil and criminal matters, concluded in 2009 but published in "Official Gazette of RS –International agreements no. 1/10;

- 4) Agreement with Montenegro on mutual execution of court decisions in criminal matters concluded in 2009 "Official Gazette of RS –International agreements no. 1/10
- 5) Agreement with Montenegro on extradition concluded in 2009 but published in "Official Gazette of RS –International agreements no. 1/10;
- 6) Agreement with Montenegro on amendments and supplements to the Agreement on extradition, not yet ratified by the National Assembly but applied since 29 October 2010, permits extradition of its own citizens in cases of organised crime, crimes against humanity and other goods protected by international law, corruption and money laundering, punishable pursuant to the laws of both Contracting States by prescribed prison sentence in the duration from four years or a more severe punishment, respectively by a measure which includes deprivation of liberty, as well as for other serious criminal offences, or other serious forms of criminal offences, for which a prison sentence in the duration of at least five years or a more severe punishment, respectively a measure involving a deprivation of liberty, has been prescribed.
- 7) Agreement with Croatia on extradition, conclude at 29 June 2010, and temporarily applied ever since, published in "Official Gazette of RS –International agreements no.13/10) –permits extradition of its own citizens in cases of organised crime and corruption.

The Law on mutual legal assistance in criminal matters (Official Gazette of RS 20/2009) is applied in case of lack of confirmed international agreements.

In 2010, total of 82 requests for extradition of accused or convicted persons for different criminal offences were filed by foreign countries and 77 decisions on the extradition have been issued. From this number 45 persons were extradited, while the extradition of 16 persons is granted but the surrender is postponed. Three decisions on the extradition of Serbian citizens have been issued on the basis of the Agreement with Montenegro - 2 persons have been extradited, while the extradition of one person is granted but postponed. On the basis of the Agreement with Croatia, one citizen of Croatia has been extradited to Serbia.

In 2011, Republic of Serbia received 22 requests for the extradition for different criminal offences (one request relates to the extradition of Serbian citizen to Montenegro). 21 proceedings are still pending, 1 decision granting extradition to Bosnia and Herzegovina has been issued, but the person has still not been extradited. On the other hand, Serbia has filed 36 requests for the extradition to foreign countries for different criminal offences, 34 proceedings are still pending, 1 procedure was abolished and 1 decision granting extradition was issued but the person has still not been extradited to Serbia.

- Safe heaven and shelter to terrorists and terrorist organisations:

Criminal offence of providing safe heaven and shelter to terrorists is covered by article 35 of the Criminal Code of Republic of Serbia which provides for the following:

- 1) Whoever with intent aids another in the commission of a criminal offence shall be punished with the penalty prescribed for that criminal offence, or a mitigated penalty.
- (2) The following, in particular, shall be deemed as aiding and abetting in the commission of a criminal offence: providing instructions or advice on how to commit the criminal offence, placing at the disposal of the perpetrator the necessary means to commit the criminal offence, creating the necessary conditions or removing obstacles for the commission of the criminal offence, issuing

prior promises to conceal the commission of the criminal offence, the offender, evidence of the criminal offence, and items acquired by the commission of the criminal offence.

The cited article refers to all criminal offences prescribed in the Criminal Code, and thus also on the criminal offence of terrorism, international terrorism and financing of terrorism as well.

Furthermore, article 391 of the Criminal Code, which incriminates “international terrorism” has been amended in 2009, by specifying in paragraph 5 what is considered as the preparation for the international terrorism, as following: acquisition of the means for the committing criminal offences, removal of obstacles, and agreeing, planning or organising with others activities that create conditions for direct commission of the crime.

Terrorism is one of the greatest risks and threats to global, regional and national security. In such conditions, the Republic of Serbia can be a target of terrorist activities both directly and through the usage of its territory for the preparation and execution of terrorist activities in other countries. The Ministry of Defence, which assists the Ministry of Interior, responds to terrorism at **political, legislative, security-intelligence level and at the level of the units and institutions of Serbian Armed Forces.**

At the political level, the Ministry of Defence:

- Undertakes numerous activities to establish and increase the scope of the international cooperation in the area of countering and fighting terrorism.
- Consistently implements principled peaceful policy of the Government of the Republic of Serbia, which is among other based on the principles of the rule of law, conflict prevention, negotiations, mediation, reconciliation, and settling disputes in courts and similar.
- At domestic and international level, it promotes justice, dialogue, protection of human rights and freedoms, peace, ethnic, national and religious tolerance, understanding and mutual respect.
- In their public appearances at domestic and international level, the competent authorities of the Ministry of Defence clearly, unequivocally and firmly condemn terrorism in all its forms and manifestations, regardless of the fact who has committed terrorist act, who was the target of this act and what were the motives.
- Bilateral and multilateral military cooperation with the countries of the region, the most important countries of the international community and international organisations has been intensified. In the framework of NATO Partnership for Peace Programme, the Ministry of Defence fulfils the assumed responsibilities and develops cooperation with other members of this Programme. Furthermore, the Ministry of Defence actively participates in the mechanism of the Planning and Review Process (PARP) within which the Republic of Serbia has declared the forces for the participation in multinational operations.
- The political will to confront and fight terrorism is also pronounced through passing and implementing the adopted strategic and doctrinal documents in the field of security and defence, primarily in the National Security Strategy, Defence Strategy and the Doctrine of Serbian Armed Forces.

At the legislative level, the Ministry of Defence:

- Undertakes adequate measures to prevent and fight terrorism by observing and applying the Global strategy of Fighting Terrorism and the Action Plan for its implementation, all relevant resolutions of the UN General Assembly and UN Security Councils, international conventions and agreements and by consistent implementation of national legislation. With this aim, the Ministry of Defence fully cooperates with all relevant actors in the country and abroad. All the measures taken in this area by the

Ministry of Defence are in keeping with the obligations of the Republic of Serbia to the international community and international law. In accordance with these obligations, the Ministry of Defence actively participates in creating legal solutions on prohibition of encouraging the execution of terrorist acts and prevention of such behaviour.

- Actively participates in enhancing national normative framework based on the Constitution of the Republic of Serbia, ratified international conventions, bilateral agreements and acts for the fight against terrorism. It is very significant that an important contribution was given to developing and passing the Law on Defence, the Law on the Serbian Armed Forces, and the Law on Foundations for the Regulation of Security Services of the Republic of Serbia and other system laws in this area. But the special importance is attached to the participation in developing and passing the Law on Military Security Agency and Military Intelligence Agency in 2009. In the meantime 14 by-laws for its implementation were passed.
- It also gave its contribution to the development of other regulations of indirect significance for the fight against terrorism. Passing the Law on Data Confidentiality is particularly important because it has created legal basis for the exchange and protection of classified information of the Republic of Serbia with other states and international organisations.
- In essence, a great progress has been made at normative and legal plane having in mind that majority of provisions from relevant UN resolutions has been implemented in the domestic legislation and several laws of importance for the fight against terrorism have been adopted.

At security and intelligence level:

The reform of the Military Security Agency and Military Intelligence Agency has been completed as well as of the security services within the Ministry of Defence, which was conducted in the framework of the comprehensive reform of defence system of the Republic of Serbia. In the organisational and functional area, a new organisational structure has been established for the Military Security Agency and Military Intelligence Agency. Also, specialised operational and analytical organisational units for the fight against terrorism have been introduced.

Security and counterintelligence protection of the Ministry of Defence and Serbian Armed Forces has been increased. Operational and analytical capacities have been enhanced, as well as the strategic planning, the manner of work evaluation, and information technologies. The capabilities of the personnel of the Military Security Agency and Military Intelligence Agency for the fight against terrorism have been improved and this has been conducted through their permanent advancement in the country and abroad.

Starting from this, the capabilities of the Military Security Agency and Military Intelligence Agency for the fight against terrorism contribute to the overall capabilities of the Republic of Serbia which in this area mostly depend on the capabilities of its institutions primarily of security and intelligence system.

The capabilities of the Military Security Agency and Military Intelligence Agency to fight terrorism encompass an adequate strategic-doctrinal and normative-legal framework, organisational, personnel and action capabilities, the capabilities resulting from the cooperation with foreign security services and material-financial capabilities.

The greatest capabilities of the Military Security Agency and Military Intelligence Agency lie with their action capabilities which include their operational, analytical and operational-technical capability along with the capability of the managing personnel of the Military Security Agency and Military Intelligence Agency.

At the level of General Staff of the Serbian Armed Forces and the Serbian Armed Forces:

Through the activities of General Staff of Serbian Armed Forces, the Ministry of Defence actively participates in the fight against terrorism stipulated in the third mission of Serbian Armed Forces – support to civilian authorities in confronting security threats. The Serbian Armed Forces is fundamental subject of defence system which as an organised armed force defends the country against armed threats from abroad and executes other missions and tasks in accordance with the Constitution, laws and principles of international law regulating the use of force.

In the framework of the process of Serbian Armed Forces reform, the forces for counterterrorism combat were structured, the exchange of data and information at national and international level has been improved and intensified, modern systems for safe communication are being acquired, concluding the Agreement on early warning is initiated, the awareness of terrorism is increased with every member of Serbian Armed Forces, the counterterrorist exercises are conducted by responsible organisational units of Serbian Armed Forces, Military Police, Special Units of Serbian Armed Forces, intelligence-reconnaissance units of Serbian Armed Forces, the responses to terrorist threats and incidents are planned, continuous training is conducted in the country and abroad, the scope of cooperation in this area is expanded and other adequate measures are taken.

Today, the Ministry of Defence and Serbian Armed Forces apply the worldwide predominant concept of defence against terrorism which **defines four principal modes of the engagement of capacities in the fight against terrorism** by which the vulnerability to terrorist acts is reduced:

– **Antiterrorist measures** are primarily defensive and protective measures used to reduce the sensitivity and vulnerability of the Ministry of Defence and Serbian Armed Forces, the infrastructure, communication and information systems and other particularly sensitive targets of terrorist attacks. The Military Security Agency and Military Intelligence Agency within the limits of their responsibilities acquire and exchange security-intelligence data and information on terrorists and terrorist activities. When needed, the Military Security Agency and Military Intelligence Agency may establish mixed operational-analytical teams, and they may participate in the work of other teams at national level. The Military Security Agency, within its responsibilities detects monitors, prevents, suppresses, intercepts and documents terrorism directed against the Ministry of Defence and Serbian Armed Forces whereby it has legal authority to apply special procedures and measures, i.e. special investigative measures and techniques. Such solution is legally founded and based on the recommendations of the international community, strategic documents, expert opinions and practical requirements since terrorist threat for the Republic of Serbia represents a clear and direct danger to national security, i.e. security significant to the Ministry of Defence and Serbian Armed Forces. The Military Security Agency within its responsibilities, considers the requests regarding the trade of the said goods which may be used for the production of weapons of mass destruction and in accordance with regulations, participates in the process of making specific decisions. In cooperation with responsible bodies, the Military Security Agency undertakes measures to ensure that the territory of the Republic of Serbia is not used for training camps, preparation or organisation of terrorist acts. Apart from that, the Military Security Agency also undertakes preventive measures aimed at preventing extremism as introduction to internal terrorism, preventing encouraging, facilitating, financing, creating shelter, encouraging and tolerating terrorist activities in the territory of the country or other states.

– **Counterterrorist measures**, that is, offensive measures are taken to prevent, deter and prohibit terrorist activities. These are the measures that prevent attacks by detecting and halting terrorists. These measures are taken by specially trained units of Serbian Armed Forces and counterterrorist teams. With this aim the responsible organisational units of General Staff of Serbian Armed Forces, Military Police and special units of Serbian Armed Forces conduct counterterrorist exercises in cooperation with the Military

Security Agency. Members of these units are undergoing continued counterterrorist training in the country and abroad.

- **Crisis management**, after potential terrorist attack which implies the participation in solving and stabilising the conditions created after the terrorist attack. The goal is to organise and carry out the measures to limit the consequences of terrorist attack, to stabilise the situation and to provide support to civilian authorities.
- **Military-Civilian cooperation**, by which military activities are harmonised with the measures of diplomacy, economy, justice aimed at harmonising the procedures and activities of military and civilian forces in the country and with those structures of other countries.

Also, the cooperation between the Ministry of Interior, Military Security Agency, Military Intelligence Agency, Security Information Agency and other law enforcing services has been intensified regarding the exchange of information on prevention and fight against terrorism. The cooperation with the security services of other countries and international organisations has been improved in the area of preventing and fighting terrorism along with the achievement of high level of interoperability. In order to achieve Partnership goals within PARP Programme, the Military Security Agency has, for Ministry of Defence, produced Draft Action Plan for achieving Partnership goals in the field of fighting terrorism. A particular progress has been made regarding the coordination and cooperation between mentioned subjects in preventing and fighting all incriminated activities which may be connected with terrorism such as money laundering, drug trafficking, illegal arms trade, illegal trade of weapons of mass destruction and dual purpose goods and similar.

Suppressing financing of terrorism: Financing terrorism is stipulated as separate criminal offence by the provision of Article 393 of the Criminal Code of the Republic of Serbia. The Republic of Serbia has ratified international conventions which refer to preventing terrorist acts through preventing financing terrorism (UN Convention on Prevention of Financing Terrorism of 2000 and Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on Financing of Terrorism of 2005).

The Republic of Serbia has adopted the National Strategy for Prevention of Money Laundering and Financing Terrorism (“Official Gazette of the Republic of Serbia, No. 89/2008), by which criminality state and trends were analysed, as well as the legislative, institutional and operational framework of the fight against money laundering and financing terrorism. This Strategy gave binding recommendations in the area of legislation, at the institutional and operational level, and at the level of professional training and advancement. Also, a body for supervision and implementation of the Strategy has been designated, and the Strategy goals are transparent. The Action Plan for its implementation is produced. Also, the Law on Prevention of Money Laundering and Financing Terrorism (“Official Gazette of the Republic of Serbia”, No. 20/2009) is passed which improved the existing system of detecting and preventing money laundering and financing terrorism, and established a legal framework for taking preventive measures to stop financing of terrorism, as well as for an efficient international cooperation in this area. State bodies in charge of taking measures against terrorism, are organisationally capable to exchange information with the bodies of other states, in order to prevent terrorist acts. Following the adoption of the Action Plan for the Implementation of the National Strategy for Combating Money Laundering and Terrorism Financing, the Ministry of Interior of the Republic of Serbia established an internal working group tasked with developing a Sectoral action plan for the implementation of measures envisaged by the Action Plan that are within the scope and competence of the MoI. The Working Group developed the Sectoral Action Plan that was approved by the Minister on 27 July 2010.

The Sectoral Action Plan provides for the implementation of measures of the national Action Plan in the five-year period, i.e. by the end of 2013, through the activities such as:

- continued assessments of the existing normative legal framework and its effectiveness and flexibility in the areas of money laundering and terrorism financing, as well as improvement through monitoring, examining and adopting international recommendations, initiatives and standards in these areas;
- strengthening human and technical capacities, in particular for conducting money laundering and financial investigations (e.g. defining the manner of keeping records of temporarily seized and seized assets and of international legal assistance related to money laundering and terrorism financing, in order to align with FATF recommendation no. 32);
- producing the analysis of the current situation and identifying regional and international partners in combating money laundering and terrorism financing; defining modalities of cooperation such as signing bilateral agreements on cooperation between competent authorities, establishing an adequate procedure for data gathering and access to databases, and intensifying cooperation of the police with regional and international partners, in particular through timely exchange of data for specific investigations, etc.

The Republic of Serbia has in place an anti-money laundering and counter-terrorism financing (AML/CFT) system, including a preventive component embodied in the Law on the Prevention of Money Laundering and Terrorism Financing. The AML system in Serbia was set up in 2002 with the adoption of the Law on the Prevention of Money Laundering. Since then two other laws have been adopted, in 2005 and 2009 respectively. The 2009 AML/CFT Law, which entered into force on 27 March 2009, includes also the explicit provisions on the prevention of the financing of terrorism. A range of financial institutions and Designated Non-Financial Businesses and Professions (DNFBP's) are obliged to fulfill the reporting requirements laid down in the AML/CFT Law according to a new approach adopted in the 2009 AML/CFT, namely the risk-based approach. According to this new approach, the reporting entities are required to apply *normal*, *enhanced*, or *simplified* customer due diligence in accordance with the AML/CFT risk analysis and assessment of the specific transaction, client, or business relationship. The same reporting requirements apply both in case of suspicion on money laundering and terrorism financing. The reporting entities send to the Administration for the Prevention of Money Laundering (APML – Serbian FIU) cash-transaction reports (CTR's), the threshold being EUR 15,000, and all suspicious transactions (STR's) in case of suspicion on money laundering or terrorism financing irrespective of the amount involved. All the reporting entities are supervised by the supervisors specified in the AML/CFT Law.

The Financial Intelligence Unit (FIU) of Serbia was established in 2002 as a Federal Commission for the Prevention of Money Laundering. Meanwhile, it became part of the Serbian Ministry of Finance, as the Administration for the Prevention of Money Laundering (APML). The APML, as an administrative FIU, collects, analyzes and keeps data and information and, where it suspects money laundering or terrorism financing, it notifies the competent State bodies (the police, judicial, and supervisory authorities) so that they can take measures within their competence. The finances for the operation and functioning of the APML, as a direct budget user, are provided for in the Republic of Serbia budget.

To prevent illegal physical transportation of cash across the state border, the Rulebook Concerning the Declaration of Physical Cross-Border Transportation of Bearer Negotiable Instruments was adopted in September 2009, the threshold being EUR 10,000 or its equivalent in RSD or in foreign currency. The Rulebook was developed on the basis of the EU Regulation (EC) No 1889/2005 of

the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community.

Border control should be observed in the light of the Integrated border management strategy in the Republic of Serbia (“Official Gazette of the Republic of Serbia”, No. 11/06), according to which, the services present at the border are: Border Police of the Ministry of Interior, Customs Department of the Ministry of Finances and Veterinary and Phytosanitary Inspection of the Ministry of Agriculture, Forestry and Water Industry which are obliged, by their joint work at the border, to facilitate basic preconditions for the efficient system of border control and supervision.

Safety of Travel Documents is within the exclusive jurisdiction of the Ministry of Interior. The said area is particularly regulated by the Law on Travel Documents (“Official Gazette of the Republic of Serbia”, No. 90/07, 76/10).

Safety of containers and the chain of supply falls within the jurisdiction of the Ministry of Interior, Ministry of Finance, Ministry of Infrastructure and Customs Department.

Security of radioactive sources is the area where the fundamental regulation is the Law on the Protection against Ionizing Radiation and on Nuclear Safety (“Official Gazette of the Republic of Serbia”, No. 36/09). The competent authority for the implementation of the measures of radiation and nuclear safety and security is the Agency for the Protection against Ionising Radiation and Nuclear Safety of Serbia. The role of Serbian Armed Forces in this area arises from the provision of Article 2, paragraph 2 of the Law on Serbian Armed Forces (“Official Gazette of the Republic of Serbia”, No. 88/09 and 101/10) according to which the President of the Republic or the Minister of Defence, authorised by the President may decide that the Serbian Armed Forces provide assistance to a competent state body or organisation, autonomous provinces body or local authorities, upon their request in order to protect lives and security of people and property, provide environmental protection or for any other reason stipulated by the Law.

The usage of Internet and other information networks for the purpose of terrorists may be subsumed under the preparatory activities for the execution of terrorist criminal act, in the sense of the provision of Article 312 and regarding Article 320 of the Criminal Code of the Republic of Serbia or as some of the accessory activities in terms of the provisions of Article 312 and regarding Articles 33 to 37 of the same Code. Within the Ministry of Defence and Serbian Armed Forces, the Military Security Agency is responsible for detecting, investigating and documenting such misuse of Internet and other information networks.

The cooperation in the area of justice including extraditions is the exclusive responsibility of the Ministry of Justice, as a part of executive power in the Republic of Serbia and competent courts as parts of judicial power in the Republic of Serbia.

The shelters and refuges for terrorists and terrorist organisations should also be observed in the light of criminal-legal regulations referring to terrorism and related criminal offences.

2. Stationing of armed forces on foreign territory

2.1 Provide information on stationing of your States armed forces on the territory of other participating States in accordance with freely negotiated agreements as well as in accordance with international law.

On the basis of the pronounced need and signed agreements with UN, the members of the Ministry of Defence and Serbian Armed Forces are currently engaged in five peacekeeping missions (in Liberia, Ivory Coast, Congo, Cyprus and Lebanon), with the total of 27 members of the Ministry of Defence Serbian Armed Forces in the following manner:

- Four military observers in the UNMIL mission in Liberia,
- Three military observers in UNOCI mission in Ivory Coast,
- One medical team, consisting of six members, for MEDEVAC AMET-15 and one staff officer and one NCO in MONUSCO peacekeeping operation in DR Congo,
- Seven members of the Serbian Armed Forces within the Hungarian contingent in UNFICYP peacekeeping mission in the Republic of Cyprus and
- Five staff officers in UNIFIL peacekeeping operation in the Republic of Lebanon.

Apart from the mentioned missions, there is a plan for 2011 to intensify the engagement in already existing missions and to initiate the engagement in the UNTSO peacekeeping mission in the Middle East. Also, the plan is to commence the engagement in military operations of the European Union for Crisis Management with two officers in the multinational operation "Atalanta" in the Republic of Somalia and with a five member medical team in the multinational operations "EUTM Somalia" for the training of security forces of Somali Republic in Uganda.

3. Implementation of other international commitments related to the Code of Conduct

3.1 Provide information on how your State ensures that commitments in the field of arms control, disarmament and confidence - and security-building as an element of indivisible security are implemented in good faith.

As a UN member, the Republic of Serbia has accepted a range of agreements and resolutions in the field of arms control and disarmament and has been implementing them consistently. Inter alia, Serbia has undertaken and fulfilled all the commitments from the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction. The Chemical Weapons Convention (the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction) was adopted in 2000, and a new Act on the Implementation of the Chemical Weapons Convention, which additionally defined the measures regarding the prohibition of chemical weapons that had been in place until then, was passed in 2009.

As an OSCE member, Serbia is a State Party to the 1999 Vienna Document, and pursuant to Title X of the said Document, it has become a State Party to bilateral agreements with the Republic of Hungary signed by the respective governments, and with the Republic of Bulgaria signed by the respective ministries of defence. Serbia is a State Party to the OSCE Document on Small Arms and

Light Weapons and accepted the EU Code of Conduct related to arms exports. Also, Serbia is a State Party to the Dayton Peace Accords, and based upon Article V of the Annex 1b to the said Agreement, a bilateral agreement has been signed with the Bundeswehr Verification Centre (the Federal Republic of Germany).

Since the signing of Dayton Peace Accords in 1996 a significant downsizing of armed forces personnel has been executed and, in accordance with that, the reduction of major equipment and systems for over 3450 pieces, out of which 53 items of major equipment were reduced in 2010.

3.2 Provide information on how your State pursues arms control, disarmament and confidence- and security-building measures with a view to enhancing security and stability in the OSCE area.

The arms control is carried out in accordance with provisions of all signed agreements. Since it rejoined OSCE in 2001, the Republic of Serbia has, within the Vienna Document 1999, accepted in its territory 33 inspections and 14 evaluations in accordance with obligatory quotas and 38 activities on the basis of bilateral agreements. Concurrently, 76 arms control activities have been conducted abroad.

On 13th May 2010, the Government of the Republic of Serbia adopted the National Strategy of small arms and light weapons control.

On the basis of the provisions of the Dayton Peace Treaty, Article IV of Annex 1b, the Republic of Serbia has, from the beginning of the implementation in 1996, accepted in its territory 128 inspections of arms control encompassing the total of 204 objects of inspection. At the same time, 111 arms control inspections have been realised abroad encompassing the total of 209 objects of inspection

Section II: Intra-State elements

1. National planning and decision-making process

1.1 What is the national planning and decision-making process in determining/approving military posture and defence expenditures in your State?

The process of planning and decision making regarding the use and development of Serbian Armed Forces is based on defence strategic documents, the Constitution of the Republic of Serbia, the Law on Defence and the Law on the Serbian Armed Forces and other laws and by-laws.

The President of the Republic of Serbia orders the use and mobilisation of the Serbian Armed Forces and adopts plans for the use and mobilisation, upon a proposal of the Minister of Defence and he may not delegate this authority to other person or body.

The Plan for the deployment of the Serbian Armed Forces beyond the borders of the Republic of Serbia is passed by the National Assembly upon the proposal of the Minister of Defence. The President of the Republic, on the basis of the Decision of the National Assembly, decides on the deployment of the members of the Armed Forces abroad.

Planning and decision making process connected to equipping and development of the Serbian Armed Forces is initiated at the level of General Staff of the Serbian Armed Forces and in accordance with resources allocated for that purpose, the Law on Budget of the Republic of Serbia for a budget year and the projection of resources for the following two years, on the basis of the Report on financial strategy which, upon proposal of the Ministry of Finance, is passed by the Government of the Republic of Serbia.

The President of the Republic of Serbia passes the Plan for Development and Equipping of the Serbian Armed Forces produced by the General Staff of the Serbian Armed Forces, while the decisions on the planned acquisitions of armament and military equipment are made by the Minister of Defence.

1.2 How does your State ensure that its military capabilities take into account the legitimate security concerns of other States as well as the need to contribute to international security and stability?

The National Security Strategy of the Republic of Serbia, in its part referring to the main orientation and preferences of the national security policy, precisely defines that the Republic of Serbia is devoted to honouring the commitments that stem from the United Nations Charter, principles of the Universal Declaration on Human Rights and the Helsinki Final Act. The said Strategy particularly highlights the quality of being refrained from threatening by force or from employment of force for the purpose of threatening the territorial integrity or independence of any state. It also emphasises honouring the internationally recognised borders and solving disputes and open issues in a peaceful manner.

The national security of the Republic of Serbia is closely connected with the security in the region of SEE and of the European continent as a whole due to which the Republic of Serbia is constantly improving its relations with the EU member states as well as with the NATO member and partner countries on the basis of a direct, close and long-term cooperation and joint action. By its accession to the NATO PfP Programme, the Republic of Serbia has confirmed its long-term commitment to contribute to common democratic values and to the strengthening of the regional and global security.

2. Existing structures and processes

2.1 What are the constitutionally established procedures for ensuring democratic political control of military, paramilitary and internal security forces, intelligence services and the police?

Civil control over the security services is performed by the legislative, judicial and executive institutions. The civil (democratic) control of the security services comprises parliamentary supervision and control through parliamentary committees and adoption of laws, control by the ombudsman, inspector general, commissioner for access to information of public importance, as well as by civil society institutions (media, citizens' associations and expert groups). All security services have organisational units dealing with public relations (requests for access to information can be submitted by the citizens and the media).

In accordance with the Constitution of the Republic of Serbia, the Serbian Armed Forces and security services are under democratic civilian oversight (Article 99, item 6 and Article 141, paragraph 1 of the Constitution), and secret and paramilitary associations are forbidden (Article 55 of the Constitution).

Article 29, paragraph 3 of the Law on the Serbian Armed Forces stipulates that democratic and civilian oversight of the Serbian Armed Forces is performed by the National Assembly, Ombudsman and other state bodies in accordance with their responsibilities, and citizens and public.

Under Article 99, paragraph 1 of the Constitution, the National Assembly oversees the work of the security services. The President of the Republic under Article 112, paragraph 2, in accordance with the Law commands the Armed Forces, while the Government, in compliance with Article 123, item 5 guides and coordinates the work of governmental bodies and consequently the work of the Ministry of Defence. Pursuant to Article 138, paragraph 1 of the Constitution, the Ombudsman is an independent state body authorised to protect the rights of the citizens and to control the work of the governmental bodies.

The National Security Council has been established pursuant to Article 3, paragraph 2 of the Law on Foundations for the Regulation of Security Services of the Republic of Serbia as a body of the Republic of Serbia, which in addition to the work relating to taking care of the national security in general, guides and coordinates the work of the security services, considers the mutual cooperation among the bodies responsible for defence, the bodies responsible for interior affairs and the security services and their cooperation with other competent state bodies as well as their cooperation with the security agencies and services of foreign countries and of international organisations. The Coordination Bureau has been set up pursuant to Article 3, paragraph 3 of the same Law and it operationally coordinates the work of the security services and executes the conclusions of the National Security Council.

Article 16 of the said Law stipulates the responsibility of the National Assembly to oversee the operation of the security services via a competent committee through the prescribed obligation to report to the Committee on the part of the Directors of the security services and through direct oversight (access to premises of a service, access to documentation etc).

Article 21 of the same Law stipulates the obligation of the security services to inform the public on their work through the bodies to which they submit reports or directly on certain security occurrence or event.

An appeal may be filed to the Constitutional Court of the Republic of Serbia against specific acts or activities of state bodies or organisations vested with public authority, which violate or deny human or minority rights and freedoms guaranteed by the Constitution if all other legal resources are exhausted or are not envisaged for their protection.

Democratic oversight of the Serbian Armed Forces

Democratic and civilian oversight pursuant to the Law encompasses the procedures for the control of the use and development of the Serbian Armed Forces, the internal and external control of expenditures for the military purposes, monitoring the state and informing the public on the state of preparations of the Serbian Armed Forces, enabling free access to the information of public significance and determining the responsibility for the execution of military duties (Article 29 of the Law on the Serbian Armed Forces). Democratic and civilian oversight of the Serbian Armed Forces

is conducted by the National Assembly, Ombudsman and other state bodies in compliance with their responsibilities, and citizens and public. The regulations on the Ombudsman referring to the protection and exercising rights of the citizens are also applied to the professional members of the Serbian Armed Forces.

Procedures for democratic and civilian oversight of the Serbian Armed Forces

Parliamentary control

Parliamentary control is exercised by the National Assembly through the Security Committee under the conditions prescribed by the Law on Defence (Article 9, paragraph 1 and paragraph 2 point 12) and the Rules of Procedure of the National Assembly (Official Gazette of RS, No. 52/10).

The Committee, inter alia, **regularly** discusses also the issues related to exercising the parliamentary control over the Serbian Armed Forces and defence system; the reports from the Ministry of Defence, submitted by Minister of Defence to the Committee on a quarterly basis, during the sessions of the National Assembly; the issues related to public and state security, the reports by the Ministry of Interior about the security situation in the Republic of Serbia, submitted to the National Assembly upon request (Article 49 of the Rules of Procedure of the National Assembly).

Direct control

Control by the **President of the Republic and the Minister of Defence**, exercised in accordance with law, over the Serbian Armed Forces Chief of General Staff through regular review and evaluation of operational and functional capabilities of subordinate commands, units and institutions of the Serbian Armed Forces. The Serbian Armed Forces General Staff notifies and reports to the President and the Minister of Defence on the work and the situation in the Serbian Armed Forces (Article 36 of the Law on Defence).

Public control

Way of informing the public about the activities of the Ministry of Defence and the Serbian Armed Forces is regulated by the Instruction for informing the public about the work of the Ministry of Defence and the activities of the Serbian Armed Forces (Official Military Gazette No. 35/08) according to the authorisation under Article 30 of the Law on the Serbian Armed Forces.

Informing the public is done through the website of the Ministry of Defence, which has published the Register of regulations that is updated monthly and Bulletin on the work of the Ministry of Defence which has been prepared in accordance with article 40 of the Law on Free Access to Public Information (Official Gazette of RS, No. 120/04, 54/07, 104/09 and 36/10).

Procedures of democratic and civilian control of the security services

Democratic and civilian control of the security services is governed by the Law on the Foundations for the Regulation of the Security Services in the Republic of Serbia (Official Gazette of RS, No. 116/07).

Parliamentary control

Parliamentary control is exercised by the National Assembly through the Security Committee under the conditions prescribed by the Law on Defence (Article 9 paragraph 1 and paragraph 2 point 12) and Article 49 of the Rules of Procedure of the National Assembly (Official Gazette of RS, No. 52/10)).

Articles 17-20 of the Law on the Foundations for the Regulation of the Security Services in the Republic of Serbia stipulate that the Director of the Security Service is obliged to answer the call to a session of the Committee. If the Director of the Security Service is not able to attend the session of the Committee, he is obliged to send his deputy or authorized representative to the session. The session of the Committee may be closed to the public. In this case, the Committee Chair informs the public about the work of the Committee, in accordance with the decisions made at the session of the Committee (Article 17 of the Law).

The Director of the Security Services submits a report on the work of the service (regular report) to the Committee at least once during the regular National Assembly session or at the request of the Committee, an extraordinary report, as appropriate (Article 18 of the Law).

The Director of the Security Services shall, at the request of the Committee, grant the members of the Committee access to the premises of the service, allow access to documentation, provide data and information on the work of the service and answer to their questions related to its work (Article 19, paragraph 1 of the Law).

Committee members cannot require from the security services the following information: identity of present and former collaborators and informants of the Service; third persons whom the disclosure of those data could harm; methods of acquisition of security and intelligence data; current actions; methods of implementation of special procedures and measures; and the data and information that were acquired through exchange with foreign services and international organizations and classified data and information by other state bodies that are in possession of the service (Article 19 paragraph 2 of the Law).

In terms of the obligation to safeguard classified information, Article 20 of the Law prescribes that the Committee members and persons participating in its work are required to protect and safeguard the confidentiality of information they get hold of participating in the work of the Committee even after the cessation of their membership or their work in the Committee. The Committee members sign the statement of commitment to secrecy after their election to the Committee, and the persons participating in the work of the Committee sign it before they start with their engagement in the Committee (Article 20).

Public control of the military security services

Public oversight in accordance with Article 21 of the Law means the obligation of the security services to inform the public about their work through the bodies to which they submit their reports, in a way that does not infringe the rights of citizens, national security and other interests of the Republic of Serbia, and may directly inform the public about certain security occurrences and events.

Regular reporting to the competent authorities about the work of the military security services

Law on Military Security Agency and Military Intelligence Agency prescribes the obligation of regular reporting on the work of the military security services.

Article 34 of the Law provides that the Military Security Agency and the Military Intelligence Agency shall **regularly, when needed and upon request**, deliver reports, information and assessments from their scope of work, that are of importance for defense to **the President of the Republic, Minister of Defence and the Serbian Armed Forces Chief of Staff**.

Provided there is an immediate danger threatening the security of the Ministry of Defence and the Serbian Armed Forces commands, units and establishments, the Military Security Agency and Military Intelligence Agency shall promptly inform the competent leadership and command bodies (President of the Republic, Minister of Defence and Serbian Armed Forces Chief of General Staff) on the data they acquired while discharging their duties and powers prescribed by this law. Reports, information, and assessments from paragraphs 1 and 2 of this Article shall present classified information, in compliance with the law governing the protection of classified information.

Article 35 of the Law stipulates that the Military Security Agency and Military Intelligence Agency shall provide accurate, true and complete information on data collected on persons and data of public significance in compliance with the regulations governing data protection on persons, free access to information of public significance and provisions of this Law. The right to information and access to information from Paragraph 1 of this Article is limited in accordance with regulations governing the area of free access to public information, protection of classified information, protection of data on persons and provisions. of this Law.

The right to information and access to information from Paragraph 1 of this Article shall not be related to data on: authorized official personnel of the Military Security Agency and the Military Intelligence Agency who were undertaking measures; identity of present and former collaborators and informants of the Service; third persons whom the disclosure of those data could harm; methods of acquisition of security and intelligence data; current actions; methods of implementation of special procedures and measures; and the data and information that were acquired through exchange with foreign services and international organizations and classified data and information by other state bodies that are in possession of the service.

Democratic and civilian control of military security services

National Assembly

The National Assembly supervises the work of the Military Security Agency and Military Intelligence Agency, in accordance with the provisions of the Law on Military Security Agency and Military Intelligence Agency, which provides that the National Assembly performs the control of military security services in a manner governed by the Law on the Foundations for the Regulation of the Security Services in the Republic of Serbia (Article 52 of the Law).

Government

Government via the Ministry of Defence exercises control, provides necessary resources for the work of Military Security Agency and Military Intelligence Agency and exercises other powers in accordance with the law, via the Ministry of Defense and Inspector General (Article 53 of the Law).

Inspector General

Inspector General: 1) oversees implementation of the principles of political, ideological and interest neutrality in the activities of MSA and MIA and their personnel, 2) oversees legality of implementation of special procedures and measures for covert data collection, 3) oversees legality of budget and other resources spending for their activities, 4) offers opinion on draft laws, other regulations and general acts within the competences of the MSA and the MIA, 5) establishes the facts regarding observed illegal or irregular actions in the activities of the MSA and the MIA and their personnel and 6) reports to the Minister of Defense on the findings of the oversight including further measures.

Inspector General shall be appointed by the Government for a period of five years at the proposal from the Minister of Defence, taking into consideration an opinion of the National Security Council. Inspector General shall be accountable to the Minister of Defence. Inspector General shall report on the implemented oversight at least once a year to the relevant Committee of the National Assembly. Inspector General cannot be a member of a political party or hold any other public office (Article 54 of the Law).

The method of exercising internal control of the Military Security Agency and the Military Intelligence Agency and other issues of importance for the work of the Inspector General shall be prescribed by the Minister of Defence (Article 56).

Internal Control

Internal Control of the Military Security Agency and the Military Intelligence Agency shall carry out inspection of the legality of their work and the implementation of powers and authorities of their personnel. Internal Control manager shall be directly subordinate to the Director of the Military Security Agency or the Military Intelligence Agency, to whom he/she shall regularly submit reports on their activities and on potential abuses and irregularities in the operations of the Military Security Agency and the Military Intelligence Agency.

Internal Control manager shall inform Inspector General, and as appropriate, relevant Committee of the National Assembly, when they have findings that the MSA or the MIA Director did not rectify the illegality or irregularity in the work identified by the Internal Control. At the request of the Internal Control and as a result of the decision of the MSA or the MIA Director, the MSA or the MIA member is obliged to undergo security check, inspection of psychological and physical capability, inspection of health condition, polygraph testing and other checks (Article 57 of Law).

2.2 How is the fulfilment of these procedures ensured, and which constitutionally established authorities/institutions are responsible for exercising these procedures?

According to the Constitution, bodies of the Republic of Serbia which are responsible for carrying out the procedures in the area of democratic and political control of the Armed Forces and the security services in the Serbian Armed Forces are: the National Assembly, the President of the Republic, the Government, courts, and the Ombudsman.

The procedures for exercising democratic political control over the military and security forces defined by the Constitution only in general terms are elaborated in a wide range of acts.

The Law on Defence, in its Article 29, and the Act on the Serbian Armed Forces, in its Article 129, indicate that the Serbian Armed Forces (SAF) is under democratic and civil control and that this control includes: control over the employment and development of SAF, internal and external control of expenses for military purposes, monitoring the state of affairs and informing the public about the current status of the SAF preparations, ensuring a free access to information for the public and determining the responsibilities for the discharge of service duties in compliance with law. This democratic and civil control is being exercised by the National Assembly of the Republic of Serbia, by the Ombudsman and other governmental bodies in accordance with their responsibilities as well as by the citizens and the public.

The Law on Ombudsman regulates in detail the procedure for protecting the rights of the citizens if they think that any of their human or minority rights has been violated by an act of a governmental body or an organisation entrusted with public authorisations. This equally refers to both the Serbian Armed Forces and the security services.

Pursuant to the Law on Basic Structure of the Security Services in the Republic of Serbia, two types of control have been established. First of all, the National Security Council exercises control over the operation of the security services by guiding and coordinating the work of these services.

In addition, the National Assembly of the Republic of Serbia oversees, either directly or via its Supervisory Committee, the work of the security services in terms of constitutionality and legality, compliance with the highest-level political documents defining the intelligence and security policy of the country as well as the political, ideological and interest neutrality in the work of these services, and the spending of the budget and other working resources of the security services.

According to the Law on the Military Security Agency and the Military Intelligence Agency, oversight and control over the work of the Military Security Agency are exercised by the Internal

Control and the Government via the Ministry of Defence (external control). For the purposes of external control, the Government appoints an Inspector General.

Article 57 stipulates that the Internal Control as an organisational unit within the MSA and the MIA shall carry out inspection of the legality of their work and the implementation of powers and authorities of their personnel, and when they have findings that the MSA or the MIA Director did not rectify the identified illegality or irregularity they may turn to Inspector General or the relevant Committee of the National Assembly, as appropriate. This Article also prescribes that the members of the services are obliged to undergo security check, inspection of psychological and physical capability, inspection of health condition, polygraph testing and other checks if so required by the Internal Control.

Pursuant to the Constitution, the bodies/agencies responsible for carrying out these are as follows:

Constitutional Court

The Constitutional Court is an independent and autonomous state body which shall protect constitutionality and legality and human and minority rights and freedoms. **Decisions of the Constitutional Court are final, enforceable and generally binding** (Article 166 of the Constitution). Proceedings for assessing the constitutionality may be instituted by state bodies, bodies of territorial autonomy or local self-government, and at least 25 deputies. The proceedings may also be instituted by the Constitutional Court. Any legal or natural person has the right to initiate the proceedings on the constitutionality and legality.

The Law or other general act which is not in compliance with the Constitution or the law shall cease to be effective on the day of publication of the Constitutional Court decision in the official journal. Before passing the final decision and under the terms specified by the Law, the Constitutional Court may suspend the enforcement of an individual general act or action undertaken on the grounds of the Law or other general act whose constitutionality or legality it assesses. The Constitutional Court may assess the compliance of the Law and other general acts with the Constitution, compliance of general acts with the Law, even **when they ceased to be effective**, if the proceedings of assessing the constitutionality has been instituted within no more than six months since they ceased to be effective (Article 168 of the Constitution).

Constitutional appeal

A constitutional appeal may be lodged against individual acts or actions performed by state bodies or organisations exercising delegated public powers which violate or deny human or minority rights and freedoms guaranteed by the Constitution, if other legal remedies for their protection have already been applied or not specified (Article 170. the Constitution).

Ensuring the enforcement of the decision of the Constitutional Court

Everyone is obliged to observe and enforce the Constitutional Court's decision. The Constitutional Court shall regulate in its decision the manner of its enforcement, whenever necessary. Enforcement

of the Constitutional Court's decisions shall be regulated by the Law (Article 171 of the Constitution). The Law on the Constitutional Court was passed (Official Gazette RS, No. 109/07).

Article 104 of the Law on the Constitutional Court stipulates that state and other authorities, organisations vested with public powers, political parties, trade unions, citizens' associations or religious communities have an obligation to enforce decisions and orders of the Constitutional Court, within the scope of their rights and duties. If necessary, enforcement of decisions and rulings of the Constitutional Court will be secured by the Government, in a manner established by a special Constitutional Court ruling.

Ombudsman

Ombudsman is an independent state body that protects the rights of citizens and monitors the work of state administration, the authority responsible for the legal protection of proprietary rights and interests of the Republic of Serbia, as well as other bodies and organizations, companies and institutions entrusted with public powers. Ombudsman is not authorised to monitor the work of the National Assembly, President of the Republic, Government, Constitutional Court, courts and public prosecutors' offices. Ombudsman shall be elected and dismissed by the National Assembly, in accordance with the Constitution and the Law. Ombudsman reports to the National Assembly (Article 138 of the Constitution).

Ombudsman shall enjoy immunity as a Member of Parliament. The National Assembly shall decide on the immunity of the Ombudsman (Article 138 of the Constitution). The Law on Ombudsman was enacted (Official Gazette of RS, no. 79/05 and 54/07). Article 29 Paragraph 3 Law on the Armed Forces of Serbia stipulates that the regulations on the Ombudsman relating to the protection and exercise of the rights of citizens, directly apply to professional members of the Serbian Armed Forces.

Commissioner for Information of Public Importance

In order to exercise the right of access to public information held by public authorities, the Commissioner for Information of Public Importance was established by the law as an autonomous state body, independent in exercising his/her authority (Article 1, paragraph 2 of the Law on Free Access to Information of Public Importance).

National Security Council

Directing and coordinating the work of security services in the Republic of Serbia is governed by the Law on the Foundations for the Regulation of the Security Services in the Republic of Serbia and it is done via a specially established body of the Republic of Serbia, the **National Security Council**.

Article 5 of the Law prescribes that the National Security Council is the body of the Republic of Serbia which performs certain tasks and duties in the field of national security that ensures national security by directing and coordinating the work of security services and ensures harmonized implementation of regulations and standards for the protection of personal data and other regulations that protect human rights which may be compromised by exchanging information, or other operational activities.

In accordance with Article 6 of the Law, members of the Council are: President of the Republic, Prime Minister, Minister of Defence, Minister of the Interior, Minister of Justice, Chief of General Staff of the Serbian Armed Forces and directors of the security agencies.

Coordination Bureau

In accordance with Article 11 of the Law, operational coordination and execution of the conclusions of the Council, are performed by the **Coordination Bureau**, in particular: **establishes** the tasks that are executed by operational harmonisation of activities of security services and between the security services and other state bodies and in this regard co-ordinates their activities, establishes the mode of operational harmonization in certain cases, **establishes mixed working groups** for operational tasks performed through operational harmonization of the activities and determines their tasks, **analyses the results** of operational harmonizations and reports about that to the Council, as appropriate, and at least every six months. The work of the Coordination Bureau is regulated in more details in the Rules of Procedure of the Council.

Coordination Bureau consists of directors of security services and the Secretary and the following persons may be invited to participate: representatives of the Ministry of Foreign Affairs, Director of the Police and chiefs of police departments, the State Public Prosecutor, Director of the Customs Department and other executives of state bodies, organizations and institutions (Article 12 of the Law) who are obliged, in compliance with their constitutional and legal position, to cooperate with the Council on matters within the competence of the Council, especially in the execution of the conclusions of the Council, and in case they do not cooperate with the Council or fail to execute the conclusions of the Council, the Secretary promptly notifies the Council about it, that in this case can call upon the head of a state body to take all measures stipulated by the law for the state body to establish cooperation with the Council or execute the conclusion of the Council (Article 13 of the Law).

2.3 What are the roles and missions of military, paramilitary and security forces, and how does your State control that such forces act solely within the constitutional framework?

The roles and missions of the military forces and how they are used are set out in Article 139-141 of the Constitution.

The Serbian Armed Forces performs the assigned missions and tasks prescribed by the law, established in the basic strategic and doctrinal and planning defence documents (Article 6 of the Law on Defence). The role of the military forces in the field of defence is governed by Article 31 of the Law on Defence, which provides that the Serbian Armed Forces is organized armed forces and the holder of the combat operations and all other forms of armed resistance, whose powers are laid down in the Constitution and the law. Serbian Armed Forces integrates all participants in combat operations and commands, all the forces involved in combat operations in the state of war and the state of emergency based on the law and in accordance with the Doctrine of the Serbian Armed Forces. Serbian Armed Forces Doctrine is based on the Defense Strategy of the Republic of Serbia.

The tasks of the Serbian Armed Forces under the Law on the Serbian Armed Forces are governed by Article 12 of the Law on the Serbian Armed Forces, which provides that the Serbian Armed Forces exercises its competences in accordance with the Constitution, law, other regulations and general legal documents and international treaties and agreements concluded or acceded to by the Republic of Serbia, in accordance with the Defence Strategy (adopted by the National Assembly), the Doctrine of the Serbian Armed Forces (as determined by the President of the Republic) and the

principles of the international law governing the use of force. The Serbian Armed Forces is neutral in terms of ideology, interests and political parties.

The decision on the use of the Serbian Armed Forces outside the territory of the Republic of Serbia is made solely by the National Assembly (Article 9 of the Law on Defence), and in the country it can be ordered only by the President of the Republic and this right cannot be transferred to other officers (Article 11 of the Law on Defence). Use of the Serbian Armed Forces abroad is governed by a special Law on the use of the Serbian Armed Forces and other defence forces in multinational operations outside the borders of the Republic of Serbia (Official Gazette of RS, No. 88/09).

The role of paramilitary forces

Paramilitary association is prohibited pursuant to Article 55 paragraph 3 of the Constitution. According to Articles 33 and 117 of the Law on Defence, any kind of paramilitary organization and association aimed at execution of tasks pertaining to defence of the country in the country is prohibited and subject to criminal liability. The same prohibition is stipulated by Article 2 Paragraph 4 of the Law on Associations of Citizens ("Official Gazette of RS", No. 51/09).

The role of the military security forces

The role of the military security forces is regulated by the Law on Foundations for the Regulation of Security Services. Article 2 stipulates that security services operate pursuant to the Constitution, laws, regulations and general legal documents, the **national security strategy, defence strategy** and established security and intelligence policy of the Republic of Serbia.

Members of the security services are obliged to act in accordance with the Constitution, laws, regulations and general legal documents, according to rules of profession, impartially and politically neutral. Members of the security services may not be members of political parties.

The role of the military security forces in defence is governed by Article 20 of the Law on Defence, which provides that the **intelligence and security affairs** of importance for the defence are: 1) intelligence activities, including: intelligence-operational and intelligence-reconnaissance activities, 2) **security activities**, including: general security, counterintelligence and military police activities.

Responsibilities, tasks and activities of the bodies conducting intelligence and security activities relevant for the defence, as an administrative body within the Ministry of Defence, are set forth in the Law on the Military Security Agency and Military Intelligence Agency.

3. Procedures related to different forces personnel

3.1 What kind of procedures for recruitment and call-up of personnel for service in your military, paramilitary and internal security forces does your State have?

Upon entry into force of the Decision to abolish compulsory military service ("Official Gazette" No. 95/10) on 01 January 2011, military service under arms in the Serbian Armed Forces is based **on the principle of voluntariness**.

Military service applies to conscripts at the age of 19 to 30. For conscripts who voluntarily wish to do their national service under arms in the Serbian Armed Forces, the provisions of the Law on military, labor and material obligations shall apply ("Official Gazette" No. 88/09 and 95/10).

Other persons are subject to registering in the military records as of the calendar year in which they turn 18 and they have obligation of the reserve service by the end of the calendar year in which they turn 60 years of age for men and 50 for women.

The reserve forces may be invited to military exercises in the Serbian Armed Forces for up to 90 days in a calendar year.

Conscripts who have an assigned wartime posting in the Ministry of Interior, are not invited to military exercise, but they perform their duties according to the Law on Police.

The Republic of Serbia prohibited paramilitary organization and association with the aim of performing the tasks pertaining to defence of the country in Article 33 of the Law on Defence (Official Gazette of RS, No. 116/07, 88/09 and 104/09)

3.2 What kind of exemptions or alternatives to military service does your State have?

Article 43 of the Constitution of the Republic of Serbia (Official Gazette of RS, No. 98/2006) guarantees freedom of thought, conscience, belief and religion, as well as the right to stand by one's belief or religion or change them by choice.

Pursuant to Article 45 of the Constitution, no person shall be obliged to perform military or any other service involving the use of weapons if this opposes his religion or beliefs.

Alternative to military service, before the effective date of the Decision on the abolishment of the compulsory military service in our country, is civil service, which is implemented in government agencies, organizations, institutions and legal entities performing activities of general public importance and financed from the Budget of the Republic of Serbia. The Civil Service was allowed to a conscript, who for religious, moral or other justifiable reasons of the conscientious objection wishes to replace service in the army under arms with civilian service, under the terms and conditions stipulated by the Law on Alternative Civil Service (Official Gazette of RS, No. 88/09).

As of 01 January 2011, military service under arms in the Serbian Armed Forces shall be based on the principle of voluntariness. Regulation of right to conscientious objection and for persons who perform voluntary military service (by personal choice) is in contradiction with the nature of the right to conscientious objection, which is related to performing compulsory military service (by order of the competent authority).

According to the provisions of Article 135 paragraph 6 of the Law on military, labor and material obligations ("Official Gazette of RS, No. 88/09 and 95/10), the legal consequences of possible decision of the National Assembly on the activation of compulsory military service is the suspension of voluntary military service, and execution of the compulsory military service under the terms and conditions prescribed by this law.

Requirements of conscientious objectors, from the moment of possible entry into force of the act on the reactivation of compulsory military service, will be resolved under the conditions prescribed by the Law on Alternative Civil Service (Official Gazette of RS, No. 88/09).

3.3 What are the legal and administrative procedures to protect the rights of all forces personnel as well as conscripts?

All the members of the Ministry of Defence and the Serbian Armed Forces, and so the conscripts, are guaranteed human and minority rights according to the Constitution (Official Gazette of RS, No. 98/06).

All are equal before the Constitution and the law. Everyone has the right to equal legal protection without discrimination.

Everyone has the right to judicial protection, when any of their human or minority rights guaranteed by the Constitution have been violated or denied, they shall also have the right to elimination of consequences arising from the violation. Human dignity is inviolable and everyone shall be obliged to respect and protect it. Members of the armed forces and conscripts have the right to life, inviolability of physical and mental integrity, protection from slavery, servitude and forced labor, and the right to freedom and security.

4. Implementation of other political norms, principles, decisions and international humanitarian law

4.1 How does your State ensure that International Humanitarian Law and Law of War are made widely available, e.g., through military training programmes and regulations?

The Republic of Serbia ensures availability of the international humanitarian law and law of war for the security services' personnel by:

- having included international humanitarian law and the law of war into obligatory curricula of relevant faculties;
- distributing the information brochures, codes of ethics and instructions to all security services' personnel;
- organising public campaigns,
- informing the public on violations of the norms of international humanitarian law and law of war,
- informing the public on war crimes trials.

Within the defence system reform process, we have completed a regulatory framework for the implementation of the norms, principles and positions of **the law of armed conflict (LOAC)/International Humanitarian Law and Law of War** in the military educational system and the training of the commands and units of the Serbian Armed Forces.

During 2010, **the Handbook on the Law of Armed Conflict in the Serbian Armed Forces** was developed and published, and it consists of three parts: "The Law of Armed Conflict Handbook", "The Implementation of the Law of Armed Conflict in the Serbian Armed Forces"

– designed as a handbook for commanders, and “The Code of Conduct for Combatants in an Armed Conflict”. The Handbook is intended to support the actual training of the members of the Serbian Armed Forces in developing the awareness and application of the LOAC rules. The LOAC rules are embedded in and make an integral part of the military training whose purpose is acquiring the knowledge and skills in implementing the LOAC rules as an indispensable part of the overall military knowledge and skills.

“The Practicum in the Law of Armed Conflict for training the officers in command and staff positions” has been developed, and the Ministry of Defence and the Serbian Armed Forces are finalising the process of defining completely the LOAC integration into the defence system. This Practicum addresses the LOAC rules applied to staff procedures for superiors occupying different positions in the field of planning and execution of various types of operations conducted at different levels of advancement courses/studies designed for the defence system personnel. “Strategic Guidelines for the LOAC integration into the military educational system and the training system in the Serbian Armed Forces”, which was approved by the Minister of Defence in 2010, identifies the goals, priorities, activities and resources for the improvement of the situation in this area during the period from 2010 to 2015 in a holistic and unique manner.

While producing the abovementioned documents and in the conduct of training in the LOAC area within the Ministry of Defence and the Serbian Armed Forces, the Training and Doctrine Department (J-7) of the SAF General Staff, has established solid cooperation with the International Red Cross Committee and the Centre for LOAC and International Organisations of the Faculty of Political Sciences in Belgrade.

4.2 What has been done to ensure that armed forces personnel are aware of being individually accountable under national and international law for their actions?

Information on individual and command accountability are available to all armed forces personnel. There are many rules and instructions stipulating the manner of managing, commanding, performing combat activities, etc. in the context of accountability of armed forces personnel. All security services also have dedicated departments for control and lawfulness of work that ensure implementation of domestic and international regulations.

The provision under Article 8 of the Act on Defence provides that the members of the Serbian Armed Forces and of other defence forces are always and in all circumstances while conducting both combat and non-combat operations obliged to comply with the rules of international humanitarian law pertaining to how to treat the wounded and prisoners and how to protect the population as well as to other rules of the said law and international standards on the employment of force in accordance with the Constitution, law and the ratified international agreements.

Each member of the Serbian Armed Forces and of other defence forces is entitled to disobey an order requiring from him/her to act contrary to the Constitution, law and the rules of international humanitarian law.

The provision under Article 33 of the Act on Defence forbids any form of paramilitary organisations and associations for carrying out defence tasks.

The employment of the Serbian Armed Forces for party-related, ideological and religious purposes is also forbidden. The use of the names/titles, symbols and other insignia of the Serbian Armed Forces by legal entities, contractors and associations is forbidden unless it is approved by the Minister of Defence.

The provision under Article 13 of the Serbian Armed Forces Act (the Law on the Serbian Armed Forces) stipulates that while performing his/her duty, a SAF member is obliged to: 1) abide by the Constitution, law and other regulations, and by the professional rules in an unbiased and politically neutral manner, and 2) act in compliance with the Service Rule of the Serbian Armed Forces and **the Code of Honour** of the SAF members. No one shall exercise influence on a SAF member to do something or fail to do something contrary to regulations. It is forbidden to favour or deprive a SAF member of his/her rights and duties, in particular, of his/her race, religious, gender or national affiliations, his/her background or some other personal feature.

The provision under Article 53, paragraphs 1, 2, 3 and 4, of the Act on the Serbian Armed Forces provides that the Military Police is responsible for the affairs related to the suppression of crime, the control and maintenance of the military order and discipline, the security of the most important military facilities, of certain persons, documents and armaments, the management and control of military road traffic and antiterrorist protection in the MoD and SAF.

Within the MoD and SAF, the police activities are carried out and the authorisations are exercised by the authorised officers of the Military Police unless otherwise stipulated by the law.

At the proposal of the Chief of General Staff, the Defence Minister determines which persons are to be considered as the authorised officers of the Military Police, the way how to exercise the authorities and perform the tasks and activities of the Military Police.

The authorized officers of the Military Police do the criminal processing of an MoD employee or a SAF member suspected of having committed a criminal act either while doing the service or acting in relation with the service for which one is to be prosecuted in line of duty unless otherwise stipulated by the law.

The provision under Article 143 of the Act on the Serbian Armed Forces provides that the accountability of the SAF members for criminal acts, economic violations and offences is determined according to the general regulations.

The accountability for criminal acts, economic violations and offences does not exclude disciplinary accountability if a deed which is the subject of criminal proceedings, of proceedings for the determination of the accountability for an economic violation or of offence proceedings is also considered to be a violation of service duty.

A disciplinary action is conducted regardless of the developments in criminal proceedings, proceedings for the determination of the accountability for an economic violation or offence proceedings.

For a criminal act committed against the Serbian Armed Forces for which a prison sentence of up to three years is provided for, a disciplinary action may be initiated against a serviceman/servicewoman and a disciplinary fine or a disciplinary measure stipulated by this act may be pronounced instead of a criminal sanction if the deed proves to be a petty offence and if this is required by the service interests, in accordance with the provisions of the Criminal Code.

4.3 How does your State ensure that armed forces are not used to limit the peaceful and lawful exercise of human and civil rights by persons as individuals or as representatives of groups nor to deprive them of national, religious, cultural, linguistic or ethnic identity?

Article 20 of the Constitution provides that that the human and minority rights guaranteed by this document **may be limited by the law** if the Constitution allows such a limitation for the purposes permitted by the Constitution to the extent required for the fulfilment of the constitutional purpose of the limitation in a democratic society and without encroachments on the essence of the guaranteed right. The achieved level of the human and minority rights may not be lowered. While limiting the human and minority rights, **all governmental authorities** and courts in particular **are obliged to pay attention to the essence of the right to be limited**, the significance of the purpose of the limitation, **the character and scope of the limitation**, the relation between the limitation and the limitation purpose and whether there is a way that the purpose of the limitation be fulfilled by limiting the right to a lesser extent (measure determining criteria).

Article 202 of the Constitution provides that **upon the declaration** of a state of war or emergency it is allowed to introduce certain deviations from the human and minority rights guaranteed by the Constitution but only to the extent necessary. **The measures for deviation must not lead to** discrimination on grounds of racial, gender, language, religious and national affiliations or social background. The measures for deviating from the human and minority rights **cease to be valid** upon the termination of the state of emergency or war.

The deviation measures are on no circumstances allowed vis-à-vis the rights guaranteed by the Constitution: Article 23 (Dignity and Free Development of Individuals), Article 24 (Right to Life), Article 25 (Inviolability of Physical and Mental Integrity), Article 26 (Prohibition of Slavery, Servitude and Forced Labour), Article 28 (Treatment of Persons Deprived of Liberty), Article 32 (Right to a Fair Trial), Article 34 (Legal Certainty in Criminal Law), Article 37 (Right to Legal Person), Article 38 (Right to Citizenship), Article 43 (Freedom of Thought, Conscience and Religion), Article 45 (Conscientious Objection), Article 47 (Freedom of Expressing National Affiliation), Article 49 (Prohibition of Inciting Racial, Ethnic and Religious Hatred), Article 62 (Right to Enter into Marriage and Equality of Spouses), Article 63 (Freedom to Procreate), Article 64 (Rights of the Child) and Article 78 (Prohibition of Forced Assimilation).

Pursuant to Article 13, paragraph 1, items 1-7, and paragraphs 2 and 3, of the Serbian Armed Forces Act (the Law on the SAF), in discharging his/her duties, a SAF member is obliged:

- 1) to act in compliance with the Constitution, law and other regulations, and the professional rules in an unbiased and politically neutral manner,;
- 2) not to display party or other political insignia or express his/her political convictions;
- 3) to obey the orders/commands of his/her superior regarding the service as well as the orders/commands given by his/her senior in the absence of the superior when it is necessary to

take urgent measures for performing immediate and important service tasks unless such an order/command would lead to a criminal act.

- 4) if receives an order by obeying which the law would be violated, to request that his/her superior who has given such an order repeat it in writing;
- 5) to disobey the repeated order/command given by his/her superior or senior by obeying which a criminal act would be committed;
- 6) to immediately inform the person superior to the person that has given an unlawful order/command or some other responsible person that he/she has been given a repeated illegal order or command;
- 7) to act in accordance with the Service Rule of the Serbian Armed Forces and **the Code of Honour** of the members of the Serbian Armed Forces;

No one shall exercise influence on a SAF member to do something or fail to do something contrary to regulations. It is forbidden to favour or deprive a SAF member of his/her rights and duties, in particular, of his/her race, religious, gender or national affiliations, his/her background or some other personal feature. The Code of Honour of the SAF members (Official Gazette of the Republic of Serbia, issue 29/10) has been enacted. Failure to comply with these duties is subject to criminal, penal, disciplinary and material accountability, which is regulated by Articles 143-180 of the Serbian Armed Forces Act (the Law on the Serbian Armed Forces).

4.4 What has been done to provide for the individual service member's exercise of his or her civil rights and how does your State ensure that the country's armed forces are politically neutral?

Protection of the Rights of the Serbian Armed Forces members

In compliance with the provision under Article 29, paragraph 3, of the Serbian Armed Forces Act, the Ombudsman Act/the Law on the Ombudsman (published in the Official Gazette of the Republic of Serbia, issues 79/05 and 54/07) stipulates that the regulations on the ombudsman pertaining to the protection and the exercise of the citizens' rights directly **apply to professional members of the Serbian Armed Forces as well.**

In order to exercise **the freedom of religious confession** in the Serbian Armed Forces, the Chaplain's Service is organized (Article 25 of the related Act/law).

The professional members of the Serbian Armed Forces **are entitled to form labour/trade unions** in accordance with the regulations of the Government. The subject matter of the labour/trade union forming, organising and activities cannot be the provisions and the implementation of the acts/laws and other regulations pertaining to: the composition, structure and organisation of the Serbian Armed Forces; its operational and functional capabilities, the employment and manning of the Serbian Armed Forces; its readiness and mobilisation; the state of being furnished with armaments and military equipment; the command and leadership within the Serbian Armed Forces and the defence system management; its participation in multinational operations as well as the internal relations within the Serbian Armed Forces resting on the principles of subordination and singleness of authority. The professional members of the Serbian Armed Forces are not allowed to strike. (Article 14, paragraphs 3 and 4, of the related Act).

A professional member of the SAF **may not take part in the activities of associations** with the following aims: reform of the defence system and the Serbian Armed Forces, harmonisation with

the generally accepted standards and regulations of the European Union, development of the defence strategy and the Serbian Armed Forces Doctrine that determines the composition, structure and organisation of the Serbian Armed Forces, its operational and functional capabilities, the employment and manning of the Serbian Armed Forces; its readiness and mobilisation; the state of being furnished with armaments and military equipment; the command and leadership within the Serbian Armed Forces and the defence system management; its participation in multinational operations as well as the internal relations within the Serbian Armed Forces (Article 14 a of the related Act)

A serviceman/servicewoman **may receive a foreign decoration** upon the approval of the President of the Republic. The request for issuing the approval referred to in paragraph 1 of this Article is submitted via the Ministry of Defence. A serviceman/servicewoman **may become a member of a foreign professional association or international organisation** with the consent of the Minister of Defence or of the person authorised by him/her (Article 50 of the related Act).

Prohibition of Political Activities

A serviceman/servicewoman is forbidden to attend the gatherings of political parties dressed in a military uniform as well as any political activity except for the exercise of his/her active right to vote. A professional serviceman/servicewoman, a student or a cadet of a military educational institution, and a person attending other forms of professional advancement intended for officers and NCOs is not allowed to be a member of a political party (Article 14, paragraphs 1 and 2).

Servicemen/servicewomen are obliged to wear uniforms in accordance with the service rules. The military uniform, the Serbian Armed Forces insignia/badge, and the rank or title insignia are regulated by the rule that is enacted by the President of the Republic at the proposal of the Minister of Defence. **It is forbidden that persons who do not discharge military duties wear a military uniform** with the Serbian Armed Forces insignia and the rank or title insignia, except upon the Defence Minister's specific approval (Article 48 of the related Act).

Article 2, paragraph 4, of the Defence Act (the Law on Defence) stipulates that the defence of the Republic of Serbia is conducted either independently or in cooperation with other states within the institutions of the national, regional and global security systems.

4.5 How does your State ensure that its defence policy and doctrine are consistent with international law?

The planning and the employment of the Serbian Armed Forces in peacetime, in a state of emergency and in wartime rest on the regulations of the national legislation, international treaties and agreements/arrangements, the customs in the field of international humanitarian law, the international acts on the armed conflict and on international humanitarian law.

The provision under Article 139 of the Constitution of the Republic of Serbia provides that the Serbian Armed Forces defends the country against external armed threats and performs other missions and tasks in compliance with the Constitution, the law and the principles of international law regulating the employment of force.

Article 16 of the Constitution of the Republic of Serbia stipulates that the foreign policy of the Republic of Serbia rests on the generally recognised principles and rules of international law. The generally accepted rules of international law and the ratified international treaties constitute an integral part of the legal order of the Republic of Serbia and are consistently implemented. The said Article also emphasises that the ratified international treaties must be in compliance with the Constitution of international law.

Article 3 of the Defence Act (the Law on Defence) stipulates that in the field of defence, the Republic of Serbia cooperates with other nations, and with international organisations and the institutions of the national, regional and global security systems in building and preserving the peace in the world, and it fulfils the commitments arising from its membership in the United Nations and from ratified international treaties.

Article 4, item 23) of this Act provides that multinational operations are activities that are undertaken within the collective security system and within the collective defence system in accordance with international law and ratified international treaties. The employment of the Serbian Armed Forces outside the borders of the Republic of Serbia is regulated by the Act/Law on the Employment of the Serbian Armed Forces and Other Defence Forces in Multinational Operations Abroad.

Article 5, item 4) of the Act stipulates that the defence of the country is ensured, *inter alia*, by participating in multinational operations as well.

The members of the Serbian Armed Forces and of other defence forces are always and in all circumstances while conducting combat and non-combat operations obliged by the law, as specified in the aforementioned Act, Article 8, to abide by the rules of the law of armed conflict pertaining to the treatment of the injured and prisoners of war, and the protection of population as well as other rules of that law and international standards for the employment of force, in accordance with the Constitution, law and ratified international treaties. A member of the SAF and of other defence forces is entitled to refuse to obey an order requiring him/her to act contrary to the Constitution, law and the LOAC rules.

Article 13, item 39, of the Act stipulates that in a state of war or emergency, the Government executes the decisions made by the National Assembly and the President of the Republic pertaining to: 3) taking measures for the fulfillment of the international commitments relative to the treatment of the prisoners of war, foreign nationals and their property.

The procedure for the development and approval of the contents of the Serbian Armed Forces Doctrine implies that it passes different levels and types of control and harmonisation with the provisions of the aforementioned regulations. The Doctrine is, in addition, harmonised with the provisions of the LOAC.

As a UN member state, the Republic of Serbia affirms its readiness to fulfil the commitments arising from the UN Charter which are regulated by the international legal instruments in the area of human rights and by other ratified international treaties and agreements/arrangements. The Republic of Serbia is committed to employ its defence potentials on the basis of the Constitution, the UN Charter and the principles of international law regulating the employment of force.

Section III: Public access and contact information

1. Public access

1.1 How is the public informed about the provisions of the Code of Conduct?

The provision under Article 75 of the Act on Defence provides that the legal entities in the field of public informing, electronic and print media while performing their regular activities are obliged to timely and truthfully inform the public during wartime or a state of emergency in accordance with the act and regulations on public informing.

The Ministry of Defence and the governmental bodies are obliged to make available all information and data of public significance in the field of defence for the public in accordance with the act and regulations on free access to information of public significance.

The legal entities under paragraph 1 of this Article are obliged to convey urgent announcements of the governmental bodies regarding defence.

The provision under Article 125 of the Act on Defence stipulates that for the purpose of informing the public about the legal changes in the field of defence and within the Serbian Armed Forces and other acts regarding the security of the country, international defence cooperation and military cooperation, the Ministry of Defence publishes information for the public with a list of acts and explanations on the legal changes twice a year. The first information under paragraph 1 of this Article is to be published by the Ministry of Defence within a six-month period as of the date of the entry into force of this act.

The provision under Article 30 of the Act on the Armed Forces provides that the Minister of Defence regulates the way of informing the public about the activities of the Serbian Armed Forces. The Minister has issued a Directive on informing the public on the work of the Ministry of Defence and the activities of the Serbian Armed Forces (The Official Gazette of the Republic of Serbia, issues 35/08 and 1/0).

1.2 What additional information related to the Code of Conduct, e.g., replies to the Questionnaire on the Code of Conduct, is made publicly available in your State?

(See answer 1.3 of the same section)

1.3 How does your State ensure public access to information related to your State's armed forces?

The Public Relations Department of the Ministry of Defence is responsible for informing the public on the work of the Ministry of Defence and the activities of the Serbian Armed Forces by: providing the answers to journalists' questions and meeting the requests for the provision of information to the media and the citizens by telephone and via e-mail; organising press/media briefings and conferences; releasing statements and notifications; arranging the interviews and appearances of the

MoD employees and the SAF members in the media; holding gatherings, conferences and seminars; issuing publications, advertisements, information papers; organising special events for the media and the public (the Open Day, the Serbian Armed Forces Day, the Air Show, exhibitions, and the like); organising visits to the institutions, commands and units of the Serbian Armed Forces, ensuring the presence of journalists at military exercises, editing the websites of the Ministry of Defence and the Serbian Armed Forces, www.mod.gov.rs, and the magazine “Odbrana” (Defence).

There is a specific decision in the Ministry of Defence and Serbian Armed Forces identifying the persons designated to process the requests for free access to information of public significance.

2. Contact information

2.1 Provide information on the national point of contact for the implementation of the Code of Conduct.

Ministry of Foreign Affairs of the Republic of Serbia
Department for OSCE and Council of Europe – Sector for Multilateral Cooperation
Kneza Milosa 24-26, 11000 Belgrade, Serbia
Tel.: + 381 11 306 8502, Fax.: + 381 11 306 8136 or
Tel.: + 381 11 306 8356, Fax.: + 381 11 361 8029