

The Fourteenth and Fifteenth Periodic Report on the International Convention on the Elimination of All Forms of Racial Discrimination

INTRODUCTION

Bosnia and Herzegovina took over by succession (after the dissolution of Yugoslavia) the International Convention on the Elimination of All Forms of Racial Discrimination in its entirety (without reservations) and provisions thereof are incorporated in the legal system of Bosnia and Herzegovina (hereinafter: BiH). On 22 and 23 February 2005, before UN relevant committee, BiH, as a member of the United Nations and a party to the International Convention on the Elimination of All Forms of Racial Discrimination (which entered into force on 16 July 1993), successfully presented the Initial Report on the International Convention on the Elimination of All Forms of Racial Discrimination (which was taken as the first six reports), while the 7th and 8th Periodic Reports on the implementation of the mentioned Convention were adopted and successfully presented before the competent Committee in 2010. Based on the submitted concluding observations and recommendations of the UN Committee on the Elimination of Racial Discrimination and in accordance with the Committee's drafting guidelines, BiH put together the 9th, 10th and 11th, then 12th and 13th (submitted in one document) Periodic Reports on the Convention to be submitted by 16 July 2013, as scheduled, which was accepted and presented before CERD Committee. Just a reminder, BiH is a complex state which consists of two Entities (the Federation of BiH and the Republika Srpska) and the District Brčko of BiH as a „sui generis“ administrative unit, i.e. a condominium. Racial discrimination as well as other forms of discrimination are directly prohibited by the BiH Constitution (and by the constitutions of the Entities) and it is criminalized through several elements of crimes under the Criminal Codes of BiH, Entities and Brčko District, which clearly expresses the commitment of BiH authorities for the respect of human rights of all citizens living in it as well as foreigners who were granted permanent or temporary residence in the territory of BiH while respecting the principle of tolerance. General principles of the International Convention on the Elimination of All Forms of Racial Discrimination are incorporated in the Law on Prohibition of Discrimination (Anti-discrimination Law). BiH implements a policy of eliminating racial discrimination in the general legal framework and through the promotion, recognition and enjoyment of equal position by all in legislative, judicial, administrative and other measures; the right to return and restitution of individual's property; cultural activities and a ban on defamation of religions; improvement of the situation of Roma, the largest and most vulnerable minority (out of seventeen national minorities explicitly listed in the law) in BiH.

Bearing in mind the above, BiH appointed an inter-ministerial working group consisting of representatives of the authorities at all levels of administration in BiH and put together The Fourteenth and Fifteenth Periodic Report of BiH on the International Convention on the Elimination of All Forms of Racial Discrimination and transmitted it, through the Permanent Mission of BiH to UN Office in Geneva, to the Committee on the Elimination of Racial Discrimination for consideration, as scheduled (16 July 2021).

FOLLOW-UP TO RECOMMENDATIONS GIVEN BY THE INTERNATIONAL COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

(given after the presentation of the 12th and 13th periodic reports of Bosnia and Herzegovina under the International Convention on the Elimination of Racial and All Forms of Discrimination)

Persisting ethnic tensions, ethno-religious divisions and need for reconciliation

5. The Committee is aware of the devastating effects of the war between 1992 and 1995 and the efforts made to reconstruct the society, but remains concerned that more than 20 years after the war ended and the conclusion of the Dayton Peace Agreement, the country remains divided along ethnic and ethno-religious lines; and such divisions have become common place, as illustrated by recurring ethnic tensions including at the political and administrative levels. The Committee is also concerned that such divisions permeate ethnic and national groups across the territory and pose obstacles to the decision-making process and efforts towards more confidence-building, through the adoption of laws, institutions and strategies that foster integration and reconciliation and, therefore, hinder the fight against racial discrimination (arts. 1, 2 and 7).

6. The Committee urges the State party to take all necessary measures, in consultation with all parties across the territory, to overcome ethnic tensions and divisions that hinder the legal, institutional and policy advancement towards a more integrated society and reconciliation, and perpetuate racial discrimination. The Committee recommends that the State party take concrete measures to find a solution to promote a more integrated society based on the values of equality and non-discrimination, and in which all citizens take part, irrespective of their ethnic, ethno-religious or national affiliations.

In order to improve the system of coordination of implementation of recommendations of international human rights bodies by authorities in BiH and to improve the monitoring process of implementation of recommendations given by international human rights bodies, in January 2018, the Council of Ministers of BiH (BiH CoM) adopted the Methodology of Human Rights Reporting by BiH, with the aim of establishing an information system for data collection for the purpose of more efficient preparation of human rights reports on BiH.

The BiH Ministry of Human Rights and Refugees (MHRR) prepared and the BiH CoM adopted a Framework Programme of the Implementation of Recommendations of International Human Rights Bodies.

The BiH CoM annually adopts a Programme of Marking Significant Human Rights Dates.

Training of judges and prosecutors in BiH is provided by the entity-level Judicial and Prosecutorial Training Centres in accordance with their annual curricula providing for training in human rights, including the European system of human rights protection, the *acquis communautaire*, anti-discrimination and anti-discrimination case law. The BiH High Judicial and Prosecutorial Council (HJPC) performs monitoring and approving of the curricula. In criminal law, training is provided in the protection of LGBT persons, comparison of court

practice with the countries of the region, freedom of expression and ethnically motivated hate crimes, protection from domestic violence, gender equality, children's rights and the rights of national minorities. These courses of training are held in cooperation with the Heinrich Böll Foundation, OSCE Mission, AIRE Centre and Sarajevo Open Centre.

In addition, in 2018, the HJPC amended the case management database in courts and prosecutor's offices, which has enabled the collection of comprehensive data on discrimination cases.

BiH has long had a legislative framework in place to protect freedom of opinion and religion, which is in line with international human rights standards. For the purpose of implementing this law and exercising religious freedoms, BiH has so far signed and ratified two international legal agreements with the Holy See and the Serbian Orthodox Church and the conclusion of an agreement with the Islamic Community of BiH is underway. In this way, cooperation is established with the aim of promoting religious freedoms. The BiH CoM continuously financially supports the Interreligious Council, which brings together the largest religious communities (Judaism, Catholicism, Orthodoxy and Islam), which put joint efforts to combat all forms of discrimination and religious fanaticism and encourage tolerance among religious groups.

Churches and religious communities have been actively involved in supporting the implementation of the Peace Platform and signed a declaration denouncing the stigmatization of sexual-violence survivors (BiH's faith leaders are the first in the world to do so), they have trained religious officials in assisting people who suffered violence. Guidelines for religious officials on how to deal with victims of wartime rape and sexual violence have also been developed.

Regarding the progress in the protection and promotion of human rights, we note that the following documents have been developed and adopted:

Amendments to the Law on Prohibition of Discrimination, Action Plan for Roma, Action Panel for Children, Framework Plan on Roma Educational Needs, Guidelines for Human Rights Training in BiH and Action Plan for Training of Journalists and Media Professionals in BiH, Action Plan for Training of Civil, Police and Military Officials, Guidelines on the Best Interests of the Child, Guidelines for Combating Discrimination in Education.

In the field of equality and protection of women's rights in the past period, the following planning documents were adopted: the third Action Plan for the implementation of UNSCR 1325 "Women, Peace, Security" in BiH for the period 2018-2022. BiH's experience in implementing this resolution was at the local-regional-global level, as evidenced by the fact that at the G7 Foreign Ministers' Summit, the European Union chose to cooperate with the BiH Gender Equality Agency of the BiH MHR. In the reporting period, the third Gender Action Plan of BiH for the period 2018-2022 was adopted.

In the fight against corruption, the 2015-2019 Strategy for the Fight Against Corruption and the Action Plan for the Strategy Implementation were adopted.

In 2018, the Government of the Federation of BiH adopted: the 2018-2020 Action Plan for the Development of Women's Entrepreneurship and the 2018-2020 Action Plan for the Implementation of the Strategy for Prevention and Combating Domestic Violence.

The Government of the Republika Srpska adopted the 2020-2024 Strategy for the Suppression of Domestic Violence of the Republika Srpska and the 2016-2020 Policy for Promoting Early Growth and Development of Children in the Republika Srpska. Amendments to the Law on Protection from Domestic Violence were adopted in 2019, determining that victims of violence should receive more adequate and timely assistance and support improved according to international standards. The legislator's response to acts of domestic violence and sanctioning of perpetrators of violence are achieved by applying the Criminal Code of the Republika Srpska. Prior to the mentioned amendments, acts of domestic violence were sanctioned as a misdemeanour in most cases.

The Primary Health Care Strategy and the 2019-2029 Sexual and Reproductive Health Promotion Strategy of the Republika Srpska recognize Roma women as a vulnerable group.

The Strategy for the Development of Mental Health of the Republika Srpska (2020-2030), the Strategy for Improving the Social Protection of Children without Parental Care (2015-2020), the Strategy for Improving the Social Position of Persons with Disabilities of the Republika Srpska (2017-2026), 2017-2021 Directions of Development of the RS Ministry of the Interior in the Field of Security, the Education Development Strategy of the Republika Srpska (2016-2021), the Action Plan for Prevention and Fight against Terrorism (2016-2020) and the Strategy for the Promotion and Protection of the Rights of Members of National Minorities of the Republika Srpska (2020-2024) were adopted by the National Assembly of the Republika Srpska.

7. The Committee welcomes the results of the 2013 census published in 2015, but regrets that the State party's report has not provided updated and disaggregated statistics on the ethnic composition of its population and has provided particularly insufficient socioeconomic indicators on the different ethnic and national groups residing in its territory, including Roma, returnees, refugees and asylum seekers. The Committee is concerned about the contradicting information it has received regarding the number of Roma and returnees living in Bosnia and Herzegovina. It is further concerned by the information provided by the State party's delegation that statistics on the number of Roma and returnees were not reliable and were difficult to collect.

8. The Committee recommends that the State party provide reliable, updated and disaggregated data on the ethnic composition of its population, as well as socioeconomic indicators on ethnic and national groups residing in its territory, including on Roma, returnees, refugees and asylum seekers, to allow the Committee to assess how these groups enjoy their rights under the Convention. The Committee also recommends that the State party develop efficient tools and procedures enabling it to collect reliable data on the number of Roma and returnees living in Bosnia and Herzegovina.

The results of the 2013 census of population, households and dwellings in BiH were published in June 2016, and are publicly available on website of the Statistics Agency of BiH (https://www.popis.gov.ba/popis2013/doc/Knjiga2/BOS/K2_T1_B.xlsx, (please find attached herewith a detailed table of ethnic composition of population). It was defined that, when asking questions about ethnicity, "an enumerator must not read the offered answers or exert any influence on the respondent. The enumerator is obliged to write the answer to this question

exactly what the respondent declares his ethnicity is". By scanning the census forms, a database of the census was formed, and the official results were published. Therefore, from the point of view of statistical institutions, the statement that statistics on the number of Roma published by statistical institutions were not reliable does not hold water.

It can be stated that there is an (expected) difference in the number of Roma according to different sources, unlike which statistical institutions have a clearly specified (above mentioned) methodology and full coverage. Therefore, statistical institutions cannot comment on the estimates of different associations or non-governmental organizations, which generally differ from the data collected by the census, as well as among different associations and organizations and are often speculative, which happens in the neighbouring countries, too. We believe that comment "statistics on the number of Roma and returnees were not reliable and were difficult to collect" does not hold water, especially since a large number of European countries do not collect data on ethnicity by the census.

It is the competence of the Statistics Agency of BiH to administer the 2013 census statistics which are provided in the annex of this report (Table 1, Table 2).

Compliance of legislation with article 1 of the Convention

9. While noting that the definition of racial discrimination enshrined in article 2 of the Law on Prohibition of Discrimination contains all the grounds enumerated in article 1 of the Convention, the Committee is concerned about the absence of the grounds of "ethnicity", "colour" and "descent" in article 145a (1) of the Criminal Code, which prohibits and criminalizes incitement to racial, ethnic and religious hatred (arts. 1, 2 and 4).

Article 145 of the BiH Criminal Code¹ prescribes the prohibition of all discrimination and guarantees all persons equal and effective protection against discrimination on any grounds such as race, colour, sex, language, religion, political and other opinions, national and social origin, etc.

This article envisages three forms of criminal offense that differ on the grounds of which the violation of equality of citizens is committed, i.e. according to the type of rights that are limited or denied.

(1) This offence (paragraph 1 of this Law) includes denial or restriction of the civil rights as provided by the Constitution of BiH, ratified international agreement, law of BiH, some other regulation of BiH or general act of BiH or granting unjustified privileges or doing unjustified favours to individuals on the grounds of differences in race, skin colour, national or ethnic background, religion, political or other belief, sex, sexual orientation, language, education or social status or....

The commission of the criminal offence is defined alternatively as: a) denial of the civil rights, b) restriction of the civil rights and c) granting unjustified privileges or doing unjustified

¹ Infringement of the Equality of Individuals and Citizens, Article 145.

(1) An official or responsible person in the institutions of Bosnia and Herzegovina, who on the grounds of differences in race, skin colour, national or ethnic background, religion, political or other belief, sex, sexual orientation, language, education or social status or social origins, denies or restricts the civil rights as provided by the Constitution of Bosnia and Herzegovina, ratified international agreement, law of Bosnia and Herzegovina, some other regulation of Bosnia and Herzegovina or general act of Bosnia and Herzegovina or, whoever on the ground of these differences or background or other status grants unjustified privileges or does unjustified favours to individuals, shall be punished by imprisonment for a term between six months and five years.

favours to individuals. For the purpose of this offence, denial of the civil rights means preventing citizens from enjoyment of rights afforded by the Constitution, laws and other pieces of legislation.

Restriction of the civil rights occurs in the case when a right that belongs to a citizen is not completely denied but, due to the activity of the perpetrator, cannot be fully exercised.

The third alternative of the commission of the offence is favouring, advantaging citizens, that is, granting unjustified privileges or doing unjustified favours to individuals without appropriate grounds, i.e. enabling a more favourable, privileged position of individuals in relation to other citizens. It does not matter whether the granting of privileges or benefits was done to the detriment of other citizens or not.

For the criminal offence to occur, it is necessary that the violation of the equality of citizens, that is, denying or restricting the rights of citizens or giving citizens unjustified privileges or benefits, is grounded on differences in nationality, race, colour, religion, political or other belief, ethnicity, gender, language, education, social status

The criminal offense occurs only when there is an intent that includes the awareness that rights of citizens are restricted or denied or unjustified privileges or benefits are given to citizens on the grounds of differences in nationality, race etc. The perpetrator of a criminal offense can only be an official or responsible person in the institutions of BiH (this is due to the shared competence between BiH and the Entities).

10. The Committee recommends that the State party include in article 145a (1) of its Criminal Code all the grounds for discrimination in full compliance with article 1 of the Convention and ensure that it is done likewise in the criminal codes..

A Working Group has been established to find adequate solutions to improve the current provisions of the Criminal Code of BiH.

The mandate of the Working Group is to eliminate the observed shortcomings in Article 145 of the BiH Criminal Code.

Racist motive as an aggravating circumstance

15. The Committee is concerned about the absence of a provision on racist motive as an aggravating circumstance in the State party's Criminal Code (art. 4).

16. The Committee recommends that the State party include in its Criminal Code a provision on racist motive as an aggravating circumstance.

Compliance of criminal legislation with Article 4 of the Convention.

17. The Committee is unclear whether the State party criminalizes the public dissemination of racist propaganda and the promotion of ideas of racial superiority. It is concerned that the State party's criminal legislation does not explicitly criminalize organizations promoting racial discrimination, the support or assistance provided to such organizations and participation in their activities (art. 4).

18. The Committee recommends that the State party amend its criminal legislation to fully comply with the provisions of article 4 of the Convention.

A definition of „hate crime“ has been included in the General Section of the Criminal Code of the Federation of BiH (Article 2(11)), the Criminal Code of the Republika Srpska (Article

123(1)(21)) and the Criminal Code of Brčko District (Article 2(37)) providing that certain acts are aggravated forms of certain crimes when those crimes were committed out of hatred. These Codes provide for a more severe punishment in case of hate crime, where the court must take it as an aggravating circumstance, if there is no provision for an aggravated form of that particular crime.

All the Criminal Codes in BiH contain a special provision that broadly prohibits incitement to racial, national and religious hatred (Article 145a of the BiH CC, Article 359 of the RS CC, Article 160 of the BD CC and Article 163 FBiH CC) and hatred on other grounds such as colour, gender, sexual orientation, disability, gender identity, origin or other characteristics.

The FBiH CC includes a provision providing for punishment for public denial or justification of genocide, crimes against humanity or war crimes found by a final decision of the International Court of Justice, the International Criminal Tribunal for the former Yugoslavia or a domestic court (Article 163(5)).

The BiH HJPC has the ability to collect data on hate speech and hate crimes, through the SIPO system (IT tool, which aims to enable the management to monitor the entire work of one or more judicial institutions in one place). Data related to hate crimes, refer to aggravated forms of crimes, as committed out of hatred, for which the law explicitly prescribes more severe punishment.

This means that there is no possibility of collecting data on other crimes, committed on the grounds of race, colour, religion, national or ethnic origin, language, disability, gender, sexual orientation or gender identity of another person (hate crime), given that such conduct is taken as an aggravating circumstance in these offences.

The BiH judiciary investigates and processes cases of hate speech, i.e. cases of inciting ethnic, racial and religious hatred, discord or intolerance, as well as all other criminal offenses prescribed by criminal codes as such. In relation to the criminal offenses in question, there was a downward trend in the number of unresolved cases of this type, noting that the number of unresolved cases of this type in relation to the total number of unresolved cases is negligible.

Discrimination against citizens not belonging to the three constituent peoples

11. The Committee remains concerned that the State party's Constitution and electoral laws and those existing at entity levels still contain discriminatory provisions that bar "others" from standing as candidates for the Presidency and the House of Peoples, despite the Committee's previous recommendations (CERD/C/BIH/CO/9-11, para. 5) and the judgment of the European Court of Human Rights in *Sedjić and Finci v. Bosnia and Herzegovina*. The Committee is also concerned at the persistence of discriminatory provisions in some local laws and regulations, which give constituent peoples special privileges over "others" in the Federation of Bosnia and Herzegovina and in the Republika Srpska (art. 2).

12. The Committee urges the State party to take concrete measures to overcome obstacles to the adoption of amendments to its Constitution and electoral laws at all levels. In that vein, the Committee recommends that the State party encourage all parties to reach a consensus and establish and implement a planned calendar for the implementation of the Committee's recommendations and the judgment of the European Court of Human

Rights. The Committee also recommends that the State party ensure that local laws and regulations be amended to enable other ethnic and national groups and the constituent peoples to enjoy the same rights on an equal footing.

The Anti-discrimination Law which was based and designed on the European standards was adopted in 2009. The provisions of this Law protect the citizens of BiH against discrimination in all areas of work and life, including: employment, social and health care, justice and administration, housing, public information, education, sport, culture, science, industry and others. Further, they protect from all forms of harassment, sexual harassment, mobbing, segregation or incitement to discrimination. According to this law, all public authorities have an obligation and duty to fight against discrimination, to refrain from it, removing obstacle that directly or indirectly result in discrimination. These institutions also have a duty to actively create and produce conditions for equal treatment. They must do it by amending and passing laws, policies and practices, all in accordance with the Anti-discrimination Law. Amendments to the Law on Prohibition of Discrimination were passed by the Parliamentary Assembly of Bosnia and Herzegovina and published in Official Gazette of BiH, 66/16, and the unofficial consolidated text of the Law on Amendments to the Law on Prohibition of Discrimination was posted on the official website of the Parliamentary Assembly of Bosnia and Herzegovina.

The Law on Prohibition of Discrimination has been largely brought in line with the *acquis communautaire* and international human rights standards through amendment processes. Amendments to the law were passed and they provide for protection against discrimination to disabled persons, the elderly and members of the LGBTI population..

This indicates that BiH has improved the legal framework for the protection of human rights by adopting the latest amendments to the Law on Prohibition of Discrimination, which improved the system of protection of persons with disabilities, LGBTI population and the elderly from discrimination.

As part of the assistance provided through IPA 2 projects, a project proposal was prepared aimed at the effective implementation of anti-discrimination policies and the promotion of equal rights and opportunities for all groups in society.

The BiH Parliamentary Assembly adopted amendments to the Law on Prohibition of Discrimination, which is in line with European standards, especially in terms of improving the definition and basis of discrimination, procedures for protection against discrimination, clearer role of the central institution for protection against discrimination and cooperation with civil society organizations. . With the support of the European Commission (EC) within the Horizontal Facility project implemented by the Council of Europe (CoE), guidelines have been developed for institutions to align the legislation with the Law on Prohibition of Discrimination.

The central institution for protection against discrimination is the Ombudsperson Institution, which puts together reports on discrimination that are considered by both houses of the Parliamentary Assembly of BiH (BiH PA). Supervision over the implementation of the Law is entrusted to the BiH MHRR, which prepares annual reports on the forms of discrimination with

a proposal for legislative and other measures considered by the CoM of BiH and the BiH PA. Development of data collection system is in the final phase, data is currently difficult to collect and so far a report has been made, which was adopted by the CoM BiH and the BiH PA with a proposal for legislative and other measures that are the basis for drafting a new report and necessary strategies. The lack of a comprehensive strategy makes it impossible to create a sufficient number of anti-discrimination programmes, but so far several policy documents on children's rights, gender equality, including measures to combat sexual orientation and gender identity, and Roma have been adopted.

All public institutions and legal entities are obliged to apply the Law on Prohibition of Discrimination, including security companies.

In BiH, on the basis of valid legislation, all institutions are obliged to include civil society organizations in the process of adopting laws and policies at all levels of government and, at some levels in BiH, an electronic platform for consultations with civil society organizations and other stakeholders has already been established.

Efforts are made in accordance with Articles IV and V of the Constitution to resolve the right of ethnic minorities, referred to under the Constitution as 'Others', which has been found to be discriminatory in the decision of the Strasbourg-based ECtHR in *Sejdić and Finci* case because it favours and gives special privileges and advantages to constituent peoples (Bosniaks, Serbs and Croats) over other ethnic groups, and there are 17 of them in BiH, as established by the Law on the Protection of the Rights of National Minorities, passed in 2003. This issue of BiH is expected to be resolved in accordance with the judgment of ECtHR soon. Also possibilities for the implementation of judgments in *Pilav vs BiH*, *Zornić vs BiH* and *Baralija vs BiH* are being explored.

In this sense, we want to emphasize that the goal of Bosnia and Herzegovina is to protect the best interests of citizens of Bosnia and Herzegovina, which means amending the Constitution of Bosnia and Herzegovina and the Election Law by enforcing judgments of the European Court of Human Rights, such as *Sejdić - Finci*, *Zornić*, *Pilav*.

When it comes to enforcement of the judgment of the European Court of Human Rights in cases related to amendments to the Constitution and the Election Law on the issue of participation in government, these activities are still pending. Further, the judgment of the Constitutional Court of BiH in the *Ljubić* case, which also needs to be enforced, is of exceptional importance for the election legislation in BiH, too.

Ombudsman

13. The Committee welcomes the fact that the Institution of Human Rights Ombudsman of Bosnia and Herzegovina has been created and is fully operational but remains concerned: (a) about the limited independence of the Ombudsman; (b) that the special budget line foreseen for the work of the Department for the Elimination of All Forms of Discrimination has not been allocated; (c) about the insufficient financial resources for the Ombudsman; and (d) about the reportedly low level of compliance with the Ombudsman's recommendations (art. 2).

14. The Committee recommends that the State party expedite the adoption of the draft amendments to the Law on Prohibition of Discrimination and ensure the

independence of the Institution of Human Rights Ombudsman, secure its financial autonomy and allocate the necessary financial and human resources for it to effectively carry out its mandate, including anti-discrimination activities, in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The Committee also recommends that the State party implement the recommendations issued by the Ombudsman, including those on private legal entities.

A single institution of BiH Ombudsman for Human Rights was established and now it is fully operational.

The BiH Council of Ministers agreed on a proposal for the Law on Amendments to the Law on Ombudsman for Human Rights of BiH, which proposes a solution ensuring financial independence of this institution and envisages that this institution should be responsible for the national preventive mechanism. The proposal was sent to the Parliamentary Assembly of BiH for deliberation and passage, but it was sent back to the Joint Commission for Human Rights for agreeing on the name and mandate of the national preventive mechanism. The Institution of Ombudsman retained the A accreditation status. After the text of the Law was agreed on, it was re-sent to the Parliamentary Assembly of BiH for deliberation and passage.

The House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina sent letter 01-50-1-15-5/20 dated 26 February 2020 to inform the Council of Ministers of Bosnia and Herzegovina that, at its fifth session held on 26 February 2020, the House of Representatives rejected the proposal for the Law on Amendments to the Law on Ombudsman for Human Rights of BiH in the second reading.

In its 2021 Programme of Activities, the Ministry for Human Rights and Refugees of Bosnia and Herzegovina planned, inter alia, drafting of new Amendments to the Law on Ombudsman for Human Rights in Bosnia and Herzegovina, as one of the most important programme activities. The deadline for implementation of the activity is the second quarter of 2021.

The Amendments to the Law on Ombudsman for Human Rights in BiH provides for, inter alia, the responsibility of the Institution of Ombudsman for Human Rights of BiH for national preventive mechanism in charge of prevention of torture and ill-treatment, as well as a solution ensuring financial independence of this institution and strengthening of cooperation between the Institution of Ombudsman with civil society, the academic community and international organizations in and outside of Bosnia and Herzegovina.

The Amendments to this Law will be in conformity with the Paris Principles, the recommendations of the Venice Commission and all international and European standards.

After that, the Ministry of Human Rights and Refugees of BiH will initiate the necessary procedures for the BiH Council of Ministers to adopt the draft Law on Amendments to the Law on the Human Rights Ombudsman of BiH and send it to the Parliament for passage.

Nominations for members of the working group for drafting the law, which will consist of representatives of the competent institutions of Bosnia and Herzegovina, the Entities and the Brcko District of BiH, are currently being collected.

Racist hate speech and hate crimes

19. The Committee is concerned about reports of racist hate speech and discriminatory and disparaging statements in public discourse by public and political figures. The Committee is also concerned that racist hate speech has become common in the media, including on the Internet, and is also expressed in the forms of nationalistic and ethno-religious rhetoric against the returnees. The Committee is further concerned at reports of anti-Semitic hate speech in sports and about incidences of hate crime against Roma (art. 4).

20. Recalling its general recommendation No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party:

(a) Take appropriate measures to strongly condemn and distance itself from racist hate speech and discriminatory statements in public discourse, including by public figures at the State and entity levels;

(b) Call upon those responsible to ensure that their public statements do not contribute to incitement of racial hatred;

(c) Effectively apply its legislation by registering, investigating, bringing to justice cases of hate speech and hate crime and sanctioning those responsible with appropriate penalties;

(d) Strengthen the resources of the Communications Regulatory Agency and the Press Council and intensify the sensitization of the media, including through the Plan of Action for human rights education for journalists and media professionals.

The Constitution of Bosnia and Herzegovina (Article 2 - Human Rights and Freedoms) guarantees that the rights and freedoms enshrined in the European Convention on Human Rights and Fundamental Freedoms and Protocols thereto are directly applied in the legal system of Bosnia and Herzegovina and that they have supremacy over other valid laws and regulations, including a guarantee for exercise and protection of freedom of thought and freedom of expression.

Although the constitutional guarantee of direct application of the Convention does not require the incorporation of its content into national laws, in terms of grounds and limits of criminal coercion, Article 2 the Criminal Code of Bosnia and Herzegovina states that prescribed only for acts threatening or violating personal liberties and human rights, as well as other rights and social values guaranteed and protected by the Constitution of Bosnia and Herzegovina and international law in such a manner that their protection could not be realized without criminal justice compulsion. Article 145 - Infringement of the Equality of Individuals and Citizens (Chapter XV - Criminal Offences Against Freedom and Rights of Individuals and Citizens) provides criminal liability for an official or other responsible person in the institutions of Bosnia and Herzegovina in case of denial or restriction of the civil rights as provided by the Constitution of Bosnia and Herzegovina, ratified international agreement, law of Bosnia and Herzegovina.

The stated explanation of constitutional guarantees as well as constitutional and criminal protection of guaranteed rights and freedoms, along with other prescribed concepts and rights, such as the right to judicial protection, fair trial, court efficiency, right to appeal and a tiered judicial system, as well as the right to compensation, classify Bosnia and Herzegovina as a

democratic state with a regulated normative system of internationally recognized human rights and freedoms, which is the legal basis for the efficient operation of the judiciary.

BiH has a quality and functional regulatory framework in force that applies to all providers of audio-visual media services and radio media services, for the implementation of which the Communications Regulatory Agency (the Agency) is responsible. The Law on Communications of BiH and by-laws of the Agency establish regulatory principles that are applied in broadcasting and which prescribe the prohibition of broadcasting content that includes discrimination and hate speech. The Agency does not have the authority to regulate hate speech either on the Internet or in the print media.

In accordance with Article 37 and 39 of the Law on Communications, the Code on Audiovisual Media Services and Radio Services determines the programme content related to providers of audiovisual media services and radio services. Among other things, it prohibits the broadcasting of content that humiliates, intimidates or incites hatred, violence, discrimination or prejudice based on sex, race, ethnicity, nationality, religion or belief, disability, special needs, age, sexual orientation, social origin, as well as any other content which has the purpose or consequence of preventing or endangering recognition, enjoyment or exercise of any person's rights and freedoms on an equal footing. In addition to television broadcasting, the Communication Regulatory Agency is also responsible for audiovisual media services requested, which can be provided, inter alia, via the Internet. In accordance with its statutory competencies, the Agency has initiated activities to expand the responsibility of users of radio and television broadcasting licenses to the content they publish on the websites under their logo, in order to prevent the spread of discrimination and hate. In the future, the Agency will also regulate hate speech that is spread through video sharing platforms.

In the reporting period, the Agency also participated in the JUFREKS project of the Council of Europe and the EU entitled "Strengthening Judicial Expertise on Freedom of Expression and Media in Southeast Europe" and this joint project produced a publication entitled "Media Regulators and Hate Speech", which aims to contribute to a broader understanding of the concept of hate speech and international standards in this regard. One of the achievements worth of emphasizing in the context of the Agency's powers is the joint initiative of the Agencies and the BiH Central Election Commission (CEC) on amending the CEC bylaw entitled the Rulebook on Media Representation of Political Entities from the Day of Calling Elections to Election Day, which regulates in more detail the implementation of Chapter 16, and which provides for the possibility of refusing political advertising if it includes any discrimination or hate speech. During the reporting period, the Agency received and processed a number of complaints related to potential "hate speech" in the programmes of audio-visual media service providers. Following investigative procedures, no violations of hate speech provisions in the manner prescribed by the Code were found, but in three cases against three providers of audio-visual media services (television broadcasting) it found violations of respect for human dignity and fundamental rights and respect for professional and generally accepted value standards, on the basis of which the Agency issued two fines and a written warning. In other cases, there were no grounds for conducting proceedings for violation of the provisions concerning hate speech and they were terminated under regular procedure.

In February 2018, the CoM of BiH adopted the Action Plan on Human Rights Education of Journalists and Media Professionals on the basis of the December 2015 UN Guidelines for Human Rights Education, on the basis of which, in cooperation with the CSA, training for BiH government communication officers was held in September 2018. The revised Action Plan on

Human Rights Education of Journalists and Media Professionals was included in the 2020 work Programme of the Ministry. Difficulties were encountered in the implementation due to the COVID-19 pandemic.

The BiH MHRR, together with the BiH MoJ and the BiH MoS, prepared a Report on Freedom of Speech and the State of Media Freedoms in BiH proposing a measure to incorporate the criminal offense of attacking at journalists into criminal legislation, which was adopted by the BiH CoM in October 2016.

Situation of Roma

21. While noting efforts undertaken by the State party, the Committee is concerned about the persistent discrimination and marginalization of Roma in various areas of life, which impede their full integration into society. The Committee is particularly concerned about:

(a) the low enrolment rate of Roma children in particular at the secondary and university levels:

(b) the severe unemployment of Roma, in particular women, in public and private sectors;

BiH has undertaken to provide the funds necessary for the implementation of the Roma Action Plan for Employment, Housing and Health Care.

In accordance with the above, every year the Council of Ministers of BiH appropriates annual budget funds, which are intended for the implementation of the Roma Action Plan, within the budget of the Ministry of Human Rights and Refugees of BiH.

In the period from 2009 to 2020, BAM 6,727,000.00 were appropriated for Roma employment and 962 persons were beneficiaries of funds for employment and self-employment. Funds for Roma employment are allocated in cooperation with employment services, which select the beneficiaries of employment and self-employment projects through public calls. If we look at the qualification structure, 88% of unemployed Roma registered do not have a qualification and in relation to gender 45% of unemployed Roma registered are women, with a high unemployment rate of young people. Based on this, in cooperation with the employment services, the Ministry of Human Rights and Refugees plans to develop Programmes to encourage Roma, especially Roma women, to retrain, start a small business and establish cooperatives.

When it comes to members of national minorities, the 2020-2024 Strategy for the Promotion and Protection of the Rights of Persons Belonging to National Minorities in the Republika Srpska gives a special emphasis on the position of Roma and envisages additional objectives for Roma.

In order to increase the number of Roma children in schools, in cooperation with Roma associations, the Republika Srpska has adopted the 2021-2024 Action Plan on the Educational Needs of Roma in the Republika Srpska. Objective 1 is to increase inclusion of Roma children in pre-school, primary and secondary education and reduce the dropout rate at all levels of

education and support schooling of adults who have not gone to school or have dropped out of school. The goal is accompanied by appropriate measures and activities.

(c) the unhygienic housing units in which some Roma live and about the lack of completion of housing projects;

Every year funds for solving Roma housing are appropriated in the MHRR budget and are allocated on the basis of a public call. The aim of the grants is to improve living conditions in Roma communities through the construction of new or rehabilitation of existing housing and communal infrastructure. The grants can be spent on the following:

- Construction of housing units for Roma (collective / individual buildings);
- Construction of social housing units for Roma;
- Improving housing conditions in housing units inhabited by Roma (reconstruction and rehabilitation of existing houses and apartments);
- Construction and improvement of supporting communal infrastructure in Roma settlements;
- Co-funding of programmes / projects for legalization of illegally constructed housing in settlements inhabited by Roma.

(d) the lack of identification documents and the unfamiliarity of Roma with the health-care system, which hamper their access to health care. (art. 5).

In the period from 2009 to 2020, BAM 2,774,000.00 was allocated for health care. According to the data of the competent institutions and Roma NGOs, 1,085 Roma were registered into the health care system in the Federation of BiH. Educational and preventive health care programmes, raising awareness of members of Roma communities about the importance of health care, training of parents in the importance of immunization, immunization of Roma children and training in reproductive health and motherhood were conducted. Preventive programmes have been implemented - screening for specific diseases (cervical cancer, breast cancer, colon cancer, prostate cancer.) In accordance with the planned activities in the Roma Action Plan, Roma NGOs train the required number of new Roma mediators for health care every year and the whole process included over 175 mediators who had previously completed general and special training. Funding for the training of new health mediators came from MHRR funds. In order to improve availability and quality of health care for members of the Roma population, the new action plan defines two measures: strengthening the capacity of Roma representatives to improve the health of Roma and reducing health risk factors in the Roma population.

In the Republika Srpska, the 2019-2029 Strategy for the Promotion of Sexual and Reproductive Health of the Republika Srpska was adopted.

Article 8 of the Law on Health Care of the Republika Srpska prescribes that health care is provided under equal conditions to population and nosological groups of special social and medical significance.

We emphasize that Article 34 of the Law, when exercising health care, a patient is obliged to, inter alia, actively participate in the protection, preservation and improvement of his health and to fully inform the competent health worker about his health condition.

The Law on Health Care of the Republika Srpska (Article 11) provides that the health care services are carried out on the principles of equality, accessibility, comprehensiveness, continuity and coordination and that health care is provided without discrimination on any grounds.

22. The Committee recommends that the State party develop a comprehensive and integrated national strategy on Roma. It should:

(a) Strengthen its measures to increase the enrolment of Roma children, including by providing sufficient funding for the effective implementation of the Revised Action Plan on Roma Educational Needs;

As part of the regional Berlin Process cooperation, the Declaration on Roma Integration was adopted and signed on 5 July 2019 in Poland by leaders of the Western Balkans. The Declaration envisions a range of measures to improve the status of Roma in these countries in employment, housing, education, health, civil registration, non-discrimination and health.

It is envisaged that, based on the available data from 2017, data-based policies for Roma integration will be formulated and an adequate mechanism for monitoring and reporting on the implementation of Roma policies will be established, including data relevant for measuring and achieving the goals stated in the Declaration. Each of the parties undertook to abide by the Declaration until the date of becoming a member of the European Union.

With regard to Roma education, the Declaration declared its goal: "Increase enrolment and completion rate of Roma primary education to 90 % and enrolment and completion rate of secondary education to 50 %."

In order to monitor the objectives stated in the Declaration, while putting together the 2018/18 and 2019/20 reports on the implementation of the 2019 Framework Action Plan on the Educational Needs of Roma of BiH, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina requested from the competent institutions information on the inclusion of Roma children in the education system. The data follows a methodology that enables reporting by Bosnia and Herzegovina on the progress of Roma minority integration in education.

Comparing these two school years, it can be noticed:

a slight increase in enrolment of children in preschool education - from 31 children in 2018/2019 to 69 children in 2019/2020, a slight increase in enrolment of children in primary education - from 1393 children in 2018/2019 to 1479 children in 2019/2020, a slight increase in enrolment of children in secondary education - from 99 children in 2018/2019 to 108 children in 2019/2020.

Considering that a large number of institutions have not provided or do not have data on the number of children who have dropped out or completed certain level of education, it is impossible to draw relevant conclusions.

In the Republika Srpska, when it comes to secondary education, children are not required by the Constitution to declare their ethnicity, so there is no data on the number of Roma children for this level of education in the Republika Srpska.

In the second half of 2019, in order to obtain data on the allocation of funds for the educational needs of Roma, the Ministry of Human Rights and Refugees of BiH sent to 72 municipalities in Bosnia and Herzegovina inquiries concerning: programmes for Roma children in need in preschool and school education, provision of textbooks and school supplies for children in

need, provision of transportation for students in need, provision of snacks by schools for students in need, scholarships for students in need in secondary schools and colleges and all other activities aimed at improving the position of students in need.

Although about 35% of the respondents submitted the requested data, the aggravating circumstance is that the competent institutions do not keep special data for Roma children. Thus, for example, data on financial resources for the provision of textbooks and school supplies or the provision of snacks are not disaggregated, i.e. they include all children in need in a certain area and not only Roma children.

Taking into account the received records on the one hand and the estimates on the other hand of the number of Roma in particular areas, the Ministry of Human Rights and Refugees of BiH estimates that, in Bosnia and Herzegovina in 2018, about BAM 100,000 were allocated for the educational needs of Roma at the local level.

As the establishment of an appropriate mechanism for monitoring and reporting on the implementation of Roma integration policies is specified in Article 2 of the 2019 Declaration on Roma Integration, while putting together a report on the implementation of the 2019 Framework Action Plan on the Educational Needs of Roma of BiH, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina proposed that in the coming period activities should be initiated to establish such a mechanism, as the main recommendation. However, due to a failure of the Government of the Republika Srpska to submit an opinion despite reminders sent, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina is still unable to send the draft Report on the Implementation of the 2019 Framework Action Plan on Educational Needs of Roma of BiH to the Council of Ministers of Bosnia and Herzegovina.

On 29-30 September 2020, a working meeting of the inter-departmental group and expert/thematic working groups for the development of the 2021-2025 Action Plan for Roma Inclusion of BiH was held in Teslić. The meeting was also attended by the Expert Team for Monitoring and Evaluation of the 2018-2022 Framework Action Plan on the Educational Needs of Roma of BiH.

On that occasion, the members of the Expert Team agreed to carry out certain activities related to the measures within the Action Plan for Education.

In an attempt to identify professional literature on Roma culture and history, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina requested members of the Expert Team to submit proposals for possible literature and textbooks so that the Ministry could obtain them from BiH and the region. No proposals for possible literature and textbooks have been received from the competent educational institutions, which should later be the subject of procurement by donors.

In mid-November 2020, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina sent an initiative to Rectors' Conference in Bosnia and Herzegovina to open Romani language departments at the faculties of philosophy. A response to this initiative is expected in the coming period, after which the possibility of organizing a public debate will be considered, which would include the competent ministries of education in Bosnia and Herzegovina.

In November 2020, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina issued a public invitation for the allocation of grant funds for Roma education for 2020 in the amount of BAM 48,000.00. The purpose of the grant was to support the pedagogical institutes of the Entities and the Brčko District of Bosnia and Herzegovina and non-governmental organizations in order to achieve the goals of the 2018-2022 Framework Action Plan on the Educational Needs of Roma of Bosnia and Herzegovina. This activity is expected to be finalized by the end of 2020, while the implementation of selected projects is expected in 2021.

Goal 1 in the 2021-2024 Action Plan on the Educational Needs of Roma the Republika Srpska: Increase inclusion of Roma children in pre-school, primary and secondary education and reduce the dropout rate at all levels of education and support schooling of adults who have not gone to school or have dropped out of school. The goal is accompanied by appropriate measures and activities.

Measures to achieve this goal are:

Measure 1 - Increasing inclusion of Roma children in pre-school upbringing and education

Measure 2 - Increasing inclusion of Roma children in education in the year before starting school

Measure 3 - Increasing inclusion of Roma children in primary education

Measure 4 - Increasing inclusion of Roma children in secondary education

Measure 5 - Part-time education of students and education of adults

Nineteen activities are planned for the implementation of these measures.

b) Consider taking special measures to foster the employment of Roma in the public and private sectors and enhance its measures aimed at developing the employability of Roma, in particular for Roma women;

In 2020, the Ministry of Human Rights and Refugees of BiH initiated activities (meetings, consultations) for development of the 2021-2025 Action Plan for Inclusion of Roma of BiH.

Representatives of competent authorities and Roma non-governmental organisations sitting on one inter-departmental group and five expert/ thematic working groups, participated in the development of this AP. This AP directly builds on the goals contained in the EU Strategic Framework for Equality, Inclusion and Participation of Roma and the Declaration on Roma Integration signed on 5 July 2019 in Poland by the Western Balkans leaders. The declaration envisions a range of measures to improve the status of Roma in these countries in employment, housing, education, health, civil registration, non-discrimination and health.

In order to improve the employability of Roma, the new Action Plan defines three measures and they are: encouraging employment and employability of Roma, providing funds for the implementation of Roma employment programmes and encouraging employment of Roma in the public sector.

c) Accelerate the construction projects, provide sufficient funding for their completion and relocate Roma in more adequate housing units;

Funds for solving Roma housing are provided from the budget of the MHRR and are allocated on the basis of a public call. Only local self-government units in Bosnia and Herzegovina inhabited by Roma have the right to submit project proposals for grant allocation. In the period 2009-2020, a total of BAM 41,386,493.59 (from the budget and co-financing) was allocated for Roma housing in BiH. These funds were used for 1,037 housing units to be built / rehabilitated, while over 1,900 families are beneficiaries of infrastructure projects.

d) Facilitate access by Roma to identification documents and birth certificates.

When it comes to the lack of civil documents for Roma, the Constitution of Bosnia and Herzegovina provides that BiH and both of its Entities ensure direct application of international standards and their transposition in domestic legislation, giving priority to all international conventions and protocols.²

Since the adoption of the Zagreb Declaration on Access to Civil Documents and Registration in 2011, great progress has been made. Namely, in addition to the already adopted Law on Registry Books of the Brčko District of BiH and the Law on Registry Books of the Republika Srpska and delegated legislation, a new Law on Registry Books of the Federation of Bosnia and Herzegovina and delegated legislation have been adopted. The new laws ensure security of public documents and unlimited validity of documents (birth certificate) and establish electronic civil registers in the Entities, thereby completing the legislation of Bosnia and Herzegovina (Federation of BiH, Republika Srpska and Brčko District of BiH) respecting civil registration completed, which has not been made fully compliant with international standards yet.

When it comes to Roma, according to the current MHRR records, there are 50 Roma for whom it is necessary to conduct the registration process. These are mostly persons who were returned to Bosnia and Herzegovina under readmission agreements and whose children were born abroad and do not have international birth certificates or apostilles attached. When it comes to adults, a difficulty is with persons who have citizenship of some neighbouring country where it is necessary to conduct the procedure of registration in the Registry Books or persons who cannot obtain identification documents of countries whose citizens they are.

In BiH, when it comes to cases of Roma who are at risk of statelessness, as part of the development of the new 2021-2025 Action Plan for Roma Inclusion of BiH and the Operational Conclusions from Roma Seminars of the European Commission, BiH adopted a set of measures for facilitated access to personal documents and alignment and / or amendment of legislation in the Federation of Bosnia and Herzegovina. An initiative to amend the Law on Registry Books of the Federation of Bosnia and Herzegovina was sent to the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina by the "Vaša prava BiH" Association. The amendments relate to Article 13 concerning the registration of children born outside health care institutions and children and / or parents born abroad and Article 47 regulating to the correction of data after the conclusion of the basic contract.

Representation of minority groups in political and public life

23. The Committee is concerned about the very limited representation of ethnic minority groups, in particular Roma, in decision-making bodies and in public office, at the entity and local levels (arts. 2 and 5).

24. In the light of its general recommendation No. 32 (2009) on the meaning and scope of special measures in the Convention, the Committee recommends that the State party take concrete measures to ensure that ethnic minority groups, in particular Roma, are

² (1948 Universal Declaration of Human Rights, 1954 Convention on the Legal Status of Stateless Persons, 1961 Convention on the Reduction of Statelessness, 1966 International Covenant on Civil and Political Rights, 1989 Convention on the Rights of the Child, 1965 International Convention on the Elimination of All Forms of Racial Discrimination, 1979 Convention on the Elimination of All Forms of Discrimination against Women, 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1997 European Convention on Nationality and 2006 Convention on the Rights of Persons with Disabilities).

adequately represented in decision-making bodies, public office and the civil service at State, entity and local levels..

According to information available to the MHRR, 71 Roma were on the candidate lists in the local elections in BiH on the lists for national minorities or political parties. From the registered number of candidates, it was noticed that 21 people won seats in the Council of Municipalities / Cities. When it comes to the Roma Board of the Council of Ministers of BiH, eleven Roma sit on this advisory body, while in the Council of National Minorities of the Parliamentary Assembly of BiH there is one representative. There are seven Roma in the Council of National Minorities of the FBiH and one sits on the Council of National Minorities of the RS.

Situation of returnees

25. The Committee takes note of the various measures under the Revised Strategy for the Implementation of Annex 7 of the Dayton Peace Agreement, such as the “Sustainable return of refugees and displaced persons: reconstruction of housing units”. However, the Committee is concerned that returnees still face difficulties in their sustainable reintegration into society. In particular, they face certain obstacles in gaining full restitution of their property, and access to the labour market and social benefits in case they change their residence (arts. 2 and 5).

26. The Committee urges the State party to strengthen its measures aimed at favouring the sustainable return and reintegration of returnees. For that purpose, the Committee recommends that the State party provide sufficient funding for the full implementation of the Revised Strategy for the Implementation of Annex 7 of the Dayton Peace Agreement in different areas of life, such as housing, employment, and access to health care and social benefits. The Committee also recommends that the State party ensure that returnees are not disadvantaged with regard to access to their rights irrespective of where they reside in the territory of the State party.

Article 146 of the BiH CC³ criminalizes preventing the return of displaced persons and refugees. The criminal offense has three forms: paragraph 1 provides for the basic form of the offense, paragraph 2 prescribes criminal liability or punishment for participating in a group of people who commit the offense referred to in paragraph 1, while paragraph 3 prescribes punishment of organizers and leaders of the group people.

³ Prevention of Return of Refugees and Displaced Persons
Article 146

(1) Whoever by use of force, serious threat or in some other illegal way, on a larger scale or with a larger impact, prevents refugees and displaced persons to return to their homes of origin, or to use their property of which they were deprived in the course of hostilities since 1991, shall be punished by imprisonment for a term between one and ten years.

(2) Whoever participates in a group of people, which perpetrates the criminal offence referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term not less than three years.

(3) Whoever organises or directs at any level the group of people, which perpetrates the criminal offence referred to in paragraph 1 of this Article, shall be punished by imprisonment for a term not less than five years.

A special topic related to elimination of any form of intolerance is the attitude towards refugees and asylum seekers. Although BiH has been addressing rights of refugees and displaced persons in a good way for many years now, especially in terms of property law rights, where the property has been recovered almost one hundred per cent, there are a lot of difficulties in the field of sustainable return. This means that, in addition to refugees returning to their original home, they should be provided with basic conditions to resume a normal life. In addition to repairing and building houses that have been devastated or destroyed, the returnees need jobs, school buildings, clinics, roads, electricity and other conditions for normal work and living. Despite the efforts made, BiH has not yet managed to fully solve the problems of refugees and displaced persons in accordance with the established Revised Strategy of Annex VII of the Dayton Peace Agreement. An assumption is that they can be fully resolved by 2022 with the help of the international community and donors.

The implementation of the Revised Strategy for the Implementation of Annex VII of the GFPA is ongoing. Every year a report is made on the progress in the implementation of the Revised Strategy. The greatest progress has been made on the reconstruction of housing units for displaced persons and returnees, as well as the renewal of communal and social infrastructure and electrification of returnee settlements. In 2017, two thematic meetings were held on the topic of closing collective centres and health care of displaced persons and returnees. The meetings gave some positive results in the health care of these categories and the closure of collective centres by implementing the project of closing collective centres and alternative accommodation - CEB 2 and initiated activities to pass a law on social housing.

Regarding property restitution, the official figure is that of the approximately 225,000 temporarily occupied properties, more than 220,000 (over 99%) have been returned to pre-war owners and occupancy right holders. In the period from 1 January 2010 to 31 December 2019, 259 cases were brought before the Court of BiH against the final administrative decision of the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC). There are still difficulties in actual repossession of apartments in blocks of apartments and there is a particular difficulty with destroyed apartments, when the development plans of local communities have been changed. Also, the right to home has been called into question due to the inability of the returnee to pay compensation to the temporary occupant for construction works performed during his temporary stay in it and settlement of court costs incurred in such lawsuits (Zulčić case).

Difficulties in exercising labour rights faced by returnees and displaced persons, which affect the return process, relate to the state of general unemployment in BiH. In June 2020, the Ombudsperson of BiH published a Special Report on the Representation of Constituent Peoples and Others in Institutions, Administrative Organizations and Regulatory Bodies of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, the Republika Srpska, the Brčko District of Bosnia and Herzegovina and FBiH Cantons (by Budget Units), with the exception of police and security structures, and the data suggests that there is discrimination against returnees in employment in the public sector to which they are entitled in accordance with legal provisions.

With regard to social benefits, there is an obvious problem that changing the place of residence to another Entity leads to the loss of status and rights provided by law of one entity and not provided by law of another entity, i.e. there is a significant difference in scope and quality. As no planned progress has been made in the area of social protection within the implementation of the Revised Strategy of BiH for the implementation of Annex VII of GFPA, the Consultative

Working Group for the Implementation of the Revised Strategy proposed to hold a thematic meeting entitled "Social Protection of Refugees and Displaced Persons" in 2020, where representatives of Entity bodies in charge of social protection would consider the possibilities of implementing the planned measures. Due to the COVID19 pandemic and given the need for the participation of a larger number of people, the meeting did not take place and it can be expected when the necessary conditions are met.

With the aim of achieving strategic goals, from the estimated amount of BAM 1.21 billion needed for housing reconstruction and supporting infrastructure, a total of about BAM 909 million was provided from loans and donor funds, funds pooled in the Fund for the Return of BiH and the budget funds of the Entities and the Brčko District of BiH from 2009 to 2018. With regard to ensuring that returnees are not disadvantaged in terms of access to their rights regardless of where they live in the country, significant progress is expected after the thematic meeting entitled "Social Protection of Refugees and Displaced Persons", as stated in the previous answer.

Segregation in education

27. The Committee is concerned about the persistence of the “two schools under one roof” practice in some cantons of Central Bosnia and Herzegovina-Neretva as well as of mono-ethnic schools, despite the Committee’s previous recommendation (CERD/C/BIH/CO/9-11, para. 11) and the decisions of the Municipal Court of Mostar of 2012 and of the Supreme Court of Bosnia and Herzegovina of 2014 (arts. 2 and 5).

28. The Committee recommends that the State party strengthen its efforts to end all forms of segregation in the education system, including the practice of “two schools under one roof” and mono-ethnic schools and further develop a common basic curriculum and a more inclusive education system for all children, while respecting their own language..

All laws governing education in BiH guarantee every child an equal right of access, equal opportunities to participate in appropriate upbringing and education and the enjoyment of equal treatment, without discrimination on any grounds and no law contains discriminatory provisions. It is important to note that since 2002, there have been no new cases of "two schools under one roof" and that efforts have been made in recent years to overcome this problem.

As part of the institutional framework in BiH, advisory bodies of education have been established. They make a coordination mechanism at the same time and base their operation on a tolerant and multi-ethnic setting. They are: the Conference of Ministers of Education in BiH, the Coordination of Ministers of Education and Science in FBiH; Rectors' Conference of BiH, the Association of Rectors of Private Universities.

Since 2015 a significant progress has been made when it comes to the development and implementation of the Common Core Curriculum based on the learning outcomes in schools of Bosnia and Herzegovina. Continuous improvement of curricula and their implementation seeks to stop all forms of discrimination and segregation in schools while significantly improving the quality of education.

Established advisory bodies of education are coordination mechanisms. Currently, projects aimed at strengthening the capacity of educational authorities and institutions for better implementation of inclusive education in Bosnia and Herzegovina in accordance with

international conventions and recommendations, i.e. improving the quality of education by preventing ethnic segregation in formal education through the application of anti-discrimination approaches based on Council of Europe standards and practices, are implemented.

Given the current structure of the education system in BiH, the competent educational authorities of the RS, cantons in the FBiH and BD BiH have exclusive competence in adopting the curriculum.

In cooperation with competent education authorities, the Agency for Preschool, Primary and Secondary Education has developed the Common Core Curriculum for all eight educational fields: Language-Communication Fields; Mathematical Fields; Social-Humanistic Field; Natural Sciences; Technics and Information Technology; Cross-curricular and Inter-subject Field; Physical-Health Field and Art Field. The Agency has been holding training of professionals in the implementation of the Common Core Curriculum for Cross-curricular and Inter-subject Field defined on the learning outcomes in the existing Curricula within the social-humanistic field in BiH. The implementation of the Common Core Curriculum has started in certain cantons. Programmes based on the Common Core Curriculum ensure student mobility throughout BiH. The Agency has also developed a Toolkit for the evaluation and self-evaluation of primary schools in BiH in the field of intercultural and inclusive education, which is designed to be acceptable to educational inspectors and professional advisors, as well as for the internal process of self-evaluation in primary schools.

As good progress on this issue, the Board of the Agency for Preschool, Primary and Secondary Education has adopted a Decision approving guidelines for the implementation of the Common Core Curriculum based on learning outcomes. The next step in this process is to develop curricula based on learning outcomes.

Recommendations of the FBiH Ministry of Education and Science on the resolution of so-called "two schools under one roof" were given to all cantonal ministries of education and their implementation is related to the relevant constitutional provisions and the different practice of courts in the Federation of BiH.

Given that the field of education is the responsibility of the Entities, cantons and BD BiH, these systems are obliged to carry out activities aimed at establishing an inclusive and multi-ethnic education system.

The Department of Education of the Government of BD BiH has a Roma officer, who is employed by the Pedagogical Institute and works to raise awareness of the need for education of Roma children and youth, and there is an evident increase in the number of Roma students in primary and secondary education. Incorporation of the Common Core Curriculum based on the learning outcomes in the existing curricula ensures the mobility of students throughout BiH.

In the territory of FBiH, projects of preschool institutions, primary and secondary schools, citizens' associations and non-governmental organizations were supported within the programme entitled "Assistance to Projects to Improve Educational Work with Children with Disabilities".

A special challenge is the implementation of the Interim Agreement on the Special Needs and Rights of Returnee Children, especially in light of current developments regarding the introduction of a national group of subjects for returnee children in the RS. The FBiH Ministry of Education and Science has undertaken other activities aimed at improving the inclusion of all children in the educational system, and especially in formal education institutions. A

programme entitled: "Assistance to Inclusion Projects and Projects to Improve Work with Children with Special Needs" and a work Programme entitled "Support to Education of Roma Children and Other National Minorities" were implemented. In the last two years, a programme to support Roma teaching assistants has been funded.

The laws governing education of the Republika Srpska provide that every child has an equal right of access and equal opportunities in education and upbringing without discrimination on any grounds. Equal access and equal opportunities imply the provision of equal conditions and opportunities for all children at the beginning and continuation of education and upbringing.

In order to provide the above, the Ministry of Education and Culture of the Republika Srpska provides, among other things, funds for the transportation of all students who travel more than four kilometres to school and procures textbooks for all first and second grade students, students studying so-called „national group of subjects" and returnee students attending primary school.

All returnee students in the Republika Srpska are included in the system of compulsory primary education and all those who wish to continue their education can freely exercise their right to education in all secondary schools in the Republika Srpska, provided that they meet the requirements for enrolment in secondary schools.

In school year 2003/2004, curricula and textbooks for primary and secondary schools were aligned with the Common Core. When approving each new textbook, in addition to inspection of the reviews, this Ministry requests an opinion of the RS Pedagogical Institute, after which the textbook is approved / not approved for printing. Didactic and other materials of offensive content may not be used or studied in teaching or other school activities, and teachers or other school staff may not make statements that could justifiably be considered offensive to the language, culture and religion of students belonging to any national, ethnic or religious group. Further, the ethnic structure of school boards is in line with ethnic structure of students and parents of the local self-government unit in which the school is located.

Regardless of (non)fulfilment of requirements, the so-called "national group of subjects" under the curriculum of one or another canton from the Federation of BiH is taught in 18 primary schools in the Republika Srpska.

In primary schools in the Republika Srpska attended by children of Bosniak and Croat ethnicity, the study of Islamic and Catholic religious education is organized for all children whose parents opt for their childrens' studying religious education and attending religious education classes.

Regarding children with disabilities, in cooperation with the RS Pedagogical Institute, the Ministry of Education and Culture of the Republika Srpska is implementing inclusion in schools. Since school year 2010-2011, in order to provide better and more accessible education and upbringing for students with disabilities, the Ministry of Education and Culture has been funding costs of assistants who provide technical support to the student.

In the Republika Srpska, programmes have been created for students with disabilities: for students with visual impairment, hearing impairment, mild intellectual disability (mild mental

retardation), moderate and severe intellectual disability (moderate and severe mental retardation, autism.

The Law on Amendments to the Law on Preschool Education (Official Gazette of the Republika Srpska, 63/20) has been adopted. The Law provides, inter alia, that Centres for Social Work in underdeveloped and extremely underdeveloped local self-government units in which there are no pre-school institutions and social protection institutions in which children without parental care are placed, can perform the activity of pre-school upbringing and education within a special department or organizational unit if legal requirements are met. It also prescribes that a school for children with disabilities can be a resource centre for inclusive upbringing and education. The resource centre for inclusive education performs the following tasks: provides professional assistance to the preschool institution during the observation and assessment of children with difficulties in development in accordance with the law, provides assistance in developing individualized educational Programmes, provides services of special education teachers individually, adapts didactic resources, materials and games for early learning to children with disabilities, conducts training in the use of assistive technologies in education, organizes seminars and training for educational workers, provides parent counseling, performs other tasks that are in the interest of improving the position of children with disabilities in preschool institutions. The Minister of Education and Culture of the Republika Srpska issues a decision to approve setting up of a resource centre for inclusive education within schools for children with disabilities. The school for children with disabilities prescribes the structure of resource centre in its Rulebook on Structure and Job Descriptions. It is also defined that the Public Fund for Child Protection of the Republika Srpska co-funds an allowance for preschool education of children who have the status of child without parental care in accordance with regulations governing social protection and of children with disabilities who have expert commission's opinion and findings containing needs assessment and guidance of children and youth with disabilities given in accordance with the legislation governing social protection of children from six months old until school starting age, residing in the territory of the Republika Srpska. The allowance is determined in the amount equal to parents' financial participation in the cost of service provided by the public preschool institution determined by the founder of the public preschool institution in the territory of the local self-government unit in which the child will attend the preschool institution.

The Ministry of Education and Culture of the Republika Srpska has adopted the Rulebook on the Manner and Conditions of Implementation of Preschool Programmes for Children with Disabilities, as well as the Psychosocial Support Programme (PSSP) for Parents of Children with Disabilities, which have created better conditions for inclusion of children with disabilities in preschool education.

The Republika Srpska has been taking measures to increase inclusion of Roma children in the education system. They are given free textbooks, they have free transportation if they live more than four kilometres far from the school, Roma students are awarded scholarships.

On 15 October 2019, in order to improve equal opportunities for access and the right to education for members of national minorities and other vulnerable groups, the Council of

Ministers of BiH adopted "Inclusive Education Recommendations in Bosnia and Herzegovina", the implementation of which should contribute to the improvement of inclusive education and further development of inclusive education policies, which should be a continuous process, vision and goal of the competent education authorities in BiH and all relevant partners with a view to achieving quality education at all levels, for all.

Further, in accordance with the vision of the Council of Europe for quality education and Recommendation CM/Rec(2012)13 of the Committee of Ministers to member states on ensuring quality education and international standards for quality education for all, especially in the segment of inclusion, "Policy Recommendations with a Roadmap for Improving Inclusive Education in Bosnia and Herzegovina" was developed and adopted by the BiH Council of Ministers on 2 September 2020. The measures proposed in this document emphasize the need to perceive quality education for all as a public good and a basic social value and, in that sense, it is necessary to implement policies in accordance with international standards and develop democratic culture in schools based on democratic rights and responsibilities, i.e. improve inclusive education without discrimination on any grounds.

The BiH Ministry of Civil Affairs does not have any information about termination of ethnically divided schools, including "two schools under one roof" and monoethnic schools in accordance with the decision of the Supreme Court of the Federation of Bosnia and Herzegovina other than the information provided in the 12th and 13th report of Bosnia and Herzegovina on the implementation of the International Convention on the Elimination of Racial and All Forms of Discrimination.

Migrants and asylum seekers

29. The Committee appreciates the efforts made by the State party to satisfy the needs of asylum seekers, refugees and internally displaced persons. However, the Committee remains concerned about the lack of capacity to accommodate all asylum seekers arriving in its territory and about the limited access to regular basic services, such as food, primary health care and psychological support for those residing outside the government-run facilities. The Committee is concerned about reported impediments in access to the asylum procedure, in particular: (a) the requirement of proof of a registered residence in order to apply for asylum, which many potential applicants are unable to secure; (b) the short duration/validity (14 days) of an attested intention to apply for asylum and the authorities' reluctance to renew them; (c) the limited availability of interpretation services and legal aid for asylum seekers during the procedure; (d) the failure to always provide unaccompanied minors with a guardian; (e) that asylum seekers do not always receive information on their rights and obligations; (f) the reported detention of asylum seekers pending consideration of their applications for asylum; (g) that migrants and other minorities are at risk of statelessness (art. 5).

30. The Committee recommends that the State party:

(a) Increase its reception capacity in order to accommodate all asylum seekers and ensure that they have access to basic services;

(b) Address shortcomings of its asylum procedure to guarantee that all persons intending to apply for asylum are able to do so and benefit from procedural legal safeguards,

including information on their rights, and the provision of free legal aid and interpretation services;

Article 13 (Beneficiary of Legal Aid) of the Law on Provision of Legal Aid prescribes that a beneficiary of free legal aid is a natural person who is in the territory of Bosnia and Herzegovina under international protection in accordance with international standards, especially asylum seekers, refugees, persons granted subsidiary or temporary protection, a person in the process of expulsion, stateless persons, victims of trafficking in human beings, in accordance with the obligations that Bosnia and Herzegovina has under international conventions.

The competent body for providing legal aid before the bodies and institutions of Bosnia and Herzegovina in accordance with this Law is the Office for Providing Legal Aid of Bosnia and Herzegovina, which is a division of the Ministry of Justice of BiH.

(c) Ensure that a decision to use the accelerated procedure is well evaluated, respects all legal safeguards and does not result in a violation of the principle of non-refoulement;

(d) Provide unaccompanied minors with guardians at all stages of the asylum procedure;

(e) Consider the detention of asylum seekers as a measure of last resort;

(f) Pursue its efforts to implement the 1954 Convention relating to the;

We note that at the end of September, an independent UN expert on human rights of migrants, Mr. Felipe Gonzales Morales, visited BiH and compiled a report on his observations about which all the competent authorities in the state were informed.

In this regard, we note that, in accordance with their capabilities, the competent authorities in Bosnia and Herzegovina ensure humane and legal conditions for the accommodation of migrants thanks to donor funds as the increased influx of migrants need requires BiH to provide sufficient accommodation.

The Migration Coordination Body operates in Bosnia and Herzegovina.

Regarding the recommendations of the International Committee on the Elimination of Racial Discrimination, we will first give information about Committee's **conclusions** as follows:

I

a) the requirement of proof of a registered residence in order to apply for asylum, which many potential applicants are unable to secure;

The obligation of aliens to register their temporary or permanent residence and change of address prescribed in Article 38 of the Law on Asylum (Official Gazette of BiH, 11/16 and 16/16) is aligned with Article 7 of Directive 2013/33 of the European Parliament and the Council laying down standards for the reception of applicants for international protection. Thus, it is a European standard, which is incorporated into national legislation, which prescribes the obligation of an alien who is in the asylum system to report current place of

residence or address and of any changes thereof to the competent authority within the prescribed time limits, in order to enable further contacts in order to take legally prescribed actions.

b) the short duration/validity (14 days) of an attested intention to apply for asylum and the authorities' reluctance to renew them;

Article 32 of the Law on Asylum prescribes, inter alia, the validity period of the attestation of the expressed intent by an alien to apply for asylum. This article is in line with Article 6 of Directive 2013/32/EU of the European Parliament and of the on common procedures for granting and withdrawing international protection.

c) the limited availability of interpretation services and legal aid for asylum seekers during the procedure;

Article 29 of the Law on Asylum defines the safeguards in the procedure, which are provided to asylum seekers in each individual case. This article provides that an asylum seeker in BiH, among other things, is entitled to have the proceedings conducted in a language which he/she can understand or in respect of which it could be reasonably assumed that he/she can understand it and ensures access to and use of legal aid, in the manner prescribed in Directives 2013/32 / EU and 2013/33 of the European Parliament and the Council.

d) the failure to always provide unaccompanied minors with a guardian;

In asylum proceedings, the Ministry of Security of BiH is obliged to address the competent guardianship authority for each minor asylum seeker with a request to appoint a guardian who will protect the best interests of the child during the proceedings. In accordance with Article 12 of the Law on Asylum, a guardian will be appointed to an unaccompanied minor or an incapacitated foreigner who has expressed an intention to apply for asylum or has submitted an asylum application under the same conditions as BiH citizens. This right of asylum seekers in BiH is in line with European standards.

e) that asylum seekers do not always receive information on their rights and obligations;

This right of asylum seekers in BiH is aligned with European standards, prescribed in the above-mentioned directives and ensured in asylum procedures. Article 15 of the Law on Asylum provides that aliens who express the intent to apply for asylum, asylum-seekers, refugees, aliens under subsidiary and temporary protection have the right to be informed, in a language they understand or for which it can be reasonably assumed that they can understand it, about the procedures, rights and obligations arising from their status in accordance with this Law. The information mentioned in paragraph (1) above may be submitted in writing, in the form of a leaflet, in a language the alien can understand or for which it can be reasonably assumed that he/she can understand it. The law also prescribes an obligation of all other bodies in the procedure to inform the alien about his rights and obligations, during the procedure conducted on the application for asylum, as well as about its outcomes.

f) the reported detention of asylum seekers pending consideration of their applications for asylum;

Article 66 of the Law on Asylum prescribes the reasons and manner of temporarily movement restriction of asylum seekers, which are in line with the reasons prescribed in Article 8 of Directive 2013/33 of the European Parliament and of the Council laying down standards for the reception of applicants for international protection.

II

In addition to the information given to the Committee's conclusions, the Asylum Sector of the BiH Ministry of Security provides answers, i.e. clarifications to the Committee's **recommendations** as follows:

a) Increase its reception capacity in order to accommodate all asylum seekers and ensure that they have access to basic services;

The BiH Ministry of Security has complied with the Committee's recommendation and has increased its capacity to receive and accommodate additional 200 asylum seekers in Bosnia and Herzegovina, which is sufficient considering the current situation and the number of asylum seekers in BiH.

b) Address shortcomings of its asylum procedure to guarantee that all persons intending to apply for asylum are able to do so and benefit from procedural legal safeguards, including information on their rights, and the provision of free legal aid and interpretation services;

When it comes to the area of asylum, this recommendation of the Committee, with all its elements, has been fulfilled. Article 29 of the Law on Asylum defines the safeguards in the procedure, which are provided to asylum seekers in each individual case, at all stages of the procedure and in the manner prescribed by the above-mentioned directives. Thus, every asylum seeker is provided with an opportunity: a) to be informed about the requirements and the procedure for granting a refugee status or the status of subsidiary protection, the rights and obligations, the consequences of non-compliance with those obligations or of refusing to cooperate with the competent authority; b) to disclose the circumstances which constitute the grounds for his/her asylum application, to have access to evidence and to suggest the presentation of some evidence; c) to have the proceedings conducted in a language which he/she can understand or in respect of which it could be reasonably assumed that he/she can understand it; d) to have access to legal aid; e) to have the procedure upon his/her asylum application conducted by an interviewer and interpreted by a translator of the same sex, if there justifiable reasons for that; and f) to communicate with UNHCR.

c) Ensure that a decision to use the accelerated procedure is well evaluated, respects all legal safeguards and does not result in a violation of the principle of non-refoulement;

Pursuant to the provisions of the Law on Asylum, the Ministry issues a decision on the application for asylum within 30 days and, if there are grounds for rejecting the application, the Ministry issues the decision under accelerated procedure prescribed in Article 45 of this Law, which is harmonized with the grounds for an asylum application under Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection. The Law on Asylum also defines that, despite the

existence of some of the grounds for issuing a decision under accelerated procedure, the asylum seeker will be enabled to prove his meeting the requirements for granting refugee status or subsidiary protection status. In addition, regardless of whether the decision on the asylum application is issued under regular or accelerated procedure, every asylum seeker enjoys all the guarantees in the procedure prescribed in Article 29 of the Law on Asylum.

d) Provide unaccompanied minors with guardians at all stages of the asylum procedure;

In asylum proceedings, the Ministry of Security of BiH is obliged to address the competent guardianship authority for each minor asylum seeker with a request to appoint a guardian who will protect the best interests of the child during the proceedings. In accordance with Article 12 of the Law on Asylum, a guardian will be appointed to an unaccompanied minor or an incapacitated foreigner who has expressed an intention to apply for asylum or has submitted an asylum application under the same conditions as BiH citizens. This right of minor asylum seekers in BiH is ensured in asylum procedures.

e) Consider the detention of asylum seekers as a measure of last resort;

Article 66 of the Law on Asylum prescribes the reasons and manner of temporarily movement restriction of asylum seekers, which are in line with the reasons prescribed in Article 8 of Directive 2013/33 of the European Parliament and of the Council laying down standards for the reception of applicants for international protection. The Law on Asylum clearly provides that this is a temporary restriction of movement of asylum seekers, which is the last resort, after the Ministry determines that other measures cannot be applied. Such a restriction shall be as short as possible. In accordance with Article 67 of the Law, any asylum seeker receiving a decision on temporary restriction of movement of asylum seekers, which states the reasons, manner and duration of the imposed measure, is entitled to a legal remedy, i.e. filing a lawsuit in the Court of BiH. The lawsuit is to be filed within eight days of receipt of the decision. The lawsuit does not stay execution of the decision.

Freedom of movement of asylum seekers may be temporarily restricted for a period of up to 90 days. If the circumstances for which the restrictive measure was imposed still persist, the restriction of movement may be extended for another period of up to 90 days. The movement of an asylum seeker may be temporarily restricted only for a total of 180 days.

f) Pursue its efforts to implement the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness;

As the Law on Asylum recognizes “stateless persons”, starting from the definition, through the procedure to the decision on asylum application, it is clear that the above-mentioned conventions are taken into account in the asylum procedure.

The Parliament of the Federation of BiH passed the Law on Amendments to the Law on Non-Litigation Procedure - published in the Official Gazette of the Federation of BiH No. 11/21 of 10 February 2021. The Law determines the procedure for resolving status of persons who are not registered in vital records. With the amendments to the Law on Non-Litigation Procedure,

the legislator defines the procedure for determining the time and place of birth of persons who are not registered in the birth register and cannot prove the place and time of their birth in the manner prescribed by law. Considering that determining the place and time of birth and blood ties with the parents are the basis for registering the child in the birth register, and if the above cannot be proven by an excerpt from the birth register of a foreign body, it is necessary to establish these facts in court, which is of exceptional importance for resolving the status of children residing in the territory of BiH who are presumed to be children of BiH citizens who came to BiH from an area that does not have international legal personality (Syria). The Law is fully in line with the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Charter of Fundamental Rights of the European Union.

Complaints for acts of racial discrimination

31. The Committee is concerned at the very low number of cases of racial discrimination registered, investigated and brought before both the courts and the Ombudsman (arts. 2, 4 and 7).

32. Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee reminds the State party that the absence of complaints or legal proceedings brought by victims of racial discrimination can be indicative of legislation that is insufficiently specific, a lack of awareness of available remedies, fear of social disapproval or reprisals, or an unwillingness on the part of the authorities to initiate proceedings. The Committee recommends that the State party take all the steps necessary to facilitate the access of its population to justice, in particular ethnic minority groups, to disseminate information on legislation relating to racial discrimination and to inform the population residing in its territory about all the legal remedies available to them and of the possibility of obtaining legal assistance.

BiH condemns any form of propaganda that encourages intolerance and racial discrimination. It supports protection before the courts and the right to appeal, as a regular remedy. It is sensitive to intolerance and racial discrimination occur in education, upbringing, culture, information and sports and takes measures the aim of more successful fighting against prejudices that most often lead to racial discrimination and promoting understanding of tolerance and friendship between peoples or ethnic groups.

Trafficking in persons

33. The Committee is concerned about reports about the persistence of trafficking in persons for economic and sexual exploitation, including Roma children. The Committee regrets the absence of information on the assistance and support provided to victims of trafficking, as well as on the concrete results achieved through the 2016–2019 National Anti-Trafficking Action Plan on the reduction of trafficking in the State party (arts. 2 and 5).

34. The Committee recommends that the State party firmly enforce its anti-trafficking legislation by facilitating complaints, investigating them, prosecuting and condemning those responsible. The Committee also recommends that the State party

provide victims with reparation, including compensation, as well as with assistance and all forms of support, in particular access to shelters, rehabilitation and counselling services. The Committee further recommends that the State party effectively implement its 2016–2019 National Anti-Trafficking Action Plan and conduct an evaluation thereof..

The BiH Ministry of Security is responsible for collecting data on victims of trafficking and accordingly collects and consolidates data at least twice a year and more often if necessary.

Data on victims of trafficking are collected using uniform forms intended for this purpose. Data are disaggregated by gender, age of the victim, exploitation country, type of exploitation, as well as the country of origin of victims of trafficking.

The establishment of a database of foreign victims of trafficking in human beings is also envisaged by measure 5.4. Strategies in the field of migration and asylum and the 2016-2020 Action Plan.

Since 2013, the BiH CoM adopted two strategic documents for the fight against human trafficking, namely the 2013-2015 Strategy for Combating Trafficking in Human Beings and the 2016-2019 Action Plan. These strategic documents contain concrete measures that the authorities in BiH should take.

The Action Plan is strategically aimed at improving the anti-trafficking support system in BiH, effectively prosecuting trafficking and related crimes, preventing trafficking through risk reduction and effective protection and assistance to victims of trafficking and strengthening partnerships and cooperation between actors involved in the fight against human trafficking.

It is important to note that in accordance with the Convention on Police Cooperation, BiH established Joint Investigation Teams with French, Austrian and Dutch police, which resulted in operational action in BiH, Serbia, Austria and Germany and BiH concluded an Operational Agreement with EUROPOL. The possibility of data exchange is also provided through the cooperation of INTERPOL members.

Amendments to the BiH Criminal Code, adopted in 2015, relating to trafficking in human beings were made with a view to consistently implement international conventions signed and ratified by BiH, namely the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Human Beings, Especially Women and Children, supplementing this Convention and the Council of Europe Convention on Action against Trafficking in Human Beings.

The passage of proposed amendments resolved the problem of conflicts of jurisdiction, which arose in practice regarding the detection and prosecution of this type of crime between the Entity and BiH-level judicial authorities. These amendments are aimed at keeping jurisdiction of the Prosecutor's Office and the Court of BiH over cases of trafficking in human beings with an international element (international trafficking in human beings) and jurisdiction of Entity prosecutor's offices and courts over trafficking in human beings taking place within the state. So, amendments to the Entity Criminal Codes were proposed and passed at the same time.

The efforts of the BiH judiciary, aimed at combating and punishing trafficking in human beings and sexual exploitation, are also reflected in the ongoing education of judicial office holders, which is carried out within the Training Curricula of the Entity Judicial and Prosecutorial Training Centres concerning the fight against trafficking in human beings and organized crime.

The aim is strengthening the capacity of judges and prosecutors to process these cases more efficiently, and improving the ability of judges, prosecutors and police to investigate and prosecute organized criminal groups involved in trafficking.

BiH has established a system for the protection of victims of trafficking in human beings in the "Rules for the Protection of Victims of Trafficking in Human Beings Who Are BiH Citizens" and the "Rules for the Protection of Aliens - Victims of Trafficking in Human Beings". These documents are a referral mechanism for victims of trafficking. All identified victims are provided with safe accommodation, medical assistance, access to information, their rights and legal aid during criminal proceedings. For this purpose, funds from the budget of the BiH Ministry of Security and the BiH MHRR are regularly provided.

The Law on Social Protection provides that the right to social protection includes, inter alia, counselling, the purpose of which is to help the individual, family members or the family as a whole in developing, supplementing, preserving and improving their own social opportunities, in case of illness, old age, disability, unemployment, death of close persons, problems in raising children and in relations between parents and children, problems of risky behaviours of children and youth, problems of marital and extramarital partners, conclusion of marriage, domestic violence, inclusion in everyday life after a long stay in institutions, exercise of certain social rights and other unfavourable social circumstances and crisis situations.

The Law on Health Care of the Republika Srpska provides that health care is provided by undertaking specific activities on health promotion, prevention and treatment of diseases and conditions, rehabilitation of the sick and injured and other specific activities, which is carried out under equal conditions, i.e. all population and nosological groups.

Prosecution of persons responsible for serious violations of international humanitarian law

35. While noting the information provided by the State party, the Committee is concerned that the prosecution of persons responsible for serious violations of international humanitarian law by domestic courts has not yet been completed (arts. 2 and 6).

36. The Committee recommends that the State party accelerate the prosecution of the remaining persons responsible for serious violations of international humanitarian law. The Committee considers that justice for victims of wartime atrocities may foster reconciliation among different ethnic and ethno-religious groups in the State party.

The revised State Strategy on War Crimes Cases Prosecution was adopted by the BiH Council of Ministers at its session held on 24 September 2020.

The BiH Criminal Procedure Code contains provisions concerning civil claims relating to compensation for damage, restitution of property or annulment of certain legal transaction. Resolving a civil claim in criminal proceedings means resolving a civil matter along with a criminal matter.

Pursuant to Article 25 of the Law on Provision of Legal Aid, lawyers of the Office for Provision of Legal Aid established within the BiH Ministry of Justice are authorized to represent in criminal proceedings persons having suffered damage in order to pursue a civil claim.

Judicial and Prosecutorial Training Centres (FBiH JPTC, RS JPTC and BD Judicial Commission) regularly conduct training in war crimes prosecution, including sexual violence, in accordance with the requirements of the State Strategy on War Crimes Cases Prosecution. The main goal of this training (lectures, round tables, moot courts) was to improve the knowledge necessary for the investigation of war crimes, to sensitize the holders of judicial offices working with victims and to apply measures of support and protection to witnesses. Cooperation was established with the OSCE Mission to BiH and the TRIAL organization.

The HJPC BiH is implementing the "Improvement of Work on War Crimes Cases in BiH" Project, which, among other things, includes monitoring of work on war crimes cases; providing professional and administrative-technical support to the Supervisory Body for Monitoring the National Strategy Implementation; strengthening the capacity of judges and prosecutors working on war crimes cases through the organization of professional events and meetings.

There are a total of 21 witness support departments in the courts and prosecutor's offices in all judicial institutions dealing with the investigation and processing of war crimes cases in BiH, as follows: two at the level of BiH, ten in the FBiH; seven in the RS and two in the Brčko District of BiH. Professionals (psychologists) were employed in these departments according to the Rulebook on Structure and Job Descriptions and, within the EU-funded "Improvement of Work on War Crimes Cases in BiH" Project, they have undergone practical training in the Witness Support Department of the Court of BiH, as the department with the richest experience in witness support.

BiH has established a legal framework, which regulates witness protection and prescribes the procedure for determining and implementing protection measures. Laws on Protection of Witnesses under Threat and Vulnerable Witnesses were adopted at the level of BiH, the Entities and Brčko District, while at the level of BiH, the Law on the Witness Protection Programme of BiH was adopted. In addition, a number of conventions and other international instruments oblige BiH to ensure effective protection of witnesses from various forms of intimidation, i.e. endangerment of physical integrity, life and health, and to provide all measures of support and protection to witnesses' family members or persons close to them. The Law on Amendments to the Criminal Code introduced the crime of torture and other forms of cruel and inhuman treatment (Article 190) and thus aligned the definition of this crime with the definition of the crime under Article 1 of the Convention.

The BiH Criminal Code has also been aligned with international standards regarding the crime of sexual abuse, so that in Article 172, paragraph (1), item d) and Article 173, paragraph (1), item e) the condition of "coercion or threat of imminent attack" has been deleted.

The BiH Criminal Procedure Code contains provisions concerning civil claims relating to compensation for damage, restitution of property or annulment of certain legal transaction.

Resolving a civil claim in criminal proceedings means resolving a civil matter along with a criminal matter.

The Law on the Rights of Victims of Torture, which is supposed to regulate the exercise of the right to adequate compensation, has not been aligned yet At the level of BiH.

The right to damages is regulated in the Criminal Procedure Code, Article 193 (Subject of Damages Claim), which provides that a damages claim arising from the commission of a criminal offense will be examined at a motion of authorized person in criminal proceedings if this would not significantly delay the proceedings. A damages claim can relate to compensation, property restitution or annulment of a particular legal transaction. Article 194 of the BiH CPC (Filing a motion to award damages) provides that a motion to award damages in criminal proceedings may be filed by a person authorized to file such a claim in civil proceedings. So, it is simpler, cheaper and faster in order to achieve the principle of cost-effectiveness and improve the position of the injured party.

This means that damages can be awarded only with a verdict finding the accused guilty; otherwise the injured party has recourse to litigation.

In the Federation of BiH, welfare benefits of civilian victims of war are provided for in the Law on Fundamentals of Social Protection and Protection of Families with Children. This Law establishes a "Special Category of Civilian Victims of War", which includes victims of war sexual violence. It prescribes a benefit called "Monthly Personal Allowance" accorded to any civilian victim of war with 100% bodily impairment, as well as entitlements to allowance for costs of medical treatment and procurement of orthopaedic aids, training (professional rehabilitation, retraining and additional training); priority housing, psychological assistance and legal aid. These entitlements are to be ensured by the competent cantonal authorities. The FBiH Ministry of Labor and Social Policy and the Commission for Providing Expert Opinion to Determine the Status of the Special Category of Civilian Victims of War held several thematic workshops, whose topics were aimed at alleviating the stigma and raising awareness, knowledge and sensibility in working with this group of civilian victims of war, for representatives of relevant institutions, public officials, the media and NGOs.

In 2018, the Law on the Rights of Victims of Torture, which regulates the right of victims to protection was passed the RS.

Training courses and awareness-raising campaigns on anti-discrimination legislation

37. While noting the information provided by the State party on training for judges and prosecutors, the Committee is concerned about the reports of the underdeveloped application of the Law on Prohibition of Discrimination by domestic courts (art. 7).

38. The Committee recommends that the State party intensify and regularly conduct training courses for judges, prosecutors, lawyers and other law enforcement officials on the Law on Prohibition of Discrimination and other anti-discrimination laws and evaluate them regularly, so as to facilitate the application of such legislation by domestic courts.

In January 2018, in order to improve the system of coordination of authorities in BiH on the implementation of recommendations of international human rights bodies, as well as to improve the process of monitoring the implementation of recommendations of international bodies, the Council of Ministers of Bosnia and Herzegovina (BiH CoM) adopted the Human Rights Reporting Methodology with the aim of establishing a data collection system for the purpose of more efficient preparation of human rights reports for BiH.

The BiH Ministry of Human Rights and Refugees (MHRR) prepared draft strategies in the field of human rights and discrimination, which were not endorsed by the Entities.

Further, the MHRR drafted the Medium-Term Programme for Combating Discrimination in BiH, which includes a training Programme for the promotion and protection of human rights for the period 2017-2022, which was not endorsed by the Entities, either.

Training of judicial office holders in BiH is provided by the entity-level Prosecutorial and Judicial Training Centers following their annual curricula providing for training in human rights, including the European human rights system, *acquis communautaire*, anti-discrimination and anti-discrimination case law in BiH. The BiH HJPC performs monitoring and approving of the curricula. In criminal law, training is provided in the protection of LGBT persons, comparison of court practice with the countries of the region, freedom of expression and ethnically motivated crimes, protection from domestic violence and from the domain of gender equality, children's rights and the rights of national minorities. These courses of training are held in cooperation with the Heinrich Böll Foundation, OSCE Mission, AIRE Centrom and Sarajevo Open Centre.

In addition, in 2018, the BiH HJPC made changes to the electronic databases in the case management systems in courts and prosecutor's offices, which enabled the collection of comprehensive data on discrimination cases.

The BiH HJPC adopted the Code of Judicial Ethics and the Code of Prosecutorial Ethics and 2018 amendments further elaborating and giving more precise descriptions of activities considered inadmissible during and after one's term of office. Among other things, the obligation to regularly attend training in ethics and integrity is prescribed.

In addition, one of the recommendations of the TAIEX expert analysis during the expert mission in BiH regarding the personal financial reports of judicial office holders and their verification is the development of a more comprehensive form for the submission of these reports. The BiH HJPC has undertaken activities to develop a new form.

The Agency for Prevention of Corruption and Coordination of the Fight against Corruption monitors implementation of the 2015-2019 Anti-Corruption Strategy and the accompanying Action Plan. The Entities, BD BiH and cantons implement their own anti-corruption strategies and action plans in accordance with the general principles set out in the state-level Anti-Corruption Strategy, which include appropriate anti-corruption policies and better access to justice. The RS adopted the 2018-2022 Anti-Corruption Strategy with Action Plan. The FBiH implements the 2016-2019 Anti-Corruption Strategy and BD BiH implements the 2018-2019 Anti-Corruption Strategy. In order to improve access to justice, the BiH HJPC adopted the 2018-2019 Action Plan of the BiH HJPC for the Fight against Corruption, the Code of Judicial Ethics and the Code of Prosecutorial Ethics. The BiH HJPC has undertaken activities to develop a new form of asset declaration of judicial office holders and their verification.

The RS Government adopted the RS Anti-Corruption Strategy (2018-2022) and the Action Plan for the Implementation of the RS Anti-Corruption Strategy (2018-2022).

The Commission for Strategy Implementation was appointed as a permanent working body for coordination and evaluation and strengthening of inter-institutional and inter-sectoral cooperation in all anti-corruption areas.

The RS Ministry of the Interior has adopted the 2018-2022 Integrity Plan, which prescribes numerous measures and activities to strengthen the integrity of the Ministry. In addition, a special seminar is being held on countering corruption and strengthening the police integrity.

In 2021, with approval from the Minister of the Interior and with the financial support of the Council of Europe, *The Republika Srpska Women Police Officers Network - RS WPON Association* plans to implement the "**Promotion of Diversity and Equality in Bosnia and Herzegovina**" Project. The project includes the preparation of a publication on sensitization of police officers working with the LGBT population, the development of the curriculum for training of police officers and the implementation of two training events for police officers of the RS Ministry of the Interior.

Other recommendations

Ratification of other treaties

39. Bearing in mind the indivisibility of all human rights, the Committee urges the State party to consider ratifying those international human rights instruments that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the Domestic Workers Convention, 2011 (No. 189) of the International Labour Organization.

Follow-up to the Durban Declaration and Programme of Action

40. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

41. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in

that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

42. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations concerned working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

It is an indisputable fact that non-governmental organizations are of great importance for the development of civil society, the rule of law and the development of democracy in the world and, therefore, in BiH as well. The BiH authorities are increasingly interested in involving the non-governmental sector in the development of overall democratic relations and the establishment of a strong rule of law and democracy. In this regard, we emphasize that in BiH there is a system of e-consultations related to holding public debates during the adoption of laws, action plans and other strategic documents, including initial and periodic reports to treaty bodies, in order to enable participation of civil society and citizens themselves as much as possible.

Declaration under article 14 of the Convention

43. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the Committee's competence to receive and consider individual communications.

As mentioned earlier, BiH is a complex state (composed of two Entities and one district) which is obliged, in accordance with the Law on the Procedure for Concluding International Agreements, to carry out consultations and obtain an approval of the competent authorities from all levels of government of BiH regarding the completeness and justification of undertaking some of the following activities: signing, ratifying, making or withdrawing reservations and making unilateral declarations of acceptance. Bearing in mind that one of the recommendations of the competent UN Committee for the Elimination of Racial and All Forms of Discrimination referred to recognizing the Committee's competence to receive and consider individual communications, i.e. the optional declaration provided for in article Article 14, we note it has been taken into consideration.

Amendment to article 8 of the Convention

44. The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

It is a well-known fact that the members of the Committee for the Elimination of Racial Discrimination (18 of them) are selected from the List of Candidates known for high moral qualities, professionalism and impartiality, submitted by State parties for a term of four years.

Costs of their participation in the Committee are borne by their respective State party having elected them. Efforts are being made intensively to complete the process of compiling the List of Experts from BiH as soon as possible and thus enable BiH to participate in these committees and align domestic legislation with treaties, strengthening public awareness of their importance and developing democratic society.

Common core document

45. The Committee encourages the State party to update its common core document, which dates to 2011, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

Follow-up to the present concluding observations

46. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 8, 14 and 20 (a) and (b) above.

The information was provided to the Committee with cover letter 01-37-2-900-60/15 dated 26 July 2019 in a timely fashion, within the set timeline of one year.

Paragraphs of particular importance

47. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 12, 18, 26 and 28 above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Dissemination of information

48. The Committee recommends that the State party's reports be made readily available to and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages, as appropriate.

In order to acquaint the general public with the concluding observations and recommendations of the relevant UN committees, including the Committee for the Elimination of Racial Discrimination, the Ministry of Human Rights and Refugees, as the coordinating body in BiH, delivers them to all institutions at all levels of government in Bosnia and Herzegovina and publishes them on the official website both in the official languages of Bosnia and Herzegovina and in English, as one of the working languages of the UN.

Preparation of the next periodic report

49. The Committee recommends that the State party submit its combined fourteenth and fifteenth periodic reports, as a single document, by 16 July 2021, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.

The MHRR coordinated the inter-ministerial working group while putting together the combined fourteenth and fifteenth periodic reports, as a single document, on the International Convention on the Elimination of All Forms of Racial Discrimination and transmitted it in appropriate format through the Ministry of Foreign Affairs, i.e. the Permanent Mission of BiH to UN Office in Geneva, in a timely manner, as scheduled (16 July 2021), whereby BiH fulfilled its obligation under the above-mentioned conventions.