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Protection of Human Rights
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Thank you Mr. Chairman,

My name is Pavlina Mihajlenko and I come from Serbia. I represent the Centre for Human Rights - Nis, a NGO based in Nis in Serbia.

I would like to give an intervention regarding the Article 1. 1 of the Declaration on the Rights of Minorities which states that "States shall protect the existence and national identity of minorities." and Article 1. 2, which states that states shall adopt, appropriate legislative and other measures to achieve those ends. The rights to be elected and to have access, on general terms of equality, to public service in his country, is also protected by Article 25 of International Covenant on Civil and Political Rights to which Serbia and Montenegro is a Party, which states that every citizen shall have the right and the opportunity to take part in the conduct of public affairs, directly or through freely chosen representatives and to vote and to be elected and to have access, on general terms of equality, to public service in his country.

On the territory of Republic of Serbia without Kosovo and Metohia, there are more than one million one hundred thousand members of national minorities. The rights of minorities in Serbia are protected through the Constitutional Charter of the State Union of Serbia and Montenegro, and The Law on the Protection of Rights and Freedoms of National Minorities regulates the way in which the rights of persons belonging to national minorities, to which individual and collective rights of national minorities have been guaranteed, and which was brought on federal level.

After the fall of Milosevic's regime certain changes have occurred, promising positive turning point. The most important was adoption of the Law on the Protection of Rights and Freedoms of National Minorities and the formation of councils of National Minorities grounded on that Law. Legal solutions have been harmonized in accordance with international standards. Nevertheless in electoral legislation of Serbia there has not been any positive step further. One of the reason is that parties want to win minority votes over for themselves in order not to make unions with the minority representatives into the parliament. Still in power is the Electoral Law from the previous period which for election of representatives into the parliament of Serbia. This law demands electoral census of 5%. This means that every party elected needs to gain 5% of the total votes.

Electoral results of the last parliamentary elections in Serbia held on 28 Decembar 2003 clearly show that there will not be representatives of minority communities from the independent list in the republic parliament who live in Serbia. The elections were held in a democratic manner, in all local areas electoral rules were respected, minorities had their own candidates, but the number of votes won by the only coalition of minority representatives did not pass the necessary electoral census of 5%.

Because of the proportional electoral system the representatives of minority political parties may be double important when parliament and government are constitutionalized. First, from the point of view of minorities, their ghetto position is

avoided and also paying attention to problems only concerning minorities from the side of their representatives. Also, and more important, majority political parties would be compelled to lead politics of tolerance and equal cooperation with the minority representatives if they want their votes.

Under these circumstances, in the present structure of Parliament of Serbia there are no official representatives of minority, and there isn't a direct representative of minority rights interests. That would be a violation of Declaration of Minorities Art 2. 3, which guaranteed the rights to participate effectively in decisions affecting the minorities.

In previous periods this problem was not present because at the last elections within the DOS coalition, which crashed the previous regime, there were representatives of minority parties which were the part of the parliament.

If we are seeking a solution to these problems in order to preserve the multicultural society and multiethnic and multiconfessional tradition in Serbia, the things I recommend to the Government of Serbia are:

- to propose changing of the Law of election of deputies of Republic of Serbia, which would determine lower electoral census or to ensure the effective participation of minorities through discrimination (giving guaranteed seats for minority representatives)

- to speed up the implementation of domestic and international instruments protecting and promoting minority rights

- to establish cooperation with NGO sector in terms of financing, partnership and information exchange in multiethnic, but also in majority areas, in which a sensitivity is needed to be developed for the above mentioned problems.

Thank you Mr. Chairman