

BOSNIA AND HERZEGOVINA



Ministry of Human Rights and Refugees

**THE SECOND PERIODIC REPORT
of Bosnia and Herzegovina under the International Covenant
on Civil and Political Rights**

Sarajevo, October 2010

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INTRODUCTION

The Human Rights Committee considered the initial report submitted by Bosnia and Herzegovina on the implementation of the International Covenant on Civil and Political Rights for the period from 1994 to 2004 (CCPR/C/BiH/1) at its 2402nd, 2403rd and 2404th sessions (CCPR/C/SR. 2402, 2403 and 2404) held on 18 and 19 October 2006 in Geneva and adopted Concluding Observations, in which positive aspects, factors and difficulties impeding the implementation of the Covenant on Civil and Political Rights were presented, main issues of concern were identified and suggestions and recommendations were given, and Bosnia and Herzegovina, as a member State of UN and UN Human Rights Committee, is to give its answers to the questions from the Concluding Observations of UN Committee and submit them to the Committee in the form of its Second Periodic Report until 1 November 2010.

The Ministry of Human Rights and Refugees of Bosnia and Herzegovina (hereinafter: the MHRR), as the responsible ministry, started fulfilling its obligations in a timely manner. After the presentation and adoption of the Initial Report before the UN Committee for Human Rights, the MHRR informed the BH Council of Ministers about the report of the BH delegation on the presentation of the Initial Report and about the Concluding Observations of the Committee containing conclusions that obliged the MHRR to inform all competent authorities and institutions about the content of Concluding Observations of the Committee so that they could implement the Concluding Observations, particularly those relating to the factors and difficulties that cause concern and hinder the implementation of the Covenant. The MHRR sent all the documents together with instructions to all relevant state bodies and institutions (judicial, legislative and administrative). The Initial Report and Concluding Observations of the Committee in all the three official languages of BiH were posted on the website of the MHRR, so that their content is available to the general public in BiH, as well as nongovernmental organizations can get familiar with them. In early 2010 the MHRR has established a cross-sectoral group with a mandate to draft the second periodic report. The working group consisted of representatives of relevant ministries at the state level, entity ministries and departments of Brcko District of BiH.

A need that members of the cross-sectoral group for drafting the second periodic report on the implementation of the International Covenant on Civil and Political Rights in BiH were experts and specialists who were most directly involved in this field from the whole country was taken into account.

The Second Periodic Report will be available to the civil society and NGOs operating in Bosnia and Herzegovina.

1. In conjunction with the positive aspects given by the UN Committee for Human Rights on the 1994-2004 initial report of Bosnia and Herzegovina on the implementation of the International Covenant on Civil and Political Rights, it should be noted that since the reporting period the Law on Amendments to the Law on Ombudsman for Human Rights in BiH has been fully implemented. In fact, entity institutions of Ombudsman have ceased to operate by adoption of

entity laws on cessation of functioning of these institutions. A unique institution has been established at the State level.

Special support to the work of Ombudsman for Human Rights of Bosnia and Herzegovina is given in the Law Against Discrimination (Official Gazette of BH, no. 50/09), which defines this institution as the central institution for prevention against discrimination in Bosnia and Herzegovina. Pursuant to Article 7 of the Law the Ombudsman has a competence to receive individual and group complaints alleging discrimination. The Ombudsman also needs to provide information to physical and legal persons about their rights, responsibilities and possibilities of judicial protection. On the basis of an appeal the Ombudsman decides on admitting a complaint or initiating an investigation and proposes the initiation of the mediation process.

So, it can be concluded that all necessary requirements for the Institution of Ombudsman for Human Rights operating at full capacity have been met and its independence and impartiality and a unique approach to the Human Rights in Bosnia and Herzegovina have been ensured.

The Committee positively evaluated the establishment of the State Gender Equality Agency and the Gender Centres at the Entity level, with a competence to make inquiries into individual cases of alleged violations of the Gender Equality Law in Bosnia and Herzegovina.

The Committee welcomes the State party's reform of criminal law and judicial system and in particular:

- (a) adoption of the Law on the Protection from Domestic Violence providing for a wide range of protective measures and a definition of domestic violence and trafficking in persons as separate crimes in the State and Entity Criminal Codes;
- (b) adoption of the state and entity level Law on Protection of Witnesses; and
- (c) establishment of the War Crimes Chamber at the Court of Bosnia and Herzegovina vested with competence to deal with war crimes cases transferred by the International Criminal Tribunal for Former Yugoslavia and of the State Investigation and Protection Agency within the Ministry for Security to enhance cooperation of the police with war crime prosecutors.

Recommendation No. 8.

The fact is that the Constitution of BH, Articles IV and V, provides that in election for the House of Peoples of Parliamentary Assembly of BH and tripartite Presidency of BH only members of the three constituent peoples: Bosniaks, Serbs and Croats can stand. The constitutional group of „Others“, which, by the Constitution of BH, has 17 national minorities, are unable to stand for election for the highest political positions. It has become clear that it is obvious discrimination against and inequality of one group of Bosnian citizens as they are unable to equally participate in election for most responsible positions at the level of Bosnia and Herzegovina.

The constitutional reform began in 2006, when the so-called „April Package“ was rejected by a number of political party representatives. The relevant constitutional amendments, which *inter alia* regulated the participation and equality of all citizens in BH in terms of the electoral process and equal right to stand for election and participation in government of all citizens regardless of their ethnicity, have not been adopted.

Due to the violation of the right to be elected and discrimination against „Others“, which are not people belonging to the constituent peoples in BH, as provided for in Constitution of BH,

representatives of Roma and Jewish peoples brought a lawsuit before the European Court of Human Rights in Strasbourg. It is the case of Dervo Sejdic and Jakob Finci against Bosnia and Herzegovina. On 22 December 2009 the Grand Chamber of the Court of Human Rights in Strasbourg reached verdict No. 27996/06 in favour of the complainants ordering BH to reimburse legal costs to the applicants and to amend the Constitution so as to bring it in line with the European Convention on Human Rights and Fundamental Freedoms.

With a view to introducing the relevant constitutional and legislative amendments the Council of Ministers adopted an Action Plan on 4 March 2010 and appointed a Working Group to draft them. The Central Election Commission of BH adopted the Action Plan on 18 February 2010, presenting in detail provisions which should be adopted and possible steps which needed to be taken if amendments were not adopted before the general elections until the end of May that year.

On 4 April 2010 the Council of Ministers adopted the Action Plan and appointed a Working Group to prepare a draft of the constitutional and legal amendments. Unfortunately, the Working Group of the Council of Ministers did not reach an agreement about proposed constitutional amendments because of a disagreement of leading politicians about crucial questions. On 22 April 2010, the Council of Ministers of BH considered the report of the Working Group responsible for the preparation of constitutional and legislative amendments and gave it a new deadline to discharge the task. It means that the general election in BiH will be conducted and BH will not be able to comply with the judgement of the European Court for Human Rights. Therefore, this is expected to be completed and complied with immediately after the election once the newly elected officials have taken office.

Recommendation No. 9

The International Covenant on Civil and Political Rights has been translated into the official languages of Bosnia and Herzegovina and the translations are available at the MHRR's web site which also contains the Concluding Observations of the Human Rights Committee also translated into the three languages and two alphabets in BH. After consideration and adoption by the Council of Ministers of BH, the Concluding Observations were delivered to the Governments of both entities and Brčko District of BH and all bodies and institutions in BH which are directly involved in the topics under the International Covenant on Civil and Political Rights. From the foregoing it is evident that the provisions of the Covenant and the Concluding Observations of the UN Committee are fully publicized.

According to information of the High Judicial and Prosecutorial Council of BiH, the entity Judicial and Prosecutorial Training Centres have not organized special trainings in the implementation of the International Covenant on Civil and Political Rights yet.

However, training of judges, prosecutors and lawyers in the implementation of the ICCPR will be organized in the coming period by the entity Judicial and Prosecutorial Training Centres.

Recommendation No. 10.

Since the signing of the GFPA several initiatives have been launched to establish facts about the past events. The efforts that have been directed towards establishing the Commission for Truth and Reconciliation. There have been several initiatives to establishing the facts such as the Commission for Sarajevo and Commission for Bijeljina. The first initiative for establishing the Commission for Truth and Reconciliation in BH was launched in 2000 by the „Truth and Reconciliation“ Citizens' Association supported by the American Peace Institute. The goal of this initiative was to inform the public and launch public debate on the necessity of establishing a single extra-judicial mechanism or an institution that would deal with the establishing facts of

crimes committed in 1990s. The key result was drafting of legislation on the Commission for Truth and Reconciliation which was referred to the Parliamentary Assembly of BH for deliberation in 2003. However, the draft was never deliberated in the Parliamentary Assembly. The second initiative for establishing the Commission for Truth and Reconciliation was launched by Dayton Project NGO, also in cooperation with the American Peace Institute and then eight Parliamentary parties. An attempt was made to mobilize the Parliamentary parties and their connections with civil society organizations (CSOs).

There have been other initiatives to establish the facts such as the Commission for Sarajevo and the Commission for Bijeljina. These Commissions have not become operational or have had problems while operating. In this sense, the only Commission that brought its operation to an end was the Srebrenica Commission. The official name of this commission is the Commission for Investigation of Events in and around Srebrenica from 10 to 19 July 1995. The Commission was established according to the decision of the Human Rights Chamber in *Selimović and others against RS* by the RS Government. The decision ordered the RS to conduct a quick and impartial investigation of events which brought about violations of human rights and to pay BAM 4 million into the account of the Srebrenica Potočari Foundation.

After these initiatives efforts were intensified to adopt a systematic approach to restoring mutual confidence between different ethnic groups and responsibility for the already committed human rights violations. In order to implement this approach in BH, the Ministry of Justice of BH and the Ministry for Human Rights and Refugees of BH, with the support of the UN Development program in BH (UNDP) began to implement the project of designing the Transitional Justice Strategy in BH.

Transitional justice is a method applied in societies that are burdened by the legacy of serious violations of human rights and includes several mechanisms which represent an attempt to respond to the violations of human rights and which leads to the establishment of the rule of law, renewal of trust and development of democratic processes in post-conflict country. These mechanisms include: criminal justice, institutional reform, establishing the facts (truth-telling) and reparation.

In 2008 BH adopted the 2008-2012 Justice Sector Reform Strategy of BH and the National War Crimes Prosecution Strategy.

After the Strategy, the Action Plan for the implementation of the Justice Sector Reform Strategy of BH was designed. These documents are a general policy framework of planning and implementation of reforms within five areas of justice: judicial system, execution of criminal sanctions, access to justice, support to economic growth and coordination and management and accountability of the justice sector until 2012.

The National War Crimes Prosecution Strategy provides a systematic approach to solve a large backlog of war crimes in the courts and prosecutor's offices of Bosnia and Herzegovina. This document defines the timelines, capacities, criteria and mechanisms for war crimes cases management, standardization of judicial practices, issues of regional cooperation, care and support to victims and witnesses, and financial aspects and supervision over the implementation of the Strategy.

The strategy emphasizes a need to process the most complex and most sensitive war crimes cases in seven years and other war crimes in the period of 15 years. A central database of all war crimes cases in BiH will be developed in the Court and the Prosecutor's Office of BiH. At the

same time a functional case management mechanism, i.e. a system of their assignment between the state and entity courts will be set up. The most accountable war criminals will be prosecuted as a matter of priority before the Court of BH, the cases being selected according to agreed criteria for selection of cases.

The harmonization of case law in war crimes cases is to be achieved to ensure legal certainty and equality of citizens before the law.

Government institutions have a constitutional and legal obligation to provide all citizens with equal, fair and effective legal protection in accordance with international obligations. In the process of legislative and judicial reform BH has reached the level where the national institutions and legal system include modern democratic principles and legal standards, with a special emphasis on the European Convention on Human Rights and Fundamental Freedoms. Awareness of access to justice and transitional justice as a *condicio sine qua non* for the development of potentials of BH in peacetime and security has been growing in the civil society.

The January 2010 decision of the Council of Ministers established an expert working group to develop Transitional Justice Strategy in BH, as a coordinating body that will lead a transparent and comprehensive process of consultation with all stakeholders of civil society and local institutions in order to make the strategy.

Recommendation No.11

So far BH has taken legislative and other measures to ensure gender equality, including in the area of political and public life. However, these measures have proved insufficient for a substantial change of the status of women in political life. Women remain on the margins of political power, deprived of their exerting influence on the definition and implementation of policies in the State.

The list of rights in the Constitution of BH explicitly states the right to freedom of thought, conscience and religion, freedom of expression and freedom of assembly and association. In accordance with the constitutional principle of non-discrimination, these rights are recognized to women and men in the same way. Furthermore, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is an integral part of the Constitution, therefore, it could be said that domestic legislation contains a special recognition of women's political rights in the manner provided in this instrument. Consequently, BH is obliged to take all measures aimed at eliminating discrimination against women in political and public life, as provided in the CEDAW.

The Constitution of the FBH and the RS Constitution provide for universal and equal suffrage for all citizens, which include *inter alia*:

- The right to form and belong to political parties,
- The right to participate in public affairs;
- The right to equal access to public services;
- The right to elect and be elected.

Therefore, all women and men have the same rights to participate in public and political life as guaranteed by the Constitution. However, constitutional provisions require more than equal treatment and opportunities; they require the same results or effects, taking into account the specific needs and situation of women and men. Only then it will be possible to talk about the equality of women. From the point of recognition of political rights of women, it is very important to analyze the BH Election Law, which defines the principles of elections at all levels of government in the country. This law prescribes rules on the gender structure of the electoral

lists of political parties, identifying the required quota for candidates from "less represented sex", which in practice refers to women who are underrepresented at all levels of government.

The Government's continued efforts to ensure gender equality in political life through the introduction of special measures to encourage greater participation of women in political life is encouraging. The State introduced the principle of electoral quotas for women, as well as a system of closed lists as early as in the 1998 election. The quota system has helped to elect a small but critically important number of women. However, apart from the quota, the new Election Law prescribes open electoral lists, which have reduced the chances of women to actually be elected, even if they are on the lists of candidates.

The BiH Election Law prescribes that each candidate list includes male and female candidates. Any candidate of the gender that is less represented on the lists is distributed to the candidate lists in the following way: at least one candidate of the less represented gender shall be among the top two candidates, two candidates of the less represented gender shall be among the top five candidates and three candidates of the less represented gender shall be among the top eight candidates, etc. The number of candidates of the less represented sex must be at least equal to the total number of candidates on the list divided by three, rounded up to the closest integer.

In 2010 the Law on Amendments to the Election Law ("Official Gazette" Nos: 23/01, 7 / 02, 9 / 02, 52/02, 4 / 04, 20/04, 25/05, 528/05 , 62/05, 77/05, 11/06, 24/06, 32/07, 33/08, 37/08 and 32/10) were passed, Article 4.19, paragraph (4) being significantly amended so that it reads: "Every candidates list shall include candidates of male and female gender. The minority gender candidates shall be distributed on the candidates list in the following manner: at least one (1) minority gender candidate amongst the first two (2) candidates, two (2) minority gender candidates amongst the first five (5) candidates, and three (3) minority gender candidates amongst the first eight (8) candidates et seq. The number of minority gender candidates shall be at least equal to the total number of candidates on the list, divided by three (3) rounded up to the closest integer."

This provision of the Election Law of BH complies with the provisions of the Law on Gender Equality of BH ("Official Gazette", No: 32/10 - consolidated text), although the constituency decides about the choice of candidates. Considering that the elections in Bosnia and Herzegovina will be held with "open lists", every voter has the right to elect a candidate from the list who he/she wants regardless of the order of candidates.

The Law on Amendments to the Law on Financing Political Parties ("BH Official Gazette" No. 102/09) has been adopted, stating that Article 10 Paragraph 1 of the Law on Financing Political Parties ("Official Gazette of BH", no. 22/00) is amended as follows: "Financing of the parliamentary groups represented in the Parliamentary Assembly shall be distributed so that 30% of the funds are distributed equally to all parliamentary groups, 60% of the total amount allocated in proportion to the number of seats that each parliamentary group holds at the time of distribution, while 10% of the total amount will be allocated to parliamentary groups in proportion to seats belonging to less represented gender. The Central Election Commission determines the under-represented gender according to official election results. "

The following reflects the representation of women in the executive and legislative authorities in BiH (2006-2010)

In the Council of Ministers, which consists of nine members - ministers as the heads of ministries at the state level, excluding the chairman, there are no women appointed to positions of ministers, except two women appointed to the position of deputy minister.

In comparison with the data above, the composition of the Parliamentary Assembly of BiH (in both the Houses there are 57 representatives) is as follows:

Gender structure:

Men: 49 or 85.96%

Woman: **8 or 14.04%**

Total: 57 or 100%

The composition of the Parliament of the Federation House of Representatives

Gender structure:

Men: 74 or 75.51%

Women: **24 or 24.48%**

Total: 98 or 100%

The composition of the Parliament of the Federation House of Peoples

Gender structure:

Men: 48 or 82.75%

Women: **10 or 17.24%**

Total: 58 or 100%

The National Assembly in Republika Srpska consists of eighty-three (83) members of parliament elected in direct election by the people. MPs in the National Assembly of the Republika Srpska were elected for two-year term of office until 2002 and since 2002, in accordance with the new legislation, MPs have been elected for a term of four years.

The Deputy Speaker of RS National Assembly is a woman.

Gender structure:

Men: 64 or 77.11%

Women: 19 or 22.89%

Total: 83 or 100%

Gender structure of MPs of the Brčko District:

Men: 28

Women: 3

Total: 31

The most recent general election in Bosnia and Herzegovina, which was held on 3 October 2010, shows a progress in the number of women standing for the most accountable positions, ranging from the cantonal, entity parliaments and the Parliamentary Assembly, the President and Deputy Prime Minister of entities and Government of Brčko District. The pre-election campaign and election statistics show that, out of 8242 candidates altogether, 6408 ones were male and 1834 ones were female, the percentage was 77.75% and 22.25% respectively. Although women make 52% of the total population of BH, after the election their participation in government is less and amounts to 22.25%. Responsibility in this case lies *inter alia* primarily with women, because their vote is traditionally cast in favour of men. In the coming period more activity will be required in the strengthening and promotion of women in society, in order to overcome traditionalism and distrust in women engaged in the most accountable positions. Upon

completion of the electoral process, according to final results we shall know how many women are elected in Bosnia and Herzegovina and in which positions.

Recommendation No.12

The Law on Gender Equality in BH ("Official Gazette of BH", no. 16/03, 102/09) recognizes domestic violence as a form of gender based violence, regulates, promotes and protects gender equality and guarantees equal opportunities for all citizens, both in public and private spheres of society, and prohibits direct and indirect discrimination based on sex. The Criminal Codes of FBH (Official Gazette of FBH, No. 36/03, 37/03, 21/04, 69/04, 18/05) - Article 222, of RS (Official Gazette RS, No. 49/03, 108 / 04, 37/06 and 70/06) - Article 208 and of the Brčko District of BH ("Official Gazette of BD, no. 10/03, 45/04 and 06/05) - Article 218, provide for domestic violence as a criminal offence.

The Law on Protection from Domestic Violence of FBH (Official Gazette of FBH, Nos. 22/05 and 51/06) and the Law on Protection from Domestic Violence of RS (Official Gazette RS, No. 118/05, 17/08) define domestic violence as any act that inflicts physical, psychological or sexual harm, suffering or economic damage, as well as threats of such acts or omission of due care and attention, which seriously hampers family members and people, whether they are in close relation and social connections or not or whether there was a community of life or not, to enjoy their rights and freedoms on the principle of gender equality in public and private life.

In Brčko District, the procedure for adoption of the Law on Protection from Domestic Violence is under way.

These laws regulate: the protection from violence, the notion of domestic violence, persons who are considered as family members, the way to protect family members, and the type and purpose of sanctioning the perpetrators of violent acts.

The obligation for protection from violence lies with the police, prosecutors, Centre for Social Work / guardianship authority and the courts for minor offences.

The protection is achieved by following the procedures under the Law on Minor Offences. Penalties aimed at the protection against domestic violence set forth in the both entity Laws on Protection from Domestic Violence are protection orders or fines in the event of failure of protection orders.

The protection orders include: 1) removal from the apartment, house or other dwelling, and the prohibition of returning to the apartment, house or other dwelling, 2) the prohibition of approaching the victim, 3) ensuring the protection of persons exposed to violence, 4) the prohibition of harassment or stalking of persons exposed to violence, 5) the obligations of psychosocial treatment; 6) the treatment of addiction and 7) community service for the benefit of local communities (this measure is provided for in the RS).

The most common causes of domestic violence are inadequate living conditions, unemployment, financial insecurity, alcoholism, stress, mental illness, drug addiction, and violence as a mode of behaviour, derived from patriarchic views of the relationship between wife and husband. Victims of domestic violence are spouses, former spouses, children, parents and other persons living in a household.

Although victims of domestic violence may be persons of both sexes, the studies of domestic violence show that women are more often victims of domestic violence, while men, in most cases, are abusers. In cases of domestic violence, children are normally considered to be victims, regardless of whether they are physically abused or not. Domestic violence leaves the children with very deep effects and trauma.

Prevention of domestic violence should be operating at different social levels: the level of government, communities and individuals. Prevention includes three categories:

- Primary prevention: prevention of violence (awareness-raising campaigns, training in human rights, syllabi for children and adolescents etc.).
- Secondary prevention: risk factors and risk groups identification, providing help (SOS lines, legal counselling - the interpretation of the law etc.).
- Tertiary prevention: the provisions that prevent further violence (direct assistance to victims, shelters, effective police intervention, court proceedings, dealing with bullies).

BH is obliged to respect international human rights instruments, which forbid violence in public and private life and thereby domestic violence. International and national documents are binding for BH and its entities, obliging them to take all available measures to prevent domestic violence, protect victims as much as possible, and appropriately punish the perpetrators.

In 2008 the Parliamentary Assembly of BH adopted the "Resolution on Combating Violence Against Women" ("Official Gazette" No. 15/08). The resolution affirms that all forms of violence against women, including domestic violence against women, violate rights and fundamental freedoms, and prevents or reverse the exercise of these rights and fundamental freedoms. The resolution expresses concern over the lack of progress in protecting and promoting these rights and freedoms in all cases of violence against women.

In FBiH in six safe houses (Foundation for Local Democracy of Sarajevo, Medica of Zenica, Vive Women of Tuzla, Women from Una of Bihać, BH Women of Mostar and Caritas of Mostar - Fondacija lokalne demokratije-Sarajevo, Medica-Zenica, Vive Žene-Tuzla, Žene sa Une-Bihać, Žena BiH-Mostar and Caritas-Mostar)), there are 244 victims: 194 victims of domestic violence have been accommodated for up to three months, and 50 victims of domestic violence have been accommodated for over three months. In 2007 in these safe houses 265 victims of domestic violence were accommodated.

Besides the accommodation for victims of domestic violence, the activities of NGOs during 2008 in relation to victims of violence were: counselling victims of violence, prevention of trafficking, economic empowerment of women, strengthening the capacity of professionals in the institutions, the provision of medical services, work with a violent person, media campaigns etc. In 2008 all of these services included 4937 direct beneficiaries and the number of indirect beneficiaries was certainly much higher.

NGOs in RS have 3 safe houses: "Budućnost" of Modriča, "Udružene žene" of Banja Luka and the "Foundation for Education, Development and Social Protection of Children" of Prijedor.

Currently, the listed safe houses in RS fulfil all requirements prescribed by laws and by-laws and their total capacity is 57 (Banja Luka: 21, Modriča: 16 and Prijedor: 20). The Strategy to Fight against Domestic Violence will determine a model and structures for accommodation of victims

of domestic violence, taking into account the recommendation of the Council of Europe having established the standard that there should be a safe house for every 7,500 – 10,000 people.

The mode of funding is prescribed by the Law on Protection from Domestic Violence and, according to Article 4 of the Law on Amendments to the Law on Protection from Domestic Violence, 70% of the funds for this accommodation shall be provided from the entity budget and 30% from the budget of the local community. The funds provided from the budget of the municipality / city are transferred according to a victim's place of residence to the relevant center for social work/ social welfare services, which will transfer these funds to the safe house in which the victim is taken care of. The funds from the entity budget are transferred to the safe houses directly.

The FBH Gender Centre has established an SOS phone line 1265 to help victims of domestic violence in the FBH. This project was developed in partnership with the Centre for Social Welfare of Jajce, the Foundation for Local Democracy of Sarajevo, "Medica" Citizens' Association of Zenica, "Vive Women" ("Vive Žene") Citizens' Association of Tuzla, Association of Women of Bosnia and Herzegovina ("Žena BiH") of Mostar and "Women from the Una" ("Žene sa Une") Association of Women of Bihać. The FBH Gender Centre agreed with all telecom operators in Bosnia and Herzegovina that calls made to the designated number are free. From the date of the establishment of this phone (the beginning of December 2008 until 31 December 2009) experts provided assistance to 2978 victims of domestic violence. It should be noted that non-governmental organizations whose staff provides technical assistance through this service have a major role in the functioning of this line, including in ensuring salaries for the staff. Bearing in mind the minimum standards of the Council of Europe for support to the services to assist women victims of violence and the obligation of the State to establish a helpline, in the coming period the provision of financial resources within the regular government budgets for the costs of this service should be considered.

The June 2005 Memorandum of Understanding between four NGOs in the RS and Gender Centre of Republika Srpska established a single emergency telephone line -1264 -for the entire RS. According to NGOs operating the SOS line: "United Women" („Udružene žene“) of Banja Luka, "The Future" („Budućnost“) of Modriča, "Lara" Women's Association of Bijeljina and "Women's Centre" of Trebinje, in the five months of 2005 (from the establishment of hotline 1264 until the end of 2005) 1019 calls related to domestic violence were recorded. In 2006 there were 2657 calls. In 70 cases, the victims were men and in 2587 cases the victims were women and in 88% of cases they were aged from 19-60 years. Two years after the establishment of SOS line in the RS there were 1973 calls where women were victims in 1941 cases and men were victims in 32 cases.

In the four years (2006-2010) for which the appropriate courts in the Federation were requested data, the Federation of Bosnia and Herzegovina recorded a total of 1275 cases involving the offence under Article 222 of the Criminal Code of the Federation of BH - domestic violence. The domestic violence suspects/offenders are far more commonly male. Out of 1335 the suspects/perpetrators of these crimes, as many as 1302 or 97.53% were men, and only 29 or 2.17% were women. The rest were minor perpetrators of these crimes. On the other hand, when it comes to injured parties/victims of these crimes, women were the most common group and made 1005 or 79.87% of the total number of 1258 injured parties/ victims of these crimes. The number of male victims of domestic violence was 100 or 7.95%. Thus, although there were much less men among victims of domestic violence, the data shows that there were men among the victims

of domestic violence. It is interesting that the courts identified children as victims of domestic violence in only 153 or 12.17% of cases involving 68 girls and 85 boys. These figures can be confusing because it is hard to believe that children were victims of domestic violence in such a small number of cases, especially compared with the number of women victims. The logical conclusion would be that the children victims of domestic violence mostly were not recorded or most prosecuted cases of domestic violence involved partner relationships where there were no children or they were not exposed to violence. Reviewing the sanctions imposed on domestic violence perpetrators, we can see that the suspended sentence was predominant, having been imposed in 1046 cases, which made 76.85% of the total number of criminal sanctions imposed for these crimes. The number of fines followed the number, having been imposed in 143 or 10.50% cases, while a sentence of imprisonment was imposed in 131 or 9.55% cases. Other criminal sanctions were imposed in 42 or 3.08% cases. From the point of protection orders imposed on behalf of victims of domestic violence against perpetrators, the definition of domestic violence as set forth in the Law on Protection from Domestic Violence of the Federation of BiH, which enumerates all forms of domestic violence, based on which the trial court imposes the statutory protective measures, is very important. These protection orders include: removal from the apartment, house or other dwelling, and the prohibition of returning to the apartment, house or other dwelling, the prohibition of approaching the victim, ensuring the protection of persons exposed to violence, harassment or stalking of a person exposed to violence, obligations of psychological treatment, treatment against addiction.

According to the data supplied by all the ten cantonal prosecutor's offices in connection with Article 222 of the FBiH Criminal Code, 781 criminal charges and 414 indictments were filed and 257 final and binding judgments were rendered while 284 cases are pending. Women were reported to be victims in 712 cases and men in 66 cases.

According to an analysis of the data supplied by 26 Municipal Courts, it is evident that these 26 Municipal Courts, in relation to Article 222 of the Criminal Code of FBH, received a total of 399 complaints, of which 323 cases were tried, 177 final and binding judgments were rendered, 73 judgments have not become final and binding yet, and 161 cases are pending.

According to the data supplied by all ten Cantonal Courts it is evident that in these Courts 11 cases in 2008 involved allegations of crimes under Article 222 of the Criminal Code of the FBiH.

Training of judges and prosecutors in the enforcement of laws on protection against domestic violence through programs of the aforementioned centres provides domestic violence training with a special emphasis on the penal policy.

Domestic violence as a relatively new type of crime was criminalized for the first time in the FBH CC in August 2003 and prosecutorial and judicial structures formed specialist teams dealing with collecting evidence of these types of crimes, assessing the severity of each case and taking appropriate statutory actions.

In order to prevent this type of crime the Strategic Plan for the Prevention of Domestic Violence in the Federation of BH (2009-2010) was developed. This document provides for a number of obligations for the Federation Ministry of the Interior - the Federation Police Department to be fulfilled in cooperation with the Cantonal Ministries of the Interior. A Working Group for development of training and train the trainers curriculum for police officers in the Federation BH in issues of domestic violence and for professional development in this area was established. This

group was appointed in a Decision by the Minister of the Interior dated 8 January and 20 April 2010 and consists of representatives of the Federation Prosecutor's Office, HJPC, Cantonal Courts in Sarajevo and Tuzla, the Municipal Court of Sarajevo, the Faculty of Criminality, Criminology and Security Studies, the Federation Police Department, the Canton Sarajevo Ministry of the Interior, FBH Gender Centre and Medica NGO of Zenica.

So far it has held five meetings and has prepared the Curriculum for publication. After the publication, training of 25 police officers will be held at the Police Academy in Sarajevo.

We note that in March 2009 the Federation Police Department developed an Action Plan to implement the Strategic Plan for the Prevention of Domestic Violence in the Federation of Bosnia and Herzegovina (2009-2010).

The 2007 -2008 Action Plan for Fight against Domestic Violence, which was adopted by the RS Government in July 2007, envisages the adoption of the Strategy for Fight against Domestic Violence in the RS for the period 2009-2013. The RS Government and National Assembly have adopted the draft strategy. Consideration and adoption of the draft Strategy is in process. The coordinator of the activities is the Gender Centre of RS and the partners are: the Ministry of the Interior of RS, the Ministry of Justice, the Ministry of Health and Social Welfare, the Ministry of Education and Culture, the Ministry of Family, Youth and Sports.

The Action Plan also envisages designing of a handbook for the entities providing protection in cases of domestic violence, which has been done. In late 2009 the Handbook for the Prevention of and Fight against Domestic Violence in RS - Procedures by Protection Providing Entities”, which was edited by the Gender Centre of the Republika Srpska, was printed and distributed to the protection providing entities. The Handbook specifically describes competences of each protection providing entity in cases of domestic violence. This is the first edition of the Handbook, which provides the basis for cross-sectoral cooperation in treatment and further improvement of practices in dealing with cases of domestic violence. The Ministry of the Interior of RS also gave its contribution to developing of the Handbook.

Within the Ministry of the Interior of RS there are professionally trained inspectors, dealing with cases of violence against children. There is a designated room for interviewing child victims of violence. The room is furnished in accordance with international standards and provides an environment suitable for children, as well as the video and audio recording of the conversation with children victims of violence, in order to avoid further victimization of the victims.

Cooperation between the RS Ministry of the Interior and other actors in charge of issues of juvenile delinquency (schools, centres for social work, medical facilities, courts, prosecutors, and other organizations and institutions, governmental and non-governmental sector) is satisfactory.

In November 2008 the representatives of the Ministry of the Interior, the Ministry of Health and Social Welfare and the Ministry of Education signed the Protocol on Procedures with Cases of Bullying among Children and Youth in the Educational System (School Peer Violence). This Protocol aims to strengthen cooperation between the appropriate authorities, and to identify concrete actions of appropriate authorities in cases of bullying.

The Ministry of Human Rights and Refugees, in cooperation with Save the Children Norway, has initiated the 2007-2010 National Strategy for Fight against Violence against Children. The strategy was adopted by the Council of Ministers at the 14th session held on 20 June 2007. This

strategy envisages the establishment of a monitoring team for continuous monitoring of the implementation of the National Strategy. In March 2008 the monitoring team made a plan for monitoring the implementation of the 2007-2010 National Strategy for Fight against Violence against Children and appropriate questionnaires / forms for collecting data on the implementation of the National Strategy to be filled in by all institutions involved in the National Strategy implementation. In 2009 the Ministry of Human Rights and Refugees, in cooperation with the monitoring team, prepared the report on the implementation of the 2007-2010 Strategy for Fight against Violence against Children in the period from June 2007 to December 2008. The Council of Ministers adopted the Report at the 111th meeting held on 13 January 2010. The monitoring team has been continuing their work in 2010 and are preparing the 2009 Second Report on the implementation of the 2007-2010 Strategy for Fight against Violence against Children, which will be forwarded to the Council of Ministers for adoption. The project was implemented in collaboration with Save the Children Norway which formed a Working Group to develop the Strategy for Fight against Violence against Children, which will cover the period 2011-2014. The Working Group consists of representatives of relevant institutions at the state and entity levels. Finalization of the Strategy is planned by the end of 2010.

Recommendation no. 13

With regard to this recommendation, which clearly specified necessary actions, it is necessary to note the following actions taken:

- a) In the most recent period there has been an upward trend in the number of judges in the district and cantonal courts, which will ensure faster adjudication of cases pending and help to ensure a sufficient number of staff for the prosecution of war crimes;
- b) The project to introduce the witnesses support department in the district and cantonal courts is being implemented.

Thus, the previously listed steps have brought about a significant progress in terms of prosecuting war crimes cases before the district and cantonal courts. Also, when it comes to implementation of the entity laws on the protection of witnesses under threat and vulnerable witnesses, the Court of BH has recently made considerable efforts to share their experiences and prevent the problems that have arisen in the initial phase of implementation of this legislation.

Furthermore, it is important to note that in Bosnia and Herzegovina in late 2008 the Council of Ministers adopted the National War Crimes Prosecution Strategy. The strategy provides a systematic approach to solve a large backlog of war crimes in the courts and prosecutor's offices of Bosnia and Herzegovina. This document defines the timelines, capacities, criteria and mechanisms for war crimes cases management, standardization of jurisprudence, issues of regional cooperation, care and support to victims and witnesses, as well as financial aspects, and supervising the implementation of the Strategy.

The strategy emphasizes a need to process the most complex and most sensitive war crimes cases in the next seven years, and the prosecution of other war crimes in the period of 15 years. A central database of all war crimes cases in BiH will be developed in the Court and the Prosecutor's Office of BiH. At the same time a functional case management mechanism, i.e. a system of their assignment between the state and entity courts will be set up. The most accountable war criminals will be prosecuted as a matter of priority before the Court of BH, the cases being selected according to agreed criteria for selection of cases. The harmonization of

jurisprudence in war crimes cases is to be achieved to ensure legal certainty and equality of citizens before the law.

The implementation of the above mentioned strategy has started in accordance with approved criteria and the cases are being transferred to the district and cantonal courts. Also, in order to ensure adequate legislation, amendments to the Code of Criminal Procedure ("Official Gazette" No. 93/09), which govern in details the procedure of transfer of cases involving crimes against humanity and values protected by international law.

IPA 2009 has planned activities requiring a total of EUR 1.8 million for strengthening the capacity of cantonal and district courts to prosecute war crime cases, as the main objective. The main activities are to ensure physical infrastructure for the processing of war crimes in at least 10 cantonal / district courts and to supply and install video equipment for the war crimes trials in at least 10 cantonal / district courts.

UNDP, in cooperation with HJPC, is implementing a USD 1.4 million project, where the main goal is also improving the capacity for successful conducting of investigation, indicting and trials of war crimes in Bosnia and Herzegovina. This project includes: training of judges and prosecutors in the cantonal / district and entity courts and prosecutor's offices in prosecution of war crimes, support to the establishment of a witness protection network, training of judges and prosecutors of the Court and Prosecutor's Office of BH and active regional cooperation and issues of the ICTY legacy.

Recommendation No.14

With regard to the Missing Persons Institute of BH, it should be noted that there have been significant positive developments.

After the Parliament of BH adopted the Law on Missing Persons in November 2004 ("Official Gazette" No. 50/04), as the only legal document of its kind in the world, which sets forth the principles for improving the process of searching, the definition of a missing person, the manner of keeping central records, the exercise of entitlements and other rights of family members of missing persons. The Law *inter alia* takes into account the International Covenant on Civil and Political Rights and the 1992 UN Declaration on the Protection of All Persons from Forced or Involuntary Disappearance. Thereafter, the international Agreement on Assuming the Role of Co-founders of the Missing Persons Institute of BH was signed and ratified by the Council of Ministers of BH and the International Commission for Missing Persons based in Sarajevo (BH Official Gazette - International Treaties, No. 13/05), establishing the Missing Persons Institute of Bosnia and Herzegovina (hereinafter: the Institute).

Although the Institute started to work on 1 July 2007 it became fully operational, staffed and equipped only a year ago. However, despite many difficulties, obstacles and obstructions imposed by individuals and the institutions over the past nearly three years of its existence, the Institute, in cooperation with the International Commission on Missing Persons (hereinafter: ICMP), the International Committee of the Red Cross (hereinafter: ICRC), the Court and the Prosecutor's Office of BH, Entity and Brcko District Prosecutor's Offices, State and Entity police and intelligence authorities and agencies, forensic experts, the companies that provide utility and burial services, demining and mountaineering teams, numerous witnesses and families of missing persons, has managed to locate and exhume the remains of about 2,700 missing persons.

In the same period of time the remains of 2,584 missing persons were identified and handed over to their families.

The above-mentioned data suggests that out of about 28,000 (precisely, 27,794 registered) missing persons, so far more than 20,000 have been found and more than 17,500 missing persons have been identified, which makes 72% of the total number of registered missing persons.

The ratio of identified and found persons is 87.5%.

So, currently, approximately 8,000 more missing persons are searched for, some of which will never be found, such as the ones burned, thrown to the bottom of rivers and lakes etc. In other words, about 10,500 missing persons (8,000 still missing persons and 2,500 found but unidentified missing persons) are still searched for.

Comparing the above-mentioned figures with those from the 2006 report of the UN Human Rights Council when 15,000 people were still believed missing, the accepted view is that a significant step has been made in a positive direction.

The issue of the causes and circumstances of disappearance (death) of missing persons should be considered separately from the process of searching for the missing. Resolving this issue is within the exclusive competence of judicial and police institutions, including the International Criminal Tribunal for Former Yugoslavia (ICTY).

Significant assistance in the identification of victims has been provided by the ICMP (DNA analysis laboratories) and ICRC (AMDB – ante-mortem database).

When it comes to verification of the primary database, i.e. developing the Central Records of Missing Persons (hereinafter: CRMP), the Institute has recently got access to all necessary databases (ICMP, ICRC, the Federation Commission for Missing Persons, the RS Office on Missing and Captured Persons), all necessary by-laws have been adopted for effective enforcement and protection of the verification process of the CRPM, and established the Commission for verification that has started to work on verification.

In order to implement the Law on Missing Persons in full, numerous by-laws have been adopted and they are:

- Rulebook on the Marking of the Exhumation and Burial of Missing Persons ("BH Official Gazette" No. 83/06);
- Decision on the Establishment of the Fund to Support Families of Missing Persons in BH ("BH Official Gazette" No. 96/06);
- Rulebook on the Receipt, Recording and Delivery of DNA Reports, adopted in 2008 by the Board of MPI;
- Rulebook on the Use of Funds of the Institute for Missing Persons for the Exhumation and Identification, adopted in 2008 by the Board of MPI;
- Rulebook on the Central Records of Missing Persons ("Official Gazette" BH No. 80/09).

The Institute has also enacted the Guidelines on Security and Protection of Information System of the Central Registry of Missing Persons ("BH Official Gazette", No. 2 / 10), governing the security goals of the Central Information System of Records, organization of protection and measures and means to protect the security and their implementation.

The establishment of the Fund for Missing Persons, which is a fund to support families of missing persons of BH (hereinafter: Fund) is an exclusive competence of the Council of Ministers and Governments of F BH, RS and Brcko District.

Unfortunately, despite the fact that some of these by-laws, whose enactment is within competence of the above-mentioned governments, the Fund, to this date, has not become operational due to a lack of consensus on the mode of its funding and where it is going to be based.

Recommendation No. 15

In the reporting period, i.e. from 2004 to 2010, amendments to the legislation which has improved the position of the victims of torture and civilian war victims, and persons with disabilities in general have been adopted. This particularly applies to the camp detainees and the victims of sexual abuse and rape. However, the existing legal framework has significantly extended discrimination among people who have already achieved the status of disabled persons, particularly, between disabled war veterans, civilian victims of war, disabled civilians and disabled workers, whereby the latter are placed in the worst position. An analysis of the situation, as a whole, shows that the entitlements granted on the basis of employment (to pensioners, disabled workers etc.), i.e. pursuant to the pension and disability scheme are lower than the entitlements granted on the basis of social welfare scheme (disabled war veterans, civilian victims of war, disabled civilians) in F BH.

The chapter of the Law on Amendments to the Law on Basic Social Protection, Protection of Civilian Victims of War and Families with Children ("FBH Official Gazette" No. 39/06) related to the civilian victims of war came into effect as of 1 September 2006.

This Law determines that civilian victims of war are persons who, during a war or imminent threat of war, sustained a body impairment of at least 60%, family members of civilian victims of war, camp detainees, victims of sexual abuse and rape and servicemen of armed forces of the former so-called "AP Western Bosnia".

Reasons for the adoption of these amendments were non-implementation and different implementation of the legislation governing the entitlements of civilian victims of war in the cantons of F BH, according to the Law on Basic Social Protection, Protection of Civilian Victims of War and Families with Children ("FBH Official Gazette" No. 36/99), which used to divide competences of the Federation and cantons in the field of social protection, i.e. provided that funding of social protection was solely within competence of cantons.

Three cantons in FBH were not paying benefits to civilian victims of war and their families in pursuance of the previous legislation (Herzegovina-Neretva Canton, Posavina Canton and Canton 10), while the remaining 7 Cantons paid the benefits fees in pursuance of cantonal legislation in different amounts.

Because of this situation, the question of unification of entitlements granted to the civilian victims of war and funding of the entitlements from the budget of the FBH was set as a matter of priority in the Strategy for Social Assistance Reform in the FBH, for which they obtained consent of all Cantons in the FBH.

The Federal Ministry of Labour and Social Policy prepared the draft amendments, in

collaboration with the World Bank, determining the base for the exercise of benefits in the amount of BAM 213.00, with the possibility of cantons' increasing the amount of personal disability allowance, allowance for care and assistance of another person, an orthopaedic disability allowance and family disability allowance, depending on their economic power. However, after having received numerous amendments to the draft law proposed by the appropriate ministry and the Government of F BH, which were submitted by associations and NGOs in the parliamentary procedure, the Parliament of FBH adopted a base that is applied to disabled war veterans' entitlements to be applied to the payment of benefits to the civilian victims of war. Also, the Law has introduced new groups of beneficiaries - camp detainees, victims of sexual abuse and rape and servicemen of the so-called "AP Western Bosnia", although the earlier legislation allowed the exercise of entitlements to persons who fulfilled the legal requirements.

Besides the adoption of the base for benefits paid to civilian victims of war in the amount equivalent to 70% of the base paid to disabled war veterans, the Law on Amendments to the Law provides that the entitlements of civilian victims of war are exercised in a manner and procedure provided for by law. Therefore, any application for entitlement is decided by the centre for social work as a body of first instance, while a review of the decision, i.e. the appellate proceedings, and payments to beneficiaries are conducted by the cantonal ministries responsible for social policy.

The exercise of entitlements is funded from the Federation budget and the Cantonal budget in the amount of 50% and 20% respectively of the base of disabled war veterans' benefits of the same category.

In accordance with the Law, the Federal Minister of Labour and Social Policy enacted by-laws for the law enforcement: Rulebook on the Body Impairment Rating of the Civilian Victim of War and Earning Ability Loss Assessment of the Family Members of the Civilian Victims of War in the Proceedings of Exercising of the Entitlements, the Instruction on the Manner of Allowances Payment to the Civilian Victim of War and the Manner of Keeping Records of Beneficiaries ("F BH Official Gazette" No. 56/06) and Instructions on the Recognition of the Status of Civilian Victims of War ("FBH Official Gazette of F BH" No. 62/06), which was drafted in cooperation with associations of civilian victims of war, camp detainees and victims of sexual abuse.

According to the records of the Federal Ministry of Labour and Social Policy in the FBH, 8,288 civilian victims of war were recorded in late 2005. During the implementation of the Law in 2009, 10,943 beneficiaries were recorded who received payments as follows: 4512 - personal disability allowance and 5709 - family disability allowance. Also, 612 individuals received a single allowance per month, which is a personal cash benefit, as a victim of sexual abuse and rape.

The legal status of victims of torture, camp detainees and victims of sexual abuse and rape

Article 54(1) of the Law on Basic Social Protection, Protection of Civilian Victims of War and Families with Children provides that the status of civilian victim of war is granted to a camp detainee, i.e. "the person who sustained a bodily impairment of at least 60% or significant deterioration in health due to torture, inhuman and degrading treatment, unlawful punishment, unlawful detention, imprisonment, concentration camp, internment, forced labour during the war or imminent threat of war." The base for determining benefits to be paid to civilian victims of war is 70% of the monthly amount of personal disability allowance paid to disabled war veterans and in 2008 it amounted to BAM 563.95.

Article 54(3) defines the status of civilian victims of war by the following wording "a special group within the group of civilian victims of war are persons who were victims to sexual assault and rape" and Article 59(2) provides for a monthly personal cash benefit for persons under Article 54(3) of this law amounting to 70% of the base that is applied to disabled war veterans' entitlements, which was BAM 563.95, as a single cash benefit, in 2008 in FBH.

It should be noted that even under the previous legislation, camp detainees and victims of sexual abuse and rape have the possibility of exercising entitlements under the law respecting civilian victims of war and that even then a prerequisite for it was bodily impairment of at least 60%. Under this law, a victim of sexual abuse and rape is required to submit findings, an opinion and assessment by a medical board of the Institute for Medical Expertise of Health Condition, without establishing the degree of disability.

Also, in 2009 in Una-Sana Canton there were a lot of proceedings for granting the entitlements under the law respecting civilian victims of war, which involved servicemen of the armed forces of "AP Western Bosnia" and their families, who were deliberately obstructed from collecting the necessary documentation and in other ways hindered and denied the entitlements of civilian victims of war and victims of sexual abuse and rape for many years after the war. This process is slow, but it started after numerous interventions of the Federal Ministry of Labour and Social Policy vested into it through the competence of administrative supervision, inspection control and other activities.

Omissions were noted in the Law on the Protection of Civilian Victims of War and Their Families, for example: in exercising the entitlements by previous beneficiaries - returnees to Republika Srpska, where applications for the status of civilian victim of war could not be filed after late 2007, and Article 76a of the Federation Law that revokes the entitlements of the beneficiaries if they leave Bosnia and Herzegovina for more than three months is questionable, too.

It is well known that most victims of sexual abuse and rape left Bosnia and Herzegovina for a number of reasons, mostly for not being able to protect privacy and what they lived through in the community that is traditional and loaded with prejudices.

Due to the inability to ensure data protection, both in government agencies conducting the proceedings and in the associations that were established to provide assistance to these victims of war, only a small number of women qualified for a monthly allowance, a personal cash benefit in the amount of BAM 563.95.

There are reports that a certain number of raped and abused women and men, because of this situation with the protection of data, conceal behind the entitlement to personal disability allowance granted to the first group of civilian victims of war, with 100% impairment. However, it still remains the problem of non-compliance with Article 18 of the Law on Gender Equality of the BH (BH Official Gazette No. 16/03), because there is no classification of statistical data by gender in the legislation governing the matter of persons disabled in peacetime and civilian victims of war.

The current database of civilian victims of war and their families in the F BH still lacks the possibility of collecting, recording and processing of beneficiaries by sex, age, ethnic, territorial and other statutory criteria for monitoring and reporting.

Effects on the overall situation and the forthcoming reform

It is necessary to point out a few facts that are important for understanding the situation in the field of social protection in the FBH and they are:

Because of the vagueness of legal provisions there are permanent demands for definition of new groups of beneficiaries of the entitlements and an increase in allowances exceeding the specific norms, applicable standards and known practices in the field of social protection;

The amount of financial benefits in the FBH in comparison with the Republika Srpska and Brcko District BH were higher by nearly 100%, which will considerably complicate the harmonization of legislation and social benefits throughout BH, which is a prerequisite for reform in this sector.

In addition, the persons whose disabilities are found to be a result of imprisonment in a camp were granted the entitlements under the legislation regulating entitlements of war veterans and disabled war veterans and civilian victims of war, while the status of civilian victim of war and the entitlements it carries can be achieved by other persons that present evidence under Article 54 of the Law, but they cannot get financial benefits.

It should be noted that the adopted amendments to the Laws on Social Protection in the Federation have further increased the discrimination against persons with congenital and acquired disabilities in favour of persons with disabilities as a result of war: disabled war veterans, civilian victims of war, camp detainees etc.

At the same time, 50% of the needy population in F BH is totally excluded from social protection system: children, the unemployed, the elderly without family care, families with more children, single parents, ethnic minorities etc.

The requirements that the reform of the social sector sets for the BH government in order to approximate the system to the European Union standards include the following:

- Establishment of a unified legal framework for the entitlements of all war veterans so that they can have more equal entitlements and financial benefits, that better control can be achieved and double dipping be prevented,
- By reforming the social sector as a whole, harmonization of the entitlements and allowances achieved on the basis of employment, social insurance and social protection and solidarity.

In the Republika Srpska there is no specific Law regulating the status of victims of torture as a specific group. However, this group of persons may, under certain conditions, achieve the status and entitlements under the Law on the Protection of War Veterans, People with Disabilities and Civilian Victims of War. Depending on the fact whether a person died as a soldier or a civilian his/her entitlements may be exercised in accordance with the valid legislation of the Republika Srpska: Law on the Entitlements of War Veterans, Militaries with Disabilities and Families of Soldiers Fallen in the Fatherland War of the Republika Srpska (Republika Srpska Official Gazette No. 55/07- consolidated text, 59/08 and 118/09) and Law on the Protection of Civilian Victims of War (Republika Srpska Official Gazette, No. 24/10). This group of persons is specified by law as equal to the other groups of persons in terms of achieving the status and entitlements.

An application for recognition of the status and entitlements is submitted to the municipal / city administrative authority responsible for the protection of war veterans and civilian victims of war, by place of residence, to which appropriate documentation is attached.

Specific conditions for obtaining the status of disabled war veteran under the Law on the Entitlements of War Veterans, Militaries with Disabilities and Families of Soldiers Fallen in the Fatherland War of the Republika Srpska. A bodily impairment of at least 20% caused by wounds or injuries which is determined by a medical board on the basis of medical records about treatment that cannot be older than one year after the termination of military service or a bodily impairment of at least 40% caused by disease which is determined by a medical board on the basis of medical records that can not be older than one year after discharge from the armed forces or cessation of the captivity.

The following person can obtain the status of civilian victim of war under the Law on the Protection of Civilian Victims of War:

A person who has a bodily impairment of at least 60% caused by abuse, rape and deprivation of liberty (prison, concentration camp, internment, forced labour), which is determined by a medical board on the basis of medical records about treatment that dates back to not more than one year from the date of impairment or cessation of the circumstances under which the impairment occurred.

The most important entitlements under the Law on the Entitlements of War Veterans, Militaries with Disabilities and Families of Soldiers Fallen in the Fatherland War of the Republika Srpska Disabled war veterans (regardless of the circumstances when disability occurred):

- Monthly allowance (personal disability allowance, supplement financial assistance, allowance for care and support, orthopaedic allowance)
- Health care (they do not chip in medical costs)
- Orthopaedic aids (in accordance with health care legislation)
- Spa rehabilitation in a special rehabilitation program of which the Government gives approval
- Priority in housing allocation (disabled war veterans in I to IV groups)

The family members of killed, missing or deceased combatants:

- Family disability allowance
- Health care (they do not chip in medical costs)
- Refunding of funeral costs of exhumed combatant
- Spa rehabilitation in a special rehabilitation program of which the Government gives approval
- Priority in housing allocation
- Refunding of costs of building a tombstone
- Allowance given to the family of a combatant who was awarded a medal

Entitlement to enjoy protection under the Law on the Protection of Civilian Victims of War

- Civilian disability allowance or family disability allowance
- Allowance for care and assistance of another person (the first group is the only group having this entitlement)
- Allowance for family members incapable of work
- Additional financial assistance
- Allowance for a single parent

- Health care
- Professional rehabilitation

Assessment of military / civilian disability based on mental illness

In determining the status of disabled war veteran and the status of civil victim of war, PTSD is taken into account under certain circumstances. Assessment of military / civilian disability is made by the Rulebook on Determining the Military Disability Rating ("Republika Srpska Official Gazette" No. 31/10).

Cash benefits under the Law on the Entitlements of War Veterans, Militaries with Disabilities and Families of Soldiers Fallen in the Fatherland War of the RS and the Law on Protection of Civilian Victims of War

According to the Law on the Entitlements of War Veterans, Militaries with Disabilities and Families of Soldiers Fallen in the Fatherland War of the Republika Srpska, the base for the calculation of monthly benefits is established by law at BAM 500.00. This base has been used for calculations since 1 May 2008.

Data on civilian victims of war in Bosnia and Herzegovina

Federation of BH	Number
Number of families of people killed	5790
Number of persons with disabilities (from 60% to 100%)	5153
Total:	10,943 civilian victims of war
Republika Srpska	Number
Civilian personal disability allowance Group I	87
Civilian personal disability allowance Group II	131
Civilian personal disability allowance Group III	83
Civilian personal disability allowance Group IV	219
Civilian personal disability allowance Group V	423
Civilian personal disability allowance Group VI	822
Family disability allowance of killed civilian victims of war	1.770
Family disability allowance of deceased civilian victims of war	290
Total:	3.825
Brcko District	Number
Beneficiaries of family disability allowance	160
Total:	160
Grand Total:	14.928

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Source: Federal Ministry of Labour and Social Policy and the Ministry of Labour and Protection of War Veterans and People with Disabilities of Republika Srpska.

Recommendation No. 16

Awareness of human trafficking in BH is poor. However, as it is correctly stated in the recommendations, the problem lies in the effective cooperation of the judiciary and law enforcement. Significant steps in this direction have been made and they have already produced concrete results, so it should be mentioned that several criminal cases of human trafficking have been closed. Also, a number of cases are pending before court and some are in the process of deciding on the appeal. It should further be noted that, as a rule, the crime of human trafficking is accompanied by the criminal offence of smuggling of persons. In this field, there has also been a significant progress in communication and cooperation between judicial authorities, so the time required for decisions by the courts on the prosecutors' proposals has significantly shortened. It should be noted that the cooperation with relevant authorities in neighbouring countries has significantly improved, which allows tracking down of organizations dealing with human trafficking and smuggling.

In 2008 BH ratified the European Convention on Action against Trafficking in Human Beings. There is an intention to harmonize the national legislation with international standards by amending the Criminal Code of BH (which came into force in May 2010) which completely revised the wording of criminal offence of trafficking, so that the domestic legislation introduced a whole new crime of "organizing a group or association for commission of the crime of human trafficking and migrant smuggling "(Article 189a).

So when it comes to cooperation between judicial authorities, we can say that significant progress has been made. However, there is still an open question of the inclusion of other institutions in this matter and the cooperation of the entity with the state police agencies.

In the criminal legislation of BH, criminal offences alleged to have been linked to human trafficking are classified in the chapter of crimes against humanity and values protected by international law. The crime of trafficking is defined in Article 186 of the CC of BH, which is aligned with the Palermo Protocol (Transnational Convention against Organized Crime amended by two protocols, one of them relating to the prevention, suppression and punishment of trafficking, especially in women and children). In the entity level legislation there are related offences, such as Article 210 of the CC of FBH - soliciting for prostitution/pandering, Article 198 of the CC of the Republika Srpska - trafficking in human beings for prostitution and Article 207 of the Brcko District BH - soliciting for prostitution/ pandering.

In January 2010, on the proposal of the Council of Ministers, the Parliamentary Assembly of BH amended the Criminal Procedure Code. There was a change in Article 186 of the Criminal Code of BH, which is now fully compliant with the European Convention for the Suppression of Trafficking in Human Beings. The definition of the crime has been changed, and the penalties for the crime of trafficking have been tightened. Punishment of persons who use the services of victims of trafficking has been introduced. The system of confiscation of proceeds of this type of crime has been improved and closure of premises used for commission of this crime has been provided for. Also, one should mention Article 100 of the Law on Amendments to the Criminal Procedure Code, which provides for an obligation of authorities of the Federation of BH,

Republika Srpska and Brcko District to amend their criminal codes within 90 days of entry into force of the Criminal Code of BH, which has been done.

In May 2008 the Council of Ministers considered and adopted the third National Action Plan for Combating Trafficking in Human Beings for the period 2008-2012. The new plan defines clear obligations of relevant institutions that are necessary to fulfil in the next five-year period (2008-2012) in order to increase the performance of the criminal prosecution of traffickers and to improve standards of protection of victims of trafficking based on the latest international standards for the protection of human rights. The new National Action Plan for Combating Trafficking further elaborates the objectives in the fight against trafficking and clearly defines measures to achieve the objectives in the following areas: systems of support, prevention, protection and assistance to victims and witnesses, prosecution and international cooperation. The Action Plan is based on a comprehensive approach and includes three segments: prosecution, protection of victims of trafficking and prevention, with an emphasis placed on protection of domestic victims of trafficking.

In early 2009 the Rulebook on the Structure of the Ministry of Security was adopted, in which the Office of the State Coordinator for Combating Trafficking in Human Beings and Illegal Immigration turned into the Department for Combating Human Trafficking within the Division of International Cooperation. In this way permanent funding was ensured for the activities of the Department for Combating Human Trafficking from the budget of the Ministry of Security.

When it comes to the State budget it should be noted that each year funds are planned in the Ministry of Security and the Ministry for Human Rights and Refugees, which are appropriated for programs to help victims of trafficking. In its 2009 budget the Ministry, in collaboration with the Department for Combating Human Trafficking, ensured BAM 45,000 as a support to the NGOs to provide direct assistance to victims of trafficking, while, in its budget, the Ministry of Security earmarked BAM 100,000 BAM for safe houses which provide accommodation and support to foreign victims of trafficking.

In 2008 the Judicial and Prosecutorial Training Centres of the Federation of BH, Republika Srpska and Brcko District of BH, in cooperation with the State Coordinator and the International Organization for Migration, with the support of US Agency for International Development, created and published a manual for judges and prosecutors, entitled "Human Trafficking - Prevention and Protection in BH". Within the same project, training of judges and prosecutors took place, with the participation of police and representatives from social welfare services. During the courses of training the participants shared their experiences and they found the best possible solutions for gathering evidences and prosecuting trafficking cases, while providing care and protection to victims.

As in past years, the main trends of trafficking in 2009 were the stagnation of the total number of identified victims with a small number of foreign victims and an increase in the number of identified victims of domestic trafficking.

Within the Department for Combating Organized Crime and Inter-cantonal Crime, the Federation Police Administration established the Department to Combat Human Trafficking, Sexual Offences, Juvenile Delinquency and Domestic Violence. The Department continuously monitors, among other issues, the situations of human trafficking and domestic violence.

The following was adopted:

- The Strategy for Fight against Corruption in BH (2009-2014)
- The Strategy for Combating Organized Crime in BH (2000-2012)

Through regular training and specific training courses, police officers in the Federation Police Administration were continuously engaged in training in the fight against all forms of organized crime, corruption, money laundering and other types of crime.

Some progress has been made in the field of combating human trafficking, but continuous efforts are still necessary to ensure proper investigation and punishment of crimes in this area.

Bosnia and Herzegovina has started to implement the 2008-2012 national action plan to combat human trafficking. Criminal offences involving trafficking are defined in the Criminal Code of BH, which is consistent with relevant international instruments ratified by BH.

Beside the Federation Police Administration, the Cantonal Ministries of the Interior work on this matter, and successfully cooperate with other security agencies in the FBH and BH.

In 2009 the Federation registered two cases of trafficking and one case of smuggling of persons (in 2008, one case of trafficking and five cases of smuggling).

2005-2009 statistics are as follows

2005: Non-governmental organizations that signed protocols on cooperation with the Ministry of Security on the protection of victims of trafficking and managing shelters for victims offered temporary accommodation, assistance and protection to 66 potential victims of trafficking

2006: Based on data collected by the actors involved in combating of trafficking, a total of 71 victims of trafficking were identified.

2007: An analysis of data collected from non-governmental organizations, law enforcement agencies and prosecutors shows that in 2007, 41 people were identified as victims of trafficking for prostitution.

2008: An analysis of data collected from non-governmental organizations, law enforcement agencies and prosecutors shows that in 2008, 33 people were identified as victims of trafficking / incitement to prostitution

2009: According to data collected by prosecutors, law enforcement and nongovernmental organizations, which are required for submitting the annual report on the trafficking situation in Bosnia and Herzegovina, in 2009 a total of 69 potential victims of human trafficking / incitement to prostitution were identified.

In the fight against the exploitation of children, particularly children of Roma and other national minorities, in street begging, it is necessary to take measures in accordance with the Law on Offences against Public Order and the applicable municipal ordinances. Perpetrators of the offence of begging are usually legally incompetent persons or minors. Taking measures and actions within its competence, in accordance with the law, police officers are required to submit a report on every action and measure involving a minor person to the appropriate local Centre for Social Work for further proceeding and, at any request, to provide assistance and achieve required cooperation with the appropriate local social welfare services.

Monitoring this issue it has been observed that people who beg, incite to begging or who are the organizers of these illegal activities are mainly people assumed to be Roma without permanent

residence, and often people from other cantons, from the Republika Srpska and even from neighbouring countries.

It is important to mention that disturbances of public order and peace by so-called *perači* (windshield cleaning people by traffic lights), can also be associated with disturbances of public order and peace by begging.

In order to combat this activity, in the Canton Sarajevo there is the Day Care Centre for children caught in the vagrancy or begging on the street.

There is good cooperation with Roma associations whose representatives are included in monitoring the activities of their members and organizing courses of training in this activity as a negative social phenomenon.

In 2009 and the first 5 months of 2010, the Republika Srpska did not record any **trafficking in people**. In 2008 one case of human trafficking was recorded (charges were filed against 3 persons), while in 2007 no such crime was reported.

In the first 5 months of 2010 the Republika Srpska recorded one case of trafficking for prostitution, which was solved (charges were filed against 17 persons). In 2009, 3 cases of trafficking for prostitution (charges were filed against four persons) were recorded, in 2008, there were 5 cases, which were all solved (charges were filed against 4 persons), in 2007, 5 cases were recorded and all were closed (charges were filed against 9 persons.)

In April 2008 the Rulebook on the Structure and Job Descriptions of the Ministry of the Interior of Republika Srpska was enacted by the Minister of the Interior of Republika Srpska to establish a team for the prevention of human trafficking within the Special Investigation Unit of the Criminal Police of the Republika Srpska. The team consists of 4 employees who have the status of specially authorized police officer.

In their work on the issue of trafficking, officers of the Ministry of the Interior of Republika Srpska adhere to the 2008- 2010 Action Plan for Prevention of Trafficking in BH, which was passed by the Council of Ministers. This plan is a strategy at the state level.

Today, in the Republika Srpska, trafficking occurs through sexual exploitation, i.e. prostitution. These crimes are mostly committed by traffickers who procure underage girls who are citizens of the Republika Srpska - Bosnia and Herzegovina generally coming from weak and needy families – the circumstances of great benefit to the traffickers when recruiting underage girls who are later abused in prostitution for the traffickers' profit - financial or otherwise.

Article 198 of the Criminal Code of Republika Srpska provides for a crime of trafficking for prostitution for profit and determines that whoever, for profit, encourages or entices another person to provide sexual services or otherwise provides to another person sexual services or in any way is involved in organizing or managing the provision of sexual services, shall be punished by imprisonment from six months to five years. Whoever, for profit, by force or threat of force or causing significant damage, or by fraud or coercion entice other person to offer sexual services, shall be punished by imprisonment from one to five years. The punishment shall be also imposed on whomever who, for profit, as specified in the previous paragraph, using the difficult situation arising from the residence of a person in a foreign country, compels or induces that person to

provide sexual services, or hires in a professional way another person to induce the person. If the acts under the preceding paragraphs were made against a child or a juvenile, the offender shall be punished by imprisonment from one to twelve years.

Recommendation No. 17

The recommendation No.17 specifically draws attention to the possibility of police detention of up to 72 hours and to the fact that detainees are not always informed of their rights, especially regarding the right to legal representation and disclosure of the Prosecutor's motion for custody.

The valid legislation provides for police detention of up to 72 hours. However, it should be noted that these are exceptions. Specifically, a general detention term is a 24-hour period in which police authorities have an obligation to bring a person deprived of liberty before a prosecutor. However, in cases where a person is suspected of terrorism, there is the possibility of holding him/her up to 72 hours. So, this is an exception to the rule applied to only one type of criminal offences and, according to the past practice (due to awareness of police authorities of the delicate nature of the matter of deprivation of liberty) it can be said that the police authorities are extremely complaint and that they bring the detainees as soon as they can before the prosecutor. Such practices often cause many problems of technical nature because the prosecutor on duty is unable to question the suspect during working hours so this causes overtime work of prosecutors as a growing practice.

Informing detainees of their rights is always a problem, especially in cases where the detainee does not want to cooperate (does not want to choose a lawyer to be appointed as *ex officio* counsel). A significant progress has been made in this area, so in accordance with amendments to the Criminal Procedure Code, the suspect must have a lawyer during pleading on a motion for custody. This is an important progress contrary to the earlier rule that meant that the detainees immediately after having been ordered to be kept in custody, must have *ex officio* counsel.

The new legislation provides that all persons before placement in custody must be informed about the right to *ex officio* counsel (the right to representation), in accordance with it the defence counsel is able to effectively use all legal remedies available. Furthermore, regarding the issue of information of the suspect about a motion for custody, it must be clarified that, before a hearing, all the suspects receive a written motion for custody and the only possible problem might be that the suspects are denied to access the evidence. The reason for this possibility lies in the fact that numerous pieces of evidence relate to several people, so full disclosure of evidence could have negative implications for the investigation being conducted against other suspects. However, in a situation of denying access to certain evidence, the prosecutor is required to deliver them to the court so that the court could adequately inform the defence counsel.

Finally, it should be noted that broad activities are taken to raise awareness of law enforcement officers about the rights of persons deprived of liberty and equality of arms and that any departures may be made solely in accordance with law and the statutory procedure, during which the adoption of appropriate decisions by judicial authorities is necessary.

The Federation Police Administration has established a detention facility that is equipped in line with the applicable standards. In addition, the cantonal Ministries of the Interior (police) have established detention units.

The Criminal Procedure Code of the Republika Srpska defines rights of all persons in criminal proceedings. Article 5 clearly provides for rights of persons deprived of their liberty, determining that a person deprived of freedom must be immediately informed, in his native language or a language he understands, of the reasons for his apprehension and instructed before the first questioning that he is not obliged to give testimony or to answer questions, that he has the right to defence counsel whom he can choose as well as that he has the right to inform his family, consular officer of the foreign country whose citizen he is or other person he designates about his detention. A person deprived of liberty will have an attorney appointed *ex officio* at his request if he is indigent and cannot bear the costs of defence. Article 12 of the CCP clearly provides that the suspect or the accused or another person involved in proceedings who out of ignorance could miss some action in the proceedings and because of it do not exercise their rights will be instructed about their rights under the law and the consequences of failure to take the action by the court, prosecutor or other agencies which participate in the proceedings.

Recommendation no. 18

BH in some ways accepted the recommendations and deleted from the Criminal Procedure Code the possibility of custody on the grounds of protection of public security or property. Contrary to the earlier statutory provision, a possibility has been introduced that the court in exceptional circumstances, when an offence carries a punishment of imprisonment of ten years or more and is particularly serious given the manner of commission or the consequences and where the release poses a realistic threat to public order, can order to put the suspect in custody. As we can see, the new provision provides for much harsher requirements, and requires clear lines of arguments in relation to certain aspects of detention in accordance with this statutory provision. In practice, detention on this ground is ordered in war crimes and genocide cases and some cases of organized crime. Sometimes it is a situation where different organizations, groups and even some members of staff of State institutions are behind the crime and where a large number of individuals are involved in the commission of the offence.

Thus, the new statutory provisions are an attempt to reconcile the everyday needs of BH life (especially regarding the need to prosecute people charged with war crimes) and the rights of suspects arrested. In this regard it should be noted that in recent years a large number of decisions of the Court of BH on detention in accordance with Article 132(1)(d) of the CPC of BH has been sustained by the Constitutional Court.

Finally, regarding the custody orders in general and also under Article 132(1)(d), more frequent use of restrictive measures that ensure the successful conduct of proceedings should be noted.

The custody orders under Article 132(1)(d) are most commonly replaced by an order prohibiting attendance at public gatherings and restrictions on leaving the place of residence.

Article 132(d) of the Criminal Code Procedure which regulates the order for investigative custody of persons suspected of criminal offences punishable by imprisonment for a term of ten years or more, based on the discretion of the judge that the grounds of protecting public safety or property require such detention.

At the 29th session of the House of Representatives held on 14 May 2008 and at the 18th session of the House of Peoples held on 4 June 2008, the Parliamentary Assembly passed the Law on Amendments to the Criminal Procedure Code to amend item d), which was published in the BH Official Gazette No. 58/08.

Following these amendments to Article 132(d) of the Criminal Procedure Code, Article 132(d) reads: "in exceptional circumstances, if the criminal offence is punishable by a sentence of imprisonment of ten years or more, where the manner of commission or the consequence of the criminal offence requires that custody be ordered for the reason of real threat to public order. "The above wording defines that the detention in this case, may be ordered only if there is a real threat to public order and the vague provision of public and property security has been deleted.

Amendments to the CCP of BH were approved by the OSCE in BH. The above has met the Committee's recommendation to delete the ambiguous concept of public and property security.

Recommendation No.19

The Detention Unit at the state level, which was established in May 2005, is under the Ministry of Justice. It is intended to accommodate 20 people - detainees who will be put there by a decision of the Court of BH. The Detention Unit meets all European standards: rooms are 13m² in area and have private bath and TV and all other conditions required for stay of detainees. Also, the Detention Unit provides: daily access by lawyers, family, phone calls at least 5 minutes a day, the stay in open space for at least 3 hours, sport activities, medical treatment, access to a library and daily newspapers, use of one's own clothes, access to premises for religious ceremonies, which complies with all European Union standards.

Bearing in mind the poor conditions, which more or less characterize all prison units, BH and its Entities have been making a great effort to improve staffing, material and hygienic conditions and the overall situation of prisoners. It should be noted that, to this end, the Council of Ministers adopted the Decision approving the EUR 39.30 million "Project of the BH State Prison Construction", which will be included in the 2010 - 2012 multi-year capital investment program. The State prison is being built in accordance with European standards and it is going to accommodate about 350 prisoners.

Having made commitments in accordance with the decision of the European Court of Human Rights, the Ministry of Justice facilitated the Memorandum of Understanding on Legal Assistance and Official Cooperation in the field of enforcement of security measures imposed in criminal proceedings between BH, FBH, RS and Brcko District of BH ("BH Official Gazette", No. 44/06), and after that the Council of Ministers adopted a decision on accepting this Memorandum, which provided for the establishment of the Steering Committee for the Rehabilitation of Psychiatric Hospital in Sokolac, which would be an institution to carry out the security measures/orders imposed by any court in BH, as well as the Decision on the Establishment of the Implementation Unit for this project, then a decision on the appointment of the Coordinator of the Project Implementation, and the decision to ensure the funds for the project Implementation ("BH Official Gazette" Nos. 55/06 and 72/06). All administrative procedures have been completed for the implementation of Psychiatric Hospital of Sokolac Rehabilitation Project and all conditions have been created so that we can go ahead with the execution of the contract for rehabilitation of psychiatric hospital, which will also meet all European standards.

The Government of FBH has adopted the Draft Amendments to the Criminal Code of FBH and the Draft Law on Amendments to the Law on Execution of Criminal Sanctions in the Federation BH and sent them to the Parliamentary to adopt them as a matter of urgency. The reason for the emergency procedure is the need to introduce house arrest with electronic surveillance as a mode

of execution of imprisonment for a term of one year in the FBH as well as electronic monitoring of persons released on parole out of the correction institutions, the Criminal Code and the Law on Execution of Criminal Sanctions in the FBH having been amended in line with it.

In Orašje, the Federation BH, a new medium security correctional facility has been opened within the existing correctional institution (prison), and the rehabilitated and extended facilities of the medium security correctional facility of Sarajevo in Ustikolina and the rehabilitated IV ward of high security Zenica Prison, which is designated to accommodate high-risk and violent inmates, are announced to be opened soon.

In terms of overcrowding of correctional facilities, it should be noted that the amendments to the Criminal Code of BH have introduced the possibility of the court's replacing a prison term of up to one year term with a fine, at the request of the sentenced person. This option seems to significantly contribute to reducing the burden on the prison capacities, because even before the entry into force of these amendments (in May 2010) a number of requests for replacement of a prison sentence with a fine were filed. This trend continued even after the entry into force of amendments to the Criminal Procedure Code.

The whole series of amendments to the Law on Execution of Criminal Sanctions of RS, its compliance with the Law on Execution of Criminal Sanctions, Detention and Other Measures of BH, some obsolete procedures in the execution of criminal sanctions, new developments in prison system, as well as the existing and anticipated composition of the convicted persons are the reasons which have influenced the decision to enact the new Law on Execution of Criminal Sanctions of RS (RS Official Gazette No. 12/10) and the Law on the Special Regime of the Execution of Prison Sentences (RS Official Gazette No. 30/10). Being aware of the fact that the new legislation will require a greater number of prison staff as well as greater expertise, since 2006 the prison staff and their professional training and training has been given due attention. The number of prison officers has increased from year to year according to the plan. With 665 employees in correctional institutions at the end of 2006, the number of employees increased to 699 at end of 2007 and at the end of 2009, that number was 758. What should be noted particularly is the fact that the number of employees in the security service and treatment has increased most and they need to meet all current and future challenges before them.

In accordance with the training of prison staff curriculum of the Ministry of Justice of Republika Srpska, in 2009 and in the first half of 2010, a team of eminent experts of the Ministry of Justice of Republika Srpska and the College of Internal Affairs delivered a series of lectures for members of the security service and treatment service as well as for instructors in all correctional facilities. Permanent training of prison staff will continue in the future.

Also, a large number of employees in correctional institutions participated in additional specialized courses of training organized by the Council of Europe and some international organizations and NGOs. We should especially emphasize the fact that inspectors from the Ministry of Justice of Republika Srpska as well as a number of long-time employees-experts in prisons of Republika Srpska were involved as experts in training of prison staff.

As part of the Working Programme of the Ministry of Justice of Republika Srpska and all prisons, the improvement of conditions for the execution of imprisonment, detention and correctional measures of referral to a correctional home is set as one of the most important priorities.

Rehabilitation and adaptation of certain premises significantly improved accommodation in prisons and better conditions of living of convicted persons have been created.

Construction of the Special Regime Ward in the Foča Prison with the capacity of 38 convicted persons has been completed and the Ward has been furnished. Also, the Foča Correctional Institution has refurbished some of the premises used by groups of inmates and reconstruction of access roads to the Prison and construction of the reception area and fence wall have been completed, which has largely improved the Prison security.

A number of authorities that were located in rented premises of the Istočno Sarajevo Correctional Institute opened the possibility of extending the accommodation capacity for sentenced and detained persons. Facilities for detention have been rehabilitated to provide necessary conditions. 9 rooms with capacity of 45 persons to be put in custody have been refurbished. The Detention Unit has been completed with living area and rooms for leisure and sports. With regard to security, the fence wall has been made higher and topped with defensive wire and the existing video system has been upgraded.

At the same time, the District Prison in Doboj has completed a one floor extension, which has increased the space for additional 500 square meters which has created conditions for enlargement of accommodation capacity from 120 to 188 inmates (120 convicts and 68 detainees) as well as significantly improved living conditions of convicts and detainees and working standard of employees. In other penitentiaries in Republika Srpska during 2009 and 2010 the extension of accommodation facilities and improving conditions for life and work of convicted and detained persons continued.

Unlike the Federation of BH, the Republika Srpska has no major problems in the execution of security measures of mandatory psychiatric treatment and compulsory treatment of addiction. A sentenced person, on whom the verdict handed down one of these two security measures/orders is sent by the courts to the so called Forensic Ward of the Psychiatric Hospital of Sokolac and at the end of treatment, the convicted person was sent to serve his prison sentence. Fully aware of the fact that the conditions for the execution of security measures and hospital treatment of convicted persons with mental disabilities are far from the prescribed standards (to which we were warned through Reports of CPT), the Government of the Republika Srpska adopted the Decision on the Establishment of the Special Hospital for Forensic Psychiatry in Sokolac. By signing the contract between the entity Ministries of Justice and the Special Hospital in Sokolac, the conditions for donor funds were created and work on adaptation and rehabilitation of the existing building in Sokolac started.

The Police of Brcko District adopted the 2008-2013 Strategic Plan. As a specific local community and because of the need to build a police organization that will always be able to provide effective protection to its citizens against all possible forms of threats, the Police of Brcko District of BH has defined its strategy with the following policy objectives:

- Improve citizens' feeling of security in the Brcko District of BH.
- Improve the image of police in the public.
- Develop capacity for rapid and efficient response to incidents and accidents.
- Continue the process of developing criminological intelligence capacity that will enable the Police of Brcko District to efficiently respond to current and potential terrorist and other threats to public safety.
- Improve the investigative capacity of police officers.

- Increase the efficiency of the Police of Brcko District of BH in the fight against internal and external corruption.

In achieving all the six objectives, which are a strategic development priority for the Police of Brcko District of BH in order to build a modern highly professional law enforcement agency, the Police of Brcko District of BH defines strategies (modes) in terms of methodology to achieve these goals.

Based on the *strategies* for achieving the policy objectives, the annual operating objectives of the implementation of this plan on an annual basis are defined in detail and are subject of Annual Operational Plans.

Indicators of reported crimes in particular areas

1. Classification of reported crimes	2005	2006	2007	2008	2009
Criminal offences against marriage, family and youth	63	67	55	26	32
Domestic Violence	60	63	55	26	29
Avoiding Maintenance	2	3	0	0	3
Neglect or abuse of a child	1	1	0	0	0
Crimes against Humanity and International Law	17	15	43	6	12
War crimes against civilian population	17	15	43	6	10
War crimes against prisoners of war	0	0	0	0	0
Unlawful killing and injuring the enemy	0	0	0	0	1

According to the data concerning the number of cases of begging the Brcko District of BH:

- In 2004, 35 cases
- In 2005, 64 cases
- In 2006, 90 cases
- In 2007, 107 cases
- In 2008, 113 cases
- In 2009, 262 cases.

Recommendation No. 20

On 24 June 2010, after more than two years from the commencement of intensive work on the revision of an extremely important and complex strategic document, the Parliamentary Assembly adopted a revised strategy for the implementation of Annex 7 of the GFAP (General Framework Accords for Peace) in Bosnia and Herzegovina.

Besides an overview of the current situation, this document gives identified problems, recommendations and measures for implementing the strategic objectives of the reform and the improvement of the situation in the following areas:

- 1. Reconstruction of housing of refugees, displaced persons and returnees, the closure of collective centres and addressing the issues of alternative accommodation for displaced persons and returnees, and social housing with a particular emphasis on the problems of displaced persons and refugees and housing for vulnerable groups of returnees;**

2. **Completion of the process of restitution of property and occupancy rights of refugees, displaced persons and returnees;**
3. **Electrification of returnee villages and individual dwellings of returnees;**
4. **Reconstruction of infrastructure in areas of interest for the return of refugees, displaced persons and returnees;**
5. **Health care of displaced persons and returnees;**
6. **Social protection of displaced persons and returnees;**
7. **Right to education for displaced persons and returnees;**
8. **Right to work and employment of displaced persons and returnees;**
9. **Security of displaced persons and returnees and mine disposal in the areas of return;**
10. **Right to compensation to be paid to displaced persons, refugees and returnees.**

The revised strategy has made a comprehensive legal and operational framework whose implementation will result in improving access to rights by refugees and displaced persons from BH under Annex VII of the GFAP.

Recommendation No. 21

On 24 June 2010 the Parliamentary Assembly adopted a revised strategy for the implementation of Annex 7 of the GFAP, which recognized the closing of collective centres as the first priority.

It was identified that it was necessary to develop explicit and uniform criteria for assessing the specific needs of occupants of collective centres/alternative accommodation in order to define long-term measures for achieving a durable solution, and it was found that the closure of collective centres require transparent and multidisciplinary approach to ensure durable solutions for people who are accommodated in collective centres.

In this regard, the following recommendations and measures were adopted that will be implemented as a matter of priority:

- In accordance with the actual and expressed needs of current occupants of collective centres, develop programs and projects that will aim at full dissolution of this kind of housing. Special attention must be paid to particularly vulnerable categories such as orphans, single mothers, old, sick and disabled persons, to ensure adequate exercise of their rights.
- Make a comprehensive profile of all individual residents in collective centres/alternative accommodation for the design of appropriate durable solutions for vulnerable people (from the unique return projects to ensuring the institutional security and/or social housing in areas of displacement etc.);
- Identify and provide legal and procedural safeguards that regulate the process with full respect for the rights of displaced persons, including the prevention of the consequences of forced evictions of people who are in need and provide access to dignified and permanent housing for people in need;
- Limit each new placement in the existing collective establishments of care and prevent the formation and development of new, whether formal, or informal forms of collective housing, and provide another form of adequate housing for people in need instead.

Bearing in mind the fact that BH still has about 160 refugee centres, where 2.865 families or 7.490 people are living, in order to dissolve the collective centres, BH negotiates with the Council of Europe Development Bank (CEB) the required loan of approximately EUR 40 million. For this activity a project has already been made in cooperation with UNHCR and the competent services of the Bank in order to close the aforementioned collective centres for

refugees and displaced persons in BH, as well as for the people who occupy the space and do not have that status.

The funds in the amount of EUR 100.000 for a feasibility study have been provided. The loan would be used over the next three years and will include reconstruction of existing housing of occupants of refugee centres, building of new housing, as well as construction of new collective facilities for these categories of people (old people homes or similar type).

Recommendation No. 22

The Constitution of BH determines *inter alia* that no person shall be deprived of BH or Entity citizenship arbitrarily so that the person is rendered stateless and that no person shall be deprived of the BH or Entity citizenship on any ground such as sex, race, colour, language, religion, political or other opinion, national and social origin, affiliation with a national minority, property, birth or other status.

According to the Constitution, in the chapter that governs the right to identity, there is shared responsibility. Thus, the legislation on identity cards, domicile, residence, identification number and the movement and stay of aliens and asylum is within exclusive competence of the institutions of BH, while the rules on citizenship are within competence of BH and its entities. The legislation which regulates the registration of births and giving of the personal name is within exclusive competence of the Entities and Brcko District.

Registration of birth is one of the fundamental human and child's rights and a precondition for exercise of rights in other areas of life such as the right to identity, the right to education, the right to health care etc. The non-registration of birth, especially of Roma children, has been a concern of the Ministry for Human Rights and Refugees for a long time. Addressing this issue that largely affects the Roma population in BH, as well as preparations for the implementation of tasks assumed by signing the Framework Convention for the Protection of National Minorities should contribute to improving the status of the Roma population, and create conditions for their social inclusion.

The legal framework of BH concerning the right to identity governs the following issues: registration in the birth register, giving the personal name, determination of a unique identification number and nationality.

To solve this problem, a more systematic and comprehensive approach has been taken by the authorities in BH, i.e. the Ministry for Human Rights and Refugees, in cooperation with some international organizations and institutions in BH, has taken a number of actions to tackle this complex and evident problem in BH.

In late 2009 the Ministry of Human Rights and Refugees of BH conducted registration and established a database of the needs of Roma in BH, which *inter alia* provides information on the needs of Roma in Bosnia and Herzegovina inclusive of 31 January 2010 in the field of vital records, possession of identity documents, access to health insurance, nationality and the like. For example, based on this registration it was observed that 384, 69 and 18 births were not entered into the registers in the F BH, RS and the Brcko District respectively, all of them being Roma people. 4.654, 487 and 59 Roma do not have health insurance in FBH, the RS and the Brcko District respectively, of the total currently estimated number of 16 762 Roma or about 4,500 households.

In co-operation with entity ministries and institutions, it was agreed that in the RS and since 2009 in the FBH, the entity laws that regulate insurance, the provision of the compulsory insurance to cover all children aged 0-15 years (who are not entitled to health care on another ground) and people over 65 years of age have been incorporated.

Also, in cooperation with the UNICEF Mission in BH, relevant state and entity institutions and legal experts in the field of children's and human rights, made a legal analysis of BH legislation that regulates the registration of birth. The analysis has shown the complexity of the problem, described its forms and given the appropriate concluding observations and recommendations.

This legal analysis will help the state and entity authorities to take a more systematic approach to considering amendments to the rules governing in this area, and thus help to create an environment conducive to social inclusion not only of the Roma in BH but also other children and citizens who, at present, are not able to exercise their right to identity.

When it comes to the area of prevention and reduction of statelessness and the phenomenon of unregistered persons without legal identity, many of whom are Roma, BH authorities and the UNHCR have targeted a lot of activities at providing assistance to the Roma in the civil registration and obtaining the necessary documents which are prerequisite for the enjoyment of all other rights. Since May 2008 the UNHCR, in partnership with the authorities in BH, with the help of lawyers of "Vasa Prava - Your Rights in BH" Associations, has been providing free legal assistance to indigent Roma with a view to registering in the birth registers, regulating the personal status and obtaining necessary documents. This activity is supported by the European Union, Government of Switzerland and the Principality of Liechtenstein.

As a result of these activities, until December 2009, 776 applications for legal aid in this area were successfully processed and 306 births of children and adults were registered. Most of the subsequent registrations were in the birth registers, because only in 18 cases the registration of birth was performed in a timely fashion. In addition to these applications, "Vasa Prava -Your Rights" BH have also provided free legal aid to Roma in the exercise of other rights. By the end of 2009, 1.482 various documents were obtained free of charge, including documents from neighbouring countries, which are also involved in a regional project supported by the European Union. In 2009, 546 people received free legal aid, of which there were 205 subsequent registrations in the birth registers.

The largest number of people who have been given free legal aid is identified in the field by lawyers of "Vasa Prava -Your Rights in BH" with the help of the Roma NGOs, Roma mediators and other Roma activists who have helped out in this process.

The Action Plan on the Educational Needs of Roma and Members of Other National Minorities (2003) complies with provisions of the Framework Law on Primary and Secondary Education in Bosnia and Herzegovina (" BH Official Gazette, No.18/03.), which determines that:

- Every child has the right of access and equal opportunity for participation in appropriate education, without discrimination on any grounds (Article 4 of the Framework Law).
- Equal access and equal opportunities include providing equal conditions and opportunities for all, to begin and continue further education. (Article 4 of the Framework Law).
- Language and culture of each major minority, which lives in BH, will be respected and accommodated within school to the fullest extent practicable, in accordance with the Framework Convention for the Protection of National Minorities (Article 8 of the Framework Law).

All the above conforms with international instruments and is directly applicable in BH on the basis of the Constitution and Annex IV of the General Framework Agreement for Peace.

Also, the action plan is consistent with the provisions of the Protection of National Minorities ("BH Official Gazette ", No.06/03), which stipulates that regardless of the number of members of national minorities, the entities and cantons are obliged to ensure that persons belonging to national minorities, if required, can learn about their language, their literature, history and culture in the language of the minority to which they belong, as well as extra-curricula lessons.

The Action plan defines the overall goal to improve access to the system of formal education of Roma in BH through addressing a number of obstacles they are currently facing and the practical, systematic questions, broader by nature, while improving the participation of Roma communities and advocating for full inclusion of their children in regular education.

In developing the Action Plan on the Educational Needs of Roma and Members of Other Minorities in BH the two Ministries of BH: the Ministry of Human Rights and Refugees and the Ministry of Civil Affairs were included, with a role in coordinating and monitoring activities in the implementation thereof. The Council of Ministers adopted the Action Plan and proposed to all other levels of the executive in BH to also accept all the activities and standards contained in it and consider it an integral part of the Strategy for Solving Problems of the Roma (Roma Strategy), in a segment that refers to the sphere of education of the Roma as a national minority in BH.

However, after the experience gained in more than six years of implementation, it was concluded that the Action Plan on the Educational Needs of Roma and Members of Other Minorities in BH, especially in the segment which refers to Roma is not fully consistent with the current needs, neither in content nor in methodology, neither at the level of the text nor at the level of standards prescribed or imperatives that require specific relevant actors in the governmental and non-governmental sectors in its implementation, which, along with many uncertainties and obstacles, is difficult to progress and gives insufficient results, both from a financial point of view (procurement of textbooks, stationery, equipment, payment of transportation, meals at school, etc.) and in the aspect of increasing the percentage of new Roma pupils in primary schools, organizing summer schools, the inclusion of Roma assistants in the educational process etc. In July 2008 the Council of Ministers adopted the Action Plan for Roma in Employment, Housing and Health Care and at the same meeting a decision on the accession of BH to the Decade of Roma Inclusion 2005 – 2015 was made and it was formalized when signed at the Steering Committee of the Decade meeting in Belgrade in September 2008.

The Decade involves four key areas to stop discrimination and reduce inequalities, and they are: housing, employment, health and education as a coordinated, open and transparent process. Bearing in mind the deficiencies listed while discussing the Action Plan on the Educational Needs of Roma and Members of Other Minorities in BH (2003) and that at the 16th meeting of the International Steering Committee of the "Decade of Roma Inclusion" (held in Belgrade, 25 and 26 June 2009, attended by representatives of Bosnia and Herzegovina) the present member states agreed on the recommendations and proposals aimed at preventing discrimination in education, the MHRR was the authority responsible for drafting the Revised Action Plan on the Educational Needs of Roma in BH.

The revised Action Plan on the Educational Needs of Roma incorporated the principles and recommendations from the Belgrade Conference on Education as a “road map” for the future work on education and accelerating progress toward the goal of true inclusion in education of all children.

Specifically, this document defines the goals and measures for equal opportunities for participation of Roma in the education, without discrimination on any grounds, and helping children in need to achieve better results in education, in accordance with International Human Rights Standards on the Rights of National Minorities to Education.

On 4 July 2010 the Council of Ministers adopted the revised Action Plan of BH on the Educational Needs of Roma on whose implementation the results of improvement of overall social position of Roma in BH will depend.

Recommendation No. 23

Complying with the recommendations of the UN Human Rights Committee (paragraphs 8, 14, 19 and 23) within the set timeline, BH informed the relevant UN Committee on the relocation of a Roma settlement in Butmir which is in the territory of Ilidža Municipality. On that occasion it was stated that in the period from January 2008 to February 2009, 33 Roma families were given permanent housing, as eight (8) apartment houses were built for them in the territory of five (5) municipalities of Sarajevo Canton: two apartment houses with six apartments were built in Ilidža, two apartment houses with eight apartments in Ilijaš, and one apartment house with four apartments in the municipality of Novi Grad Sarajevo, two apartment houses with eight apartments in Vogošća and two apartment houses with eight apartments in Hadžići.

The project was implemented in cooperation between the Government of Sarajevo Canton (amount of BAM 450,000) and the Government of Sweden - SIDA project, which provided an amount of BAM 1,415,200.00. One of the implementing agencies was the Caritas Schweiz that trained 10 young Roma people (beneficiaries) in job seeking with a short literacy course and training in basic construction trades.

The relocation of Roma was successfully completed on 3 June 2009. The project was implemented in accordance with the valid legislation and the legal basis for the use and maintenance of constructed housing units. Thus, this exercise was approached in a humane and anti-discriminatory manner.

Although the Roma moved into the newly constructed homes in a perfect order, which was a source of satisfaction for all, but after a certain period of time, the Ministry of Housing of Sarajevo Canton received reports that a number of housing units were destroyed by the new residents in the Municipality of Ilijaš. The competent authorities found out that, out of eight housing units in Ilijaš, six ones were vacant at the time. Immediately thereafter, following the legal procedure, the contract for occupancy of the housing units was terminated with two occupants. Since the aforementioned apartments belong to the Municipality, the vacant apartments were allocated to the Roma families that lived in the territory of Ilijaš and did not have an adequate place to live.

Recommendation No. 24

BH has finalized the ratification of the European Charter for Regional or Minority Languages. The ratification of the European Charter for Regional or Minority Languages is an outstanding Council of Europe post-accession commitment of BH. The process of ratification is necessary to

make, in an adequate way, the selection of articles of the Charter which BH accepts and the selection of minority languages to be used.

Since BH is a complex state, besides the Ministry for Human Rights and Refugees of BH, it was necessary to include the relevant entity ministries and ministries of the Brcko District of BH (within whose competence is culture and education) in the process of ratification of the mentioned international instrument and that the ministries and institutions give their opinions. Opinions were obtained and articles of the Charter that BH should accept were selected. In order to better discharge this task the Secretariat of the Council of Europe, which *inter alia* deals with the use and protection of minority languages of the Member States of the Council of Europe, was involved in this process.

Following the adoption of draft decision on the ratification of the European Charter for Regional or Minority Languages by the Council of Ministers and both houses of the Parliamentary Assembly, the BH Presidency is expected to complete the ratification very fast.

Recommendation No. 25

The 31 March 2006 Decision of the Constitutional Court found that the both Entities use insignia, religious and national symbols that are discriminatory against certain ethnic groups. It was found that Articles 1 and 2 of the Law on the Flag and Coat of Arms of the Federation of BH and Articles 2 and 3 of the Constitutional Law on the Flag, Coat of Arms and Anthem of Republika Srpska are not in accordance with Article II/4 of the Constitution of BH and are in conflict with Articles 1.1. and 2.a) and c) of the European Convention on Elimination of All Forms of Racial Discrimination under Annex I to the Constitution of BH.

The decision found that Article 2 of the Law on the Use of the Flag, Coat of Arms and Anthem providing that the flag, coat of arms and anthem of RS "make the statehood of RS" is not in conformity with Articles I / 1 and I / 2 of the Constitution of BH and that Article 3 of the Law on the Use of the Flag, Coat of Arms and Anthem providing that the RS symbols are used "in accordance with moral norms of the Serbian people" are not in conformity with Article II.4 of the Constitution of BH, in connection with Articles 1.I. and 2a) and c) of the International Convention on the Elimination of All Forms of Racial Discrimination under Annex I to the Constitution of BH, so that the Constitutional Court repealed them. The provisions repealed have not been in force since the date of publishing in the Official Gazette, pursuant to Article 63 Paragraph 3 of the Rules of the Constitutional Court.

Making such a decision, the Constitutional Court concludes that it is the legitimate right of the Bosniac and Croat people in the FBH and the Serbs in the Republika Srpska to have equal rights which must be given to the Serbs in FBH and Bosniac and Croat people in the Republika Srpska. Although this issue is still not fully resolved, in general it can be concluded that the authorities of both entities respect the decision of the Constitutional Court of BH.

List of Acronyms:

BH - Bosnia and Herzegovina

F BH – Federation of Bosnia and Herzegovina

RS – Republika Srpska
MHRR - Ministry for Human Rights and Refugees
CVW – Civil Victims of War
WV - War Veterans
F MoI - Federation Ministry of the Interior
FPA - Federation Police Administration
C MoI - Cantonal Ministry of the Interior
RS MoI - Ministry of the Interior
PD - Police Department
BH CPC - Criminal Procedure Code of BH
BH CC - Criminal Code of BH
F BH CC - Criminal Code of the Federation of Bosnia and Herzegovina
RS Criminal Code - Criminal Code of RS
HJPC - High Judicial and Prosecutorial Council of BH
IPA - Instrument for Pre-Accession Assistance
UNDP - United Nations Development Program
OSCE - Organization for Security and Cooperation in Europe
UNHCR - United Nations High Commissioner for Refugees
ICTY- The International Criminal Tribunal for the Former Yugoslavia
ICMP - International Commission for Missing Persons
ICRC - International Committee of the Red Cross