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The Permanent Mission of the Republic of Serbia to the United Nations Office and other International Organizations in Geneva presents its compliments to the United Nations Human Rights Office of the High Commissioner, and has the honour to convey the Response of the Government of the Republic of Serbia to the joint urgent appeal by the UN Special Procedures sent on 27 July 2020, attached to this Note Verbal.

The Permanent Mission of the Republic of Serbia to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the United Nations Human Rights Office of the High Commissioner the assurances of its highest consideration.



Geneva, 25 September 2020

United Nations Human Rights Office
of the High Commissioner
GENEVA

The response of the Government of the Republic of Serbia to a joint urgent appeal of the UN Special Procedures on the alleged “use of excessive force” during protests which started on 7 July 2020

1. Please provide any additional information and any comment you may have on the above mentioned-allegations

The Government of the Republic of Serbia takes this opportunity to contribute to presenting an objective picture of the events and issues raised in your appeal of 27 July 2020. In view of the fact that the concerns expressed in your appeal directly relate to the state of democracy and the rule of law, the continued promotion of which the Government of the Republic of Serbia is deeply committed to, it is of utmost importance to take into account our efforts to preserve the highest values of a democratic society. For these reasons, we would like to clarify further the facts and numbers regarding the protests and state intervention in that respect, because we firmly believe that the conclusions should not be made on the basis of media interpretations and perceptions.

The protests that started on 7 July 2020 have been the most violent so far. However, the democratic order in the country, peace and stability had to be preserved. The protests escalated and become violent subjecting Serbia and all its citizens to attacks and undermining the country’s democratic foundations.

The authorities behaved in line with their competencies in order to ensure security of all citizens, constitutional order in an effort to confront this type of aggression. It should be noted that the police attempted to maintain peace and stability and responded only after the protesters forced their way into the Parliament building.

We firmly believe that the rule of law is a cornerstone of every democratic society and as one of its greatest tenets cannot be brought into question solely on the basis of isolated cases and politically motivated allegations. Turning a blind eye to the violent behavior in the streets and aggressive attacks on democratic institutions is unacceptable in any society that should guarantee this value. Furthermore, the right of police officers not to be physically attacked during “peaceful protests” or hurt by stones, burning torches and similar objects, even though recorded and published in the media, has not been taken into account or even mentioned in the appeal or the allegations contained there.

The legal measures undertaken by authorities have to be examined in the light of the need to maintain constitutional order in a democratic society and preserve democratic institutions and citizens of the Republic of Serbia from the aggressive minority. Freedom of peaceful assembly is guaranteed by the provisions of the Constitution of the Republic of Serbia, as the supreme legal

act of the country. The limitations of this freedom, in line with international standards referred to in the appeal, have also been stipulated in the Constitution. Contrary to one-sided reporting and politically biased allegations advanced by certain civil society organizations, the justifiability of these measures should be evaluated in terms of legal provisions and the need to protect the “interests of national or public security, public order, protection of health or morals or protection of the rights and freedoms of others”.

Although the appeal does not seek to “prejudge the accuracy of these allegations”, we express deep concern regarding the level of their objectivity especially if that is taken as a basis for any assessment of the situation of human rights and freedoms in Serbia.

As mentioned in the appeal, the allegations are based on “video clips that clearly show police officers attacking peaceful and defenseless protesters, which is confirmed by a number of complaints submitted ...” On the other hand, reports or any other complaints submitted to any state authority or other subjects are not a confirmation or validation whatsoever. In the society based on the rule of law, the complaints have to be validated by judicial authorities in an independent and impartial manner, after the proper legally prescribed procedure has been completed.

Article 54 of the Constitution of the Republic of Serbia guarantees freedom of peaceful assembly i.e. gathering, demonstrations while other forms of assembly held outdoors should be reported to the state body in accordance with the law. Freedom of assembly may be restricted by the law only if necessary to protect public health, morals, rights of others or the security of the Republic of Serbia.

The Law on Public Assembly (“Official Gazette of RS”, No. 6/2016), in line with the European standards and the recommendations of the Venetian Commission, elaborates further the above constitutional provisions on the freedom of assembly. Under the Law on Public Assembly, Article 8, assembly in case of a threat to security and people, property, public health, morals, rights of others and security of the Republic of Serbia, is not allowed; in case the purpose of the assembly is to call to or incite armed conflict or use of violence, violation of human and minority rights and rights of others, i.e. inciting or encouraging racial, national, religious or other inequality, hate and intolerance; in case of danger of violence, destruction of property or other forms of large-scale threats to public order. Police conduct in such situations is regulated under the Law on Public Assembly and the Law on Police (“Official Gazette of RS”. No. 6 of 28 January 2016, No. 24 of 26 March 2018, No. 87 of 13 November 2018). The Law on Public Assembly stipulates that the protection of security of people and property, security of the Republic of Serbia, protection of public health, morals, protection of the rights of others and other duties related to the assembly is performed by the Ministry of the Interior and other competent authorities.

The Law on Police stipulates that police, among other things, by exercising police authority, measures and acts in order to ensure the protection of life, rights and freedoms of citizens,

protection of property and support to the rule of law, also conducts other duties towards the maintenance of public peace and order and ensuring safety of certain public gatherings.

The legal basis, types of means of coercion and their use are stipulated by the Law on Police, while the method of their use, justifiability and appropriateness and control are regulated in the Rulebook on Police Powers (“Official Gazette of RS”, No. 41 of 11 June 2019). In applying coercion measures, the police officers are obliged to act in accordance with international standards contained in the Law on Police and the Rulebook on Police Powers.

A police officer is authorized to order a group of people to disperse if the group assembled unlawfully or is behaving contrary to law or if its behavior may cause violence or disturbance of public order.

The control of the use of coercion means is ensured through internal control (by implementing a prescribed procedure of justifiability and appropriateness of the use of force), through the complaints by citizens and through activities of police officers in the Internal Control Sector overseeing the legality of police officers conducts.

In the process of establishing the justifiability and appropriate use of means of coercion, senior officer in charge makes proper checks while the decision on the justifiability and appropriateness of the use of coercion means depends on the type of coercion means, the consequences of its use and number of persons against whom it is to be used is made by an authorized police officer.

According to the information of the Ministry of the Interior, in the period from 7 July through 16 July 2020, in the territory of the Belgrade Police Department and regional police administrations, a total of 179 unregistered public gatherings took place where the participants protested against the introduction of measures aimed at preventing and suppressing contagious disease COVID-19.

Out of 179 unregistered public gatherings, large-scale disturbance of public peace and order was recorded in Belgrade, Novi Sad, Nis and Kragujevac. Police officers resorted to the use of coercive devices while exercising restraint and gradually, proportionate to the conduct of violent protesters taking care of the citizens who protested peacefully. Police officers of the Ministry of the Interior did not intervene in public gatherings where public order and peace were not disturbed.

Throughout these protests, the police officers of the Ministry of the Interior honored international standards contained in the Law on Police and Rulebook on Police Powers and acted in line with European practice in situations when peaceful protests become violent compelling the police to respond in order to protect public order and peace, life and private and state property.

As for public gatherings in Belgrade from 7 to 11 July 2020 in front of the building of the National Assembly of the Republic of Serbia, four unregistered public gatherings took place, with average participation of 3,000 – 5,000 citizens. Clear and immediate danger to public security and public order and peace took place on three of those protests. On 9 July 2020, police did not intervene since the citizens were protesting peacefully.

The public gatherings at first seemed like peaceful events and in all four cases, in line with European legal standards, the police conduct towards the protesters was one of tolerance. The police did not take any measures to prevent the protests even though the gathering was illegal since it was not duly registered in line with the Law on Public Gathering and it restricted the freedom of movement of other citizens by blocking the traffic route in front of the building of the National Assembly of the Republic of Serbia.

During the first gathering on 7/8 July 2020, when the building of the National Assembly was secured by only around 80 police officers, a group of 100-200 persons forced their way into the building of the National Assembly and damaged some of the property (gate, chairs, etc.). Police officers issued warnings and orders and then managed to push them out of the building. Immediately after that, a group of protesters attacked police officers by hurling stones, bottles, cans, pyrotechnic devices, etc. at them.

In a highly tense situation and under constant attacks of violent demonstrators who threw stones, cement pieces, pyrotechnic devices and other objects for more than 50 minutes, police officers of the Ministry of the Interior exercised restraint and tolerance, in an attempt to protect themselves by forming a cordon and using exclusively protective gear to ward off the attacks and prevent another violent break-in in the National Assembly of the Republic of Serbia.

After repeated warnings and ordering the protesters to stop the attacks and unsuccessful attempts to cordon them off, in line with Article 106 of the Law on Police, police officers resorted to means of coercion against violent protesters as the only way to restore public order and peace, in line with Article 106 of the Law on Police.

Failing to push back the protesters using their shields, the police officers, in line with Article 106 of the Law on Police, first dispersed sensory irritation agents which proved unsuccessful and subsequently resorted to the use of heavier coercive measures such as batons, instruments of restraint, service dogs, horses and *ultima ratio* chemical agents, as long as legal preconditions for their use existed and until the public order and peace was restored.

The subsequent public gatherings held on 8/9 July 2020 and 10/11 July 2020 in Belgrade in front of the National Assembly followed almost the same scenario.

On 8 July 2020, around 1,200 participants gathered on Trg slobode in Novi Sad or joined them in city streets. They were throwing stones and solid objects on the building of the Radio Television Vojvodina, City Hall and the premises of the Serbian Progressive Party inflicting light bodily injuries on 7 police officers. In order to restore disturbed public order and peace, police officers of the Ministry of the Interior used the following means of coercion: physical force, batons, restraint devices and chemical agents.

On 8 July 2020 in Kragujevac, on the plateau in front of the City Assembly, a public gathering took place attended by 250 citizens. On that occasion, a group of 50 violent protesters threw stones and solid objects on the building of police Administration of Kragujevac. They damaged official vehicles and broke windows by throwing pyrotechnic devices which caused fire. Police officers of the Ministry of the Interior intervened to restore public order and peace and used the

following coercion measures: physical force, police batons, restriction devices and chemical agents. During the intervention, 4 police officers sustained light bodily injuries.

On 8 July 2020 in Nis, in front of the City Assembly and on Trg kralja Milana as well as in the city streets, around 3,000 protesters gathered and moved across the city hurling solid objects at the building of the Police Administration in Nis and the premises of the Serbian Progressive Party. Four police officers received light bodily injuries while the above buildings sustained material damage.

The level of violence during these illegal protests by violent protesters is best illustrated by the fact that as many as 133 police officers were injured. The violent demonstrators also harmed three police horses. They damaged 36 vehicles (19 private and 17 belonging to the Ministry of the Interior of the Republic of Serbia), while 5 police vehicles were set ablaze and a large quantity of police protective gear was damaged.

Ombudsman issued a statement on police conduct during the protests on 9 July 2020 stating that the police did not use excessive force and that certain cases will be examined.¹ Actually, the Ombudsman established, by direct oversight of the public gathering in Belgrade on 8 July 2020, that the police did not use excessive force against the protesters except in specific cases for which the Ombudsman initiated procedures to examine whether the activities of the members of the Ministry of the Interior were legal and appropriate. In order to establish full truth and inform the public accordingly, Ombudsman stated that control proceedings have been initiated for certain cases of the alleged use of excessive force and that it was concluded that the police officers did not apply systematic repression. According to the information gathered by three Ombudsman teams that supervised the situation in several locations in the center of Belgrade, the statement read that police officers did not overstep their authority and responded only after they had been attacked by groups of citizens hurling stone blocks, glass bottles and tear gas at them. The teams witnessed several situations where certain police officers overstepped their authority which will be further examined by Ombudsman even though they were also present while police officers were hit and attacked but responded by utmost restraint. A member of the Ombudsman team was also hurt in one of the attacks involving stones and glass bottles thrown at police officers. Also, one of the teams witnessed the situation where tear gas was found in the pockets of detained protesters. As stated in his report, the Ombudsman did not receive any citizen complaints on improper police conduct during a public gathering on 8 July 2020 in Belgrade while the presence of his teams in some situations had a preventive effect on police conduct. For example, police officers read the rights to 8 detainees to explain them the procedures and charges against them prior to putting them in police vehicles.

As for the allegation that *“it is not possible to provide a total number of people that suffered injuries or individuals put under arrest”*, we would like to inform you that according to the information of the Ministry of the Interior, 78 protesters sustained injuries while 373 individuals who participated in the protests ended in the custody of the Ministry of the Interior. Detailed

¹ <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-2610-05-05/6693-p-lici-ni-ris-il-pr-rnu-silu-p-din-cni-sluc-vi-bic-isp-i-ni>

information on the factual and legal grounds for their arrest, detention and proceedings against protesters are including in reply under point 4 from the appeal of UN Special Procedures.

In reply to the allegation that *“up to date, the Public Prosecutors Office in Belgrade and in other cities have not initiated any investigation into the alleged cases of police brutality, and of ill-treatment, and have remained silent on several dozen criminal complaints on the use of violence amounting to ill-treatment by police forces, which have been submitted by individual victims and civil society organizations,”* it should be noted that Internal Control Sector of the Ministry of the Interior has undertaken a set of activities to examine the cases that may have contained elements of criminal activities and in several cases acted upon motions of the competent public prosecutors offices to gather information from citizens, in line with the Law on Criminal Proceedings (“Official Gazette of RS” Nos 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014 and 35/2019). A detailed overview of the activities undertaken by the Internal Control Sector is contained in reply to question 2 from the appeal of UN Special Procedures.

We would like to inform that the proceedings are underway to establish whether the coercion measures were justified and appropriate in line with the Law on Police, by undertaking prescribed procedures to ascertain whether the coercion measures were justified and proper.

In the period ahead, in line with legal procedures, all actions taken by police officers during these protests will be thoroughly examined and every police officer that acted contrary to the law will be subject to proceedings including criminal proceedings in case there is reason to believe that a criminal act had taken place.

For all other allegations, the relevant bodies and institutions of the Republic of Serbia are undertaking proper checks and procedures.

- 2. Please provide detailed information on measures taken by your Excellency’s Government to carry out prompt, impartial, independent and effective investigations into alleged cases of excessive use of force and ill-treatment, including but not limited to those documents on video clips widely circulated in the media. If no investigations have been undertaken, please indicate how this is compatible with Serbia’s international law obligations.**

We urge you to take into account that the alleged cases of “excessive use of force and abuse” are being thoroughly investigated. The criminal cases are processed by competent Public Prosecutor’s Offices as independent and impartial bodies. According to the information of the Ministry of Justice, three police officers have been processed on account of excessive use of force and misconduct, which is qualified as a criminal act of violent behavior (Article 334 of the Criminal Code). The Basic Prosecutor’s Offices in Novi Sad, Backa Palanka and Zrenjanin initiated investigations against them which are ongoing.

The Internal Control Sector of the Ministry of the Interior is in charge of monitoring the legality of work of police officers and of other employees in the Ministry of the Interior especially in

terms of respect and protection of human and minority rights in performance of their official duties and exercise of police authority i.e. in performing the tasks from their scope of work.

The Internal Control Sector undertakes measures and activities in line with the law regulating criminal procedures for detection and prevention of criminal acts of corruption and other types of corruptive behavior as well as other criminal acts performed by police officers and other employees of the Ministry of the Interior committed in the line of duty or connected to it.

External control of the Internal Control Sector of the Ministry of the Interior is conducted by the National Assembly of the Republic of Serbia, judicial authorities, independent state bodies in charge of supervision and other authorized state bodies and authorities including citizens and the general public.

The Republic Public Prosecutors Office and the Internal Control Sector in 2017 prepared Methodology for conducting an investigation in cases of police abuse which was adopted in the form of binding instruction for the Prosecutors² while the Ministry of the Interior on 18 October 2017 enacted an Instruction on the Methodology for conducting an investigation in cases of police abuse.³

In working out the methodology, the Republic Public Prosecutors Office and the Internal Control Sector were aware of the need to conduct a quick, independent and efficient investigation of the alleged abuse on the basis of several international documents ratified by Serbia as well as the comments of the UN Human Rights Committee, UN Committee Against Torture, relevant judgements of the European Court of Human Rights adopted in the proceedings regarding the Republic of Serbia and the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment prepared after their visits to the Republic of Serbia.

According to the Methodology, the investigation is conducted by Public Prosecutor or exceptionally it may entrust some evidentiary processes to the Internal Control Sector. The investigation should not be conducted by the Public Prosecutor who acted or is acting in the case in which the injured party (alleged victim of abuse) is appearing as a defendant or a witness. Consequently, if in the course of any criminal proceedings “a trustworthy allegation” is advanced or there are clear indications that the defendant or a witness was abused, a special criminal case will be set up to examine these allegations and another public prosecutor will be engaged.

In line with chapter 4 of the Methodology, “public prosecutor may initiate proceedings through the Internal Control Sector to suspend a police officer pending the end of the investigation. Interrogation of witnesses may not be attended by police officers and the defendant. Exceptionally, for security reasons, the interrogation of witnesses may be attended by police officers who did not take part in the event under investigation”.

2

<http://www.rjt.gov.rs/assets/Methodologija%20za%istragu%20u%20slu%C4%8Dajevima%20zlostavljanja%20book.pdf>

³ <http://prezentacije.mup.gov.rs/sukp/usavr.html>

Ombudsman transmitted to the Ministry of the Interior several communications to inform of the initiated proceedings to examine whether the Ministry's activities in Belgrade on 7/8 July 2020 and 8/9 July were legal and appropriate. After all relevant organizational units make their statements and each of the complaints are checked, a comprehensive report on the activities of the Ministry of the Interior will be transmitted to the Ombudsman.

The Belgrade Center for Human Rights transmitted to the Ministry of the Interior video clips in connection with 12 incidents (protests in Belgrade) as well as with two events (protests in Novi Sad) taken from various social networks (YouTube, Twitter, etc.) as well as from TV N1.

Also, one of the clips transmitted by the Belgrade Center for Human Rights was sent also by the association "Autism – Right to Life" depicting unidentified police officers in Novi Sad on 8 July 2020 physically attacking a person riding a bicycle who was then kicked by another officer.

All of the above clips, in line with provisions of Articles 44 and 285 of the Law on Criminal Procedure and the Methodology for conducting an investigation in cases of police abuse were transmitted to Basic Public Prosecutor's Offices in Belgrade and Novi Sad for further action and the submitters were duly informed thereof.

Measures and actions taken from the competences of the Internal Control Sector:

- Basic Public Prosecutor's Office in Novi Sad submitted to the Internal Control Sector a request to gather necessary information in connection with the incident in Novi Sad i.e. the video clip that appeared on social networks in which an unidentified police officer is applying coercion measure against a citizen riding a bicycle.

Acting upon the request, police officers of the Internal Control Sector identified the police officer and the Public Prosecutor's Office filed criminal charges against him on 20 July 2020, following a regular procedure because there was a reason to believe that he committed a criminal act of "violent behavior" from Article 344 of the Criminal Code of the Republic of Serbia.

- On 17 July 2020, the First Basic Public Prosecutor's Office submitted a request to the Internal Control Sector to gather necessary information in connection with criminal charges filed by the Belgrade Center for Human Rights and A11 – initiative for economic and social rights, submitted to the above Prosecutor's Office in the period from 8 to 10 July 2020 against unidentified persons who allegedly committed the criminal acts of abuse and torture.

Police officers of the Internal Control Sector have undertaken to urgently check the circumstances of the request and will inform the Prosecutor's Office accordingly.

- The Belgrade Center for Human Rights transmitted to the Internal Control Sector several criminal charges against unidentified uniformed police officers of the Ministry of the Interior for alleged excessive use of force during protests in Belgrade and Novi Sad.

In line with provisions of Article 44 and 285 of the Law on Criminal Procedure and the Methodology for conducting an investigation in case of police abuse, all criminal charges were transmitted for further action to the Public Prosecutor's Offices in Belgrade and Novi Sad and the submitters were informed accordingly.

- The First Basic Public Prosecutor's Office in Belgrade and Basic Public Prosecutor's Office in Novi Sad transmitted to the Internal Control Sector several requests for gathering of information related to the events during protests in Belgrade and Novi Sad containing allegations of criminal acts committed by unidentified police officers.

We would like to emphasize that the Internal Control Sector will urgently and without delay check the above allegations after requests for gathering relevant information are sent to the competent Prosecutor's Offices in Belgrade and Novi Sad and inform the petitioners accordingly.

3. Please provide detailed information on the precise measures taken in follow-up of the report of the Special Rapporteur on torture on his official visit to Serbia in November 2017 (A/HRC/40/59/ADD.1), in particular his observation regarding systematic police violence (para 20) and the specific recommendation regarding the establishment of institutionally independent oversight and accountability mechanisms (para 24).

As for the above request, we would like to inform of the following.

In connection with para 20 related to many received complaints on police torture and abuse and the establishment of an independent, urgent and efficient mechanism for complaints, oversight and investigation, we would like to inform that the Law on Police stipulates control of police work in addressing the complaints.

In that respect, Article 234 para 7 of the above law stipulates that in case the complaint contains elements of criminal act, the competent public prosecutor shall be immediately informed thereof as well as the Internal Control Sector and the head of organizational unit in which the accused is working and inform the person submitting complaint accordingly.

The above regulation is elaborated further in Article 5 of the Rulebook on Complaints and Grievances in the Ministry of the Interior ("Official Gazette of RS" No. 90/19) which was adopted in December 2019 and entered into force on 28 December 2019, stipulating that if the complaint contains allegations of torture, inhuman and degrading treatment, bodily injuries and threats of torture, the head of the organizational units informs without delay the Internal Control Sector and makes all documents related to the case available to him and informs director of the police of the action taken as well as the relevant body in charge of implementing the highest standards of police conduct in the field of prevention and torture. For a part of the complaint that does not contain the allegations of the criminal act a complaint procedure is initiated.

In this way, all complaints involving torture, inhuman and degrading treatment by police, submitted to the police are practically immediately transmitted to the competent

Prosecutor's Office and the Internal Control Sector which act in line with the Law on Criminal Procedure and the Instruction on Methodology to conduct an investigation in case of police abuse, adopted by the Minister of the Interior on 18 October 2017.

Also, we would like to indicate that following the visit of the Special Rapporteur against Torture and other Cruel, Inhuman and Degrading Treatment to the Republic of Serbia in November 2017, new Rulebook on Police Powers was adopted ("Official Gazette of RS" No. 41/2019), which, inter alia, in line with the Law on Police in Article 36 prescribes the method and conditions of conducting medical exams of persons subjected to police powers.

The Rulebook on Police Powers stipulates the rights of arrested and detained persons. Persons subject to police powers during arrest and detention are informed in a language understandable to them of their rights orally and by delivering them an information in writing.

Also the Rulebook of Police Powers stipulates the need to make a detailed Minutes on arrested persons with all relevant information on exercising this police authority which is upon the end of the detention signed by a police officer exercising this police power and handed to this person.

At the same time, we would like to emphasize that in line with the recommendations of the National mechanism for prevention of torture, the Commission for implementation of standards of police conduct in the field of prevention of torture, initiated with the Human Resources Sector, the training of police officers in connection with the method of conducting official interview with persons including mentally impaired persons.

In connection with observations from point 24 of the Special Rapporteur against Torture and other Cruel, Inhuman or Degrading Punishment and Treatment, calling upon "Serbian authorities to ensure totally independent, urgent and efficient mechanisms for complaints, oversight and investigation ...", we would like to note that in line with the Law on Police, the police is independent in its operations from other state authorities in the conduct of police affairs and other duties in line with the law within the police responsibility.

In the past period, significant measures were undertaken in the Republic of Serbia to establish independent mechanisms to investigate the alleged police abuse.

The Law on Criminal Procedure stipulates that the competent public prosecutor conducts pre-investigating proceedings i.e. conducts investigation. The role of the Public Prosecutor in cases of police abuse is even more pronounced by the adoption of the Methodology for conducting an investigation in cases of police abuse, adopted on the eve of the visit of the Special Rapporteur to the Republic of Serbia from 13 to 24 November 2017.

According to Article 44 of the Law on Criminal Procedure, all authorities taking part in the pre-investigation proceedings are obliged to inform the competent public prosecutor of each undertaken action in order to detect a criminal act or track down the suspect. Police and other state authorities in charge of detecting criminal acts are obliged to act upon each request of the competent public prosecutor.

The Internal Control Sector has paid continued attention also to additional training of police officers in connection with the protection of human rights of persons in custody or detainees.

In 2018 and 2019, with the support of OSCE mission in Serbia, 16 one-day training sessions were held to facilitate the implementation of the Methodology for conducting an investigation in cases of police abuse, in which public prosecutors and more than 150 police officers from Internal Control Sector and regional police administrations took part.

Moreover, the Internal Control Sector along with the representatives of the Police Directorate and Human Resources Sectors took part in the implementation of the first phase of project “Strengthening protection of human rights of detainees and convicts in Serbia”, as part of joint program of the Council of Europe and EU “Horizontal Facility for the Western Balkans and Turkey”. The first phase was completed in May 2019, while active participation of the representatives of the Ministry of the Interior was continued also in the second phase of the project, which followed immediately after the completion of the first.

4. Please provide information on the factual and legal basis for the arrest, detention and trials of the up to the 150 protesters. Please include information on how many detained protesters are in custody, have been released and whether those still detained have been charged with criminal offences, have been granted access to a lawyer of their choice, and have been promptly brought before a judge to determine the validity of their detention. Please also include information on how many protesters have been convicted and on what charges.

According to the information of the Ministry of Justice, 37 persons were processed for criminal acts committed in connection with the protests in Belgrade. Of that number, 30 persons were suspected of criminal act of obstructing an officer in performance of duty from Article 23 of the Law on Public order and peace. Other arrested protesters were suspected of committing other criminal acts, such as: violent behavior (Article 344 of the Criminal Code); violent behavior at sports event or public gathering (Article 344a of the Criminal Code); attack on an official in performance of duty (Article 323 of the Criminal Code); endangerment of security (Article 138 of the Criminal Code); light bodily injuries (Article 122 of the Criminal Code); illegal production, possession, carrying and trade in arms and explosive materials (Article 348 of the Criminal Code) and endangerment of safety (Article 278 of the Criminal Code).

According to the information of the Ministry of Justice, 36 protesters were remanded in police custody in line with provisions of Article 294 of the Law on Criminal Procedure, stipulating that the Public Prosecutor cannot keep in custody detained persons for questioning more than 48 hours from the moment of arrest. The existing legal framework

and practice are in line with the highest standards of protection of the rights of detainees. Public Prosecutor or police in line with the former's approval, immediately but not later than two hours after the arrest, issue and deliver the remand order for detention which has to include the act of which the detainee is charged with, reasonable grounds, date and time of arrest or his response to the order as well as time the arrest began. The suspect and his lawyer have a right of appeal within six hours of the order's deliverance. The judge in previous proceedings will make a decision on the appeal within four hours of its receipt. The appeal does not have a suspensory effect. The suspect shall enjoy all rights under the law. It should also be noted that the suspect has to have a lawyer as soon as the detention order is issued. In case the suspect himself does not obtain a lawyer within four hours, the Public Prosecutor shall *ex officio* provide him one from the list of lawyers provided by the relevant Bar.

After interrogation, 16 suspects were remanded in custody in line with Articles 210 – 215 of the Law on Criminal Procedure. The provisions on detention are restrictive and in line with relevant international standards in that respect. The custody may be ordered only by the decision of the competent court, under the terms stipulated in the Law on Criminal Procedure and only if the same purpose cannot be achieved by another measure. It is duty of all organs taking part in the criminal procedure and of the authorities extending legal assistance to make detention as short as possible and to act quickly if the suspect is remanded in custody. In line with above legal provisions, each suspect is handed a remand order with precise information of the criminal act he has been suspected of, legal basis for detention, timeframe of detention, time of arrest, information on his right of appeal, basis and reasons for detention. Out of 16 defendants, 14 were released. A total of three persons were charged. Two were found guilty and convicted (one for the criminal act of attacking an official in performance of duty and the other for violent behavior).

As for jurisdiction of the Appellate Court in Novi Sad, the Basic Public Prosecutor's Office in Novi Sad initiated criminal proceedings against nine suspects and the Prosecutor's Office in Zrenjanin against one suspect. All 11 suspects were arrested for the above mentioned criminal acts of violent behavior (Article 344 of the Criminal Code), attack against an official in performance of duty (Article 323 of the Criminal Code), endangerment of safety (Article 278 of the Criminal Code). Nine suspects were remanded in police custody (not later than 48 hours). Basic Public Prosecutor's Office in Novi Sad did not order any police custody. Police custody was ordered only against one person in Zrenjanin for the duration of 48 hours. Charges were brought against one of the suspects while investigation was discontinued in two cases. None of 11 suspects have been convicted so far.

As for the Appellate Court in Kragujevac, 31 persons were arrested on charges of violent behavior (Article 344 of the Criminal Code) or for criminal act of violent behavior at sports events or public gathering (Article 344a of the Criminal Code). Of that number, 14 suspects were remanded in police custody. Detention was ordered for sixteen suspects and cancelled later for fourteen persons. So far, charges were brought against four. Three suspects were found guilty and convicted on account of these criminal acts.

In the jurisdiction of the Appellate Court of Nis, only one person was arrested and was remanded in police custody. No detention was set for him. The investigation against this suspect is ongoing for the criminal act of violent behavior (Article 344 of the Criminal Code).

In reply to the request to provide information on the factual and legal basis for the arrest, detention and trials, according to the information of the Ministry of the Interior, during these events 208 persons were remanded in custody, of which 127 were detained in accordance with the Law on Misdemeanors (“Official Gazette of RS” Nos 65/2013, 13/2016, 98/2016 / decision of the Constitutional Court 91/2019 and 91/2019 – other law) and 81 persons in accordance with the Law on Criminal Procedure. Thirty-three persons were detained in connection with the above events.

A total of 60 criminal charges were filed in connection with the above events because there was reason to believe that criminal acts had been committed.

- 30 criminal charges for the criminal act of “Attack on an official in performance of duty” from Article 23 of the Law on Public order and Peace (“Official Gazette of RS” Nos 6/2016 and 24/2018);
- 9 criminal charges for the criminal act of “Violent behavior” from Article 344 of the Criminal Code of the Republic of Serbia;
- 8 criminal charges for the criminal act of “Violent behavior during sports events or public gathering”, from Article 344a of the Criminal Code of the Republic of Serbia;
- 7 criminal charges for the criminal act of “Attack on an official in performance of duty” from Article 323 of the Criminal Code of the Republic of Serbia;
- 2 criminal charges for the criminal act of “Endangerment of safety” from Article 278 of the Criminal Code of the Republic of Serbia;
- 2 criminal charges for the criminal act of “Illegal production, possession, carrying and circulation of weapons and explosives”, from Article 348 of the Criminal Code of the Republic of Serbia;
- 1 criminal charge for the criminal act of “Light bodily injury” from Article 122 of the Criminal Code of the Republic of Serbia;
- 1 criminal charge for the criminal act of “Illegal possession of narcotic drugs” from Article 246a of the Criminal Code of the Republic of Serbia.

Moreover, 247 motions to initiate misdemeanor proceedings for the commission of 302 misdemeanors committed during these events were submitted:

- 144 misdemeanors proceedings for “Indecent, rude and ruthless behavior”, from Article 8 of the Law on public order and peace;
- 78 misdemeanor proceedings for “Insulting an official in performance of duty”, from Article 22 of the Law on public order and peace;
- 36 misdemeanor proceedings in connection with the Law on Identity Card (“Official Gazette of RS” Nos 62/2006 and 36/2011);
- 12 misdemeanor proceedings in connection with the Law on Arms and Ammunition (“Official Gazette of RS” no. 20 of 24 February 2015, No. 10 of 15 February 2019 and No. 20 of 4 march 2020);
- 11 misdemeanor proceedings in connection with the Law on trade in explosive materials⁴;
- 7 misdemeanor proceedings in connection with the Law on safety of road traffic⁵;
- 6 misdemeanor proceedings in connection with “Quarrel, screaming and noise” in public place from Article 7 of the Law on Public Order and Peace;
- 1 misdemeanor proceeding in connection with “Insulting, violence, threats or fighting” from Article 9 of the Law on Public Order and Peace, and
- 1 misdemeanor proceedings in connection with “Selling alcoholic beverages to persons under the influence and to minors”, in connection with Article 21 of the Law on Public Order and Peace.

Of all persons brought to custody, 13 had selected their own lawyers while 120 were given court appointed lawyers.

According to the information of the Ministry of the Interior, 8 persons were convicted for commission of criminal acts (6 for the criminal act of “Obstructing an official in performance of duty” from Article 23 of the Law on Public Order and Peace; 1 person for the criminal act of “Endangering security” from Article 138 of the Criminal Code of the Republic of Serbia; 1 person for the criminal act of “Violent behavior at sports event or public gathering” from Article 344a of the Criminal Code of the Republic of Serbia), while 49 persons were convicted of misdemeanors (40 for violating the Law on Public Order and Peace, 3 for violating the Law on trade in explosive materials; 3 for violating the Law on Identity Card and 3 for violating the Law on Arms and Ammunition).

According to the information available to the Ministry of the Interior, 165 persons were processed in fast-track proceedings since there was reason to believe that they had committed criminal acts and misdemeanors.

⁴ “Official Gazette of SFRY”, No. 30 of 21 June 1985; No. 6 of 27 January 1989; “Official Gazette of FRY” No. 53 of 12 July 1991; No. 16 of 7 April 1993 – other law, No. 31 of 18 June 1993 – other law, No. 41 of @3 July 1993- other law, No. 24 of 18 march 1994 – other law, No. 28 of 21 June 1996 – other law, No. 68 of 19 December 2002; “Official Gazette of RS” No. 101 of 21 November 2005 – other law

⁵“Official Gazette of RS” Nos. 41/2009,53/2010,101/2011,32/2013 – decision of the Constitutional Court 55/2014, 96/2015 – other law, 9/2016 decision of the Constitutional Court, 24/2018, 41/2018, 41/2018 – other law, 87/2018 and 23/2019

We would like to point instances of hasty criticism and assessments against the police which lacked any serious analysis while some of the clips were misused to support the claims of systemic behavior of police in general.

All democratic societies have legal procedures that take time. Serbian police was not granted that time and its conduct was assessed and generalized on the basis of unconfirmed information and individual cases.

Taking into account the above, we sincerely believe that the role of the state was clear - Ministry of the Interior and police are to protect the citizens of the Republic of Serbia and their property, while the police resorted to coercion measures only after peaceful protests turned into violent ones and when clear and present danger to public safety, peace and order occurred.