

BOSNIA AND HERZEGOVINA  
MINISTRY FOR HUMAN RIGHTS AND REFUGEES

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## **1. GENERAL INFORMATION**

1. The State of Bosnia and Herzegovina, established in its present structure<sup>1</sup> by the Dayton Peace Accords in 1995, has a limited central government with a majority of government responsibilities transferred to two entities: the Federation of Bosnia and Herzegovina and the Republika Srpska. Both entities have their own government and civil structures. The Federation of Bosnia and Herzegovina (hereinafter F BiH) is a highly decentralized and has ten cantonal governments. Unlike the F BiH, the Republika Srpska (hereinafter referred to as RS) has one centralized government. The Brcko District of Bosnia and Herzegovina (hereinafter: Brcko District BiH) is the third administrative unit that has been under international administration. In March 2000, the amendment to the Constitution of Bosnia and Herzegovina was adopted (hereinafter referred to as the BiH Constitution) by which the Brcko District of BiH is arranged in accordance with the decision of the Arbitral Tribunal. The whole country has 14 administrative jurisdictions, five levels of administration and more than 150 ministries and government agencies.

### **A. Demographic, economic, social and cultural characteristics**

2. Bosnia and Herzegovina (hereinafter BiH) is situated in the western part of the Balkan Peninsula. It borders with the Republic of Serbia and the Republic of Montenegro to the east and the Republic of Croatia to the north, west and south.

BiH has a total area of 51,209.2 km<sup>2</sup>.

Inland: 51,197 km<sup>2</sup>

Sea: 12.2 km<sup>2</sup>

Its climate is mainly continental and Mediterranean in the south.

3. According to the 1991 census, BiH had 4,377,033 inhabitants, within its 1,537 km long boundaries. Fertile cultivable land covers 2,531,000 hectares or 49.5% of the total territory, which creates numerous opportunities for agriculture and food production in complex and diverse climatic conditions (from the harsh continental to the mild Mediterranean climate). About 46% of the territory is covered by various types of forest. The country is well-known for its hydro and thermoelectric capacity, owing to its water resources and coal reserves.

4. During 1991, BiH reached a very favourable state of affairs in terms of number of households and housing units. At the time it had 1,207,693 housing units in 6,823 settlements. The average housing unit was 60.45 m<sup>2</sup> per household or 16.68 m<sup>2</sup> per capita.

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<sup>1</sup> Article I, paragraph 1 of the Constitution of Bosnia and Herzegovina: "The Republic of Bosnia and Herzegovina, the official name of which shall henceforth be "Bosnia and Herzegovina", shall continue its legal existence under international law as a state, with its internal structure modified as provided herein and with its present internationally recognized borders. It shall remain a Member State of the United Nations and may as Bosnia and Herzegovina maintain or apply for membership in organizations within the United Nations system and other international organizations."

In 1991, BiH was at the level of a middle-developed industrial country, with a gross national income of about USD 2,000 per capita and about 1.7 million inhabitants (39% of the total population) living in urban areas.

5. BiH is well-known for its diversity of peoples and ethnic minorities who live in it. According to the 1991 census, the most numerous among them were Bosniaks (43.5%), followed by Serbs (31.2%) and Croats (17.4%), Yugoslavs (5.5%) and others (2.4%). Besides, BiH has been for centuries the homeland of around twenty other nations and national minorities mixed with each other. Also, the dominant monotheistic religions have coexisted in BiH for centuries: Islam, Christianity and Judaism and other religious communities and sects. According to the BiH Constitution, all its citizens have equal rights and freedoms of expression in terms of religion and other beliefs.

6. The population breakdown by age group in the overall population of BiH in 1991 was as follows: 0-6 years - 11.1 per cent, 7-17 years – 13 per cent, 15-19 years - 8.4 per cent, 20-64 years - 61.5 per cent, and 65 years and over – 6 per cent.

*Table: 1.*

*a) BiH population statistics per censuses*

Census year	Area in km <sup>2</sup>	No. of households	Population			Population density – persons per 1 km <sup>2</sup>
			Total	Male	Female	
1879	51246	...	1158440	607789	550651	22.6
1885	51246	226699	1336091	705025	631066	26.1
1895	51246	257493	1568092	828190	739902	30.6
1910	51200	310339	1898044	994852	903192	37.1
1921	51200	....	1890440	966209	924231	36.9
1931	51564	398238	2323555	1185040	1138515	45.1
1948	51189	498116	2564308	1236932	1327376	50.1
1953	51221	565212	2847459	1385559	1461900	55.6
1961	51197	706107	3277948	1599665	1678283	64.0
1971	51197	848545	3746111	1834600	1911511	73.2
1981	51197	1030689	4124256	2050913	2073343	80.6

*Table: 2.*

*b) Population statistics per the 1991 census*

Area in km <sup>2</sup>	No. of households	Population			Population density – persons per 1 km <sup>2</sup>	No. Of persons per household	No. Of females per 1,000 males
		Total	Male	Female			
51,129	1,207,693	4,377,033	2,183,795	2,193,238	85.6	3.63	1,004

Table: 3.

## c) BiH population by age and sex

	1971			1981			1991		
	Total	Male	Female	Total	Male	Female	Total	Male	Female
<b>Total</b>	<b>3746111</b>	<b>1834600</b>	<b>1911511</b>	<b>4124256</b>	<b>2050913</b>	<b>2073343</b>	<b>4377033</b>	<b>2183795</b>	<b>219328</b>
<i>Years</i>									
0-4	405505	207129	198376	365332	186494	178838	332422	170535	161887
5-9	442665	225726	216939	375765	192284	183481	347379	177988	169391
10-14	442199	225066	217133	393024	201313	191711	347590	177932	169658
15-19	411387	209215	202172	433304	222406	210898	360008	185292	174716
20-24	319317	162073	157244	404751	211100	193651	359991	188724	171267
25-29	225727	109724	116003	357773	184730	173043	371776	194041	177735
30-34	289810	140952	148858	294502	150178	144324	361854	186643	175211
35-39	280482	139035	141447	216718	107411	109307	334569	172024	162545
40-44	243016	118781	124235	280137	138850	141287	276412	139433	136979
45-49	166241	70017	96224	267657	133616	134041	201165	98993	102172
50-54	101840	41069	60771	230515	112499	118016	257382	125380	132002
55-59	114629	48828	65801	157374	63861	90513	241011	116919	124092
60-64	112727	53087	59640	90131	35365	54766	198647	92924	105723
65-69	79808	37590	42218	92274	37922	54325	124752	48102	76650
70-74	53549	23136	30413	77597	34744	42853	62922	22893	40029
75 and over	42986	16166	26820	80495	33300	47195	96691	37257	59434
Unknown	14223	7006	7217	9907	4840	5067	102462	48715	53747

## **Bosnia and Herzegovina in the period from 1992 to 1995**

7. BiH was internationally recognized on 6 April 1992. It continued its legal existence as an independent state within the existing AVNOJ (Antifascist Council of the People's Liberation of Yugoslavia) administrative boundaries, which have been now internationally recognized.

8. The war in BiH, which began in April 1992, left a huge impact on the demographic picture of BiH. Tens of thousands of people were killed, including many children, and about 8,000 people are officially reported as missing. Also, as a result of the war, the mortality rate increased on one hand and natural increase decreased on the other hand, which resulted in a destroyed biological reproduction of the population in BiH.

In addition, about 2,200,000 people left their homes during the war, which makes up over 50% of the pre-war domestic population. About 1.2 million people sought the refugee protection in over 100 countries around the world, while at the same time about one million persons were displaced internally in BiH.

The overall changes in the demographic picture of the population compared to the last census in 1991 are the result of the war cataclysm, forced migration as a result of persecution, destruction of homes, so that the previous number, composition and distribution of the population in BiH have significantly changed.

9. In addition to the demographic destruction, the war radically changed the situation in the housing sector in BiH.

From 1992 to 1995, about 453,000 housing units were partially or totally destroyed, which accounts for approximately 42% of pre-war housing stock. Around 100,000 housing units out of that number suffered low-level damage (up to 20% damage), the largest number, about 270,000 suffered medium level of damage (between 20 and 70%), and over 80,000 suffered the highest degree of damage to complete destruction (above 70%).

In addition, persons displaced internally in BIH temporarily settled down in most of habitable, abandoned housing units. In this way, users of more than 200,000 housing units have been changed, including almost equal percentage of public and private ones.

10. The country suffered the destruction of towns, urban complexes, villages, hamlets, monuments and architectural heritage, social facilities and utility infrastructure, including schools, business and religious buildings, roads and parks and production goods. The largest part of the road, water, sewer, telephone and power supply and installation of the supporting facilities were either destroyed or damaged.

Medical institutions were destroyed by around 24% of previous capacity, while the percentage of damage in previous health centres amounted to over 40%.

BiH forest resources were also severely damaged by illegal felling of trees, fires and usurping the forest area.

11. One of the worst consequences for BiH is approximately 2 million remaining mines and around 3 million other pieces of unexploded ordnance.

12. Total economic losses in BiH, including lost earnings, are estimated at USD 50-70 billion. The World Bank estimated damage to property at USD 15-20 billion. Industrial production during the war reached only about 5% of the pre-war level.

### **Bosnia and Herzegovina after 1996**

13. The efforts of the international community to bring the war in BiH to an end resulted in the conclusion of the General Framework Agreement for Peace in BiH (21 November 1995 in Dayton) that was signed on 14 December 1995 in Paris.

In addition to ending the war, this Peace Agreement regulates the relations in the state of BiH.

BiH continues to exist as an independent state. The territory of BiH consists of two entities, F BiH and RS. The subsequent final award of the Arbitral Tribunal established a separate administrative unit of Brcko District BiH. The Agreement also regulates the competence of central authorities and entities' governments. Sarajevo has remained the capital and the official languages are Bosnian, Croatian and Serbian.

### **Population in Bosnia and Herzegovina after 1996**

14. There has been no official census carried out in BiH since 1991.

15. Very extensive and very serious research and demographic estimates have been carried out after the war because of the operational needs for indicators on the current population number. However, the turbulent times that had caused radical changes in the number, structure and distribution of the BiH population – are the source of the differences between the existing estimates which vary up to even a million inhabitants, depending on the time when the research was conducted and the kind of the sources used.

16. Ten-year demographic changes<sup>2</sup> from 31 March 1991 to 31 March 2001, are recorded in the following scientific<sup>3</sup> estimates based on the monitoring of demographic trends:

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<sup>2</sup> Human Development Report for 2001, released in 2002.  
Appendix 2: Population of BiH from 1991 to 2001.

<sup>3</sup> Research by Professor. Dr. Ilijas Bošnjović was partly published by the International Forum Bosnia in the French book *La guerre aux - Bosnie - Herzegovinie 1992 - 1996* L'Harmattan, Paris 1997, and was also published in *Oslobodjenje* newspapers and other newspapers in BiH. The project by Professor Ilijas Bošnjović, *BiH Population, 1878-2001*, was in the study research at the time of publication of the Report on Human Development.

Table: 4

### Demographic changes by entities

No. of population	BiH	F BiH	RS
As of 31 March 1991	4,377,033	2,783,711	1,593,322
As of 31 March 2001	3,364,825	2,298,501	1,066,324

Table: 5.

### Demographic changes per ethnic group

No. of population	Total	Bosniaks	Croats	Serbs	Others
As of 31 March 1991	4,377,033	2,012,718	805,892	1,444,384	111,039
As of 31 March 2001	3,364,825	1,626,843	519,478	1,142,948	75,556
No. of population	Total	Bosniaks	Croats	Serbs	Others
As of 31 March 1991	4,377,033	2,012,718	805,892	1,444,384	111,039
As of 31 March 2001	3,364,825	1,626,843	519,478	1,142,948	75,556
Composition					
1991	100	46.0	18.4	33.1	2.4
2001	100	48.3	15.4	34.0	2.3

Table: 6.

### BiH demographic balance as on 31 March 2001

The potential number of population as of 31 March 2001 if there had not been the war: 4,539,457

<b>Loss of population growth rate:</b>	<b>157,472</b>	<b>3.5</b>
Killed, missing and higher rate of war mortality:	269,810	5.9
Persons abroad:	749,700	16.5
<b>Persons in the country:</b>	<b>3,362,474</b>	<b>74.1</b>
	<b>4,539,457</b>	<b>100</b>

17. As a summary, according to this source, BiH had 4,251,425 inhabitants in 1991, of which 3,364,825 or about 80% in the country and 20% or 886,600 people out of BiH.



18. Thus, a ten-year demographic balance recorded a loss of 288,032 inhabitants in comparison to the potential number of residents if there had been no war.

### **Assessment of the current population in BiH**

19. Despite the radical demographic changes that have occurred in BiH since 1991, the official census has not been conducted and the indicators on the current population in BiH are based on estimates.

20. Deviations from the official estimates of around 3,842,000<sup>4</sup> of present population in BiH range from over one million inhabitants, depending on the source.

21. For example, while most current estimates put the population in BiH at 4,590,319<sup>5</sup>, the Ministry for Human Rights and Refugees of Bosnia and Herzegovina (hereinafter the Ministry) estimated at the end of 2005 that there were approximately 3.5 million inhabitants<sup>6</sup> in BiH, at that time.

22. When the number of the population under 18 years, estimated based on participation of minors in the age structure of population in BiH is added to the relevant figures on the number of 2,980,211<sup>7</sup> of active registered voters in local elections – the deviations in the Ministry's estimates can be considered negligible.

23. In 1991 the birth rate was 14.8 per thousand, the mortality rate 7.0 per thousand, and the natural growth rate had a moderate value of 7.8 per thousand.

In the period 1996-2007 the birth rate continued to decrease, the mortality kept on growing and the natural growth rate in 2007 amounted to 0.1 per thousand.

24. The total fertility rate was 1.194 per thousand, which is below the level of simple reproduction of the population.

Critical value of the total fertility rate that ensures simple reproduction of population is 2.1 (average children per woman of childbearing age).

25. Surveys that have been carried out in BiH in recent years show disturbing data in regard of the socio-demographic characteristics of the population of BiH.

26. According to the survey on household consumption in BiH conducted in 2007, the total population of BiH is 3,447,156 out of which 64.2% in F BiH, 33.8% in RS and 2.0% in Brcko District BiH.

*Table: 7.*

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<sup>4</sup> Agency for Statistics of Bosnia and Herzegovina, *Thematic Bulletin "Demography"*, December 2009.

<sup>5</sup> Central Intelligence Agency, *The World Factbook (July 2008 est.)*.

<sup>6</sup> *Comparative analysis of the access to the rights of refugees and displaced persons*, December 2005.

<sup>7</sup> Central Election Commission, Dr. Suad Arnautovic, *President at a press conference of 13 June 2008*.

Average age	Male	Female	Total
1981	28.7	30.5	29.6
1991	33	35	34
2007	37.2	39.4	38.3

27. The average age of the population in BiH is growing. According to data from 2007, the average age was 38.3 years. There are obvious differences in the sexes, where the male population is on average younger than women: the average age is 37.2 and 39.4 years.

*Table: 8.*

Age group	BiH	F BiH	RS
0-5	5.4	5.7	4.7
6-17	16.2	17.3	14.4
18-34	23.8	24.6	22.3
35-64	39.5	39.1	40.2
65 and over	15.1	13.3	18.5

28. Almost 2/3 of the population in BiH is between 18 and 64 years old, or almost 1/4 is between 18 and 34 years old.

The young age group (individuals younger than 18 years) accounts for 21.6% of the total population. F BiH has higher percentages of younger people share of 23%, while this percentage is lower in the RS, and amounts to 19.1%.

The elderly population (individuals aged 65 years and over) account for 15.1% of the population, and women make up 57 out of 100 elderly people. The percentage of women over 65 years is 16.8%, while the percentage for men is 13.3%.

29. The percentage of older population differs significantly by geographic areas. It is slightly lower in F BiH (13.3% of the population), and more significant in RS (18.5%), where one in five women is older than 65 years.

30. All structural indicators of the population show that RS is a geographical area with the oldest population: the ratio of old to the rate of children, i.e. the ratio between the number of people over 65 and those younger than 6 years was 3.9 (2.3 in the F BiH), the rate of aging shows 119 individuals over 65 years for every 100 individuals younger than 15 years, and the participation of persons over 75 years is 6.4%, compared to 5.1% for the total population of BiH.

*Table: 9.*

## Structural indicators for population by geographic areas in 2007

	Population <5 (%)	Population 5-14 (%)	Population 15-64 (%)	Population 65-74 (%)	Population 75-84 (%)	Population >=85 (%)
F BiH	4.6	13.9	68.2	9.0	3.7	0.6
RS	3.8	11.7	66.1	12.1	5.6	0.8
BiH	4.3	13.1	67.4	10.1	4.4	0.7

### **Return to Bosnia and Herzegovina**

31. Return to BiH commenced immediately upon signing of the Dayton Peace Agreement (DPA) and the largest number of returns was realized precisely in the years that followed after the signing of the Peace Agreement, so that only the first three years recorded the return of 570,925 persons, accounting for more than half of the total number of returns in BiH from the DPA till now.

Later on, the return shows downward trend, with almost half the number of registered returns in 1999 compared to 1998, and so in 2001 it again began to grow. Especially good results are recorded in 2002, when over 100,000 returnees were recorded, the same as in the first three years.

32. The increase in the number of returns in this period is related to the accelerated and effective implementation of property laws, which resulted in the restitution of housing units to their pre-war owners and holders of tenancy rights, thus creating conditions for a significant number of refugees and displaced persons to return to their homes.

In addition, during this period, significant funds were invested in the renovation of housing for return and this especially meant large contribution to increasing the general security in BiH, including the security of returnees.

33. Furthermore, it is important to emphasize that the promotion of mutual cooperation between relevant institutions in Bosnia and Herzegovina and their cooperation with other relevant domestic and international partners in this field, made a great contribution to creating a proper process, especially in the field of reconstruction and selection of real priorities.

After 2002, the return continued to fall down. However, though, a decade after the signing of the Peace Agreement, the number of returns significantly reduced. It should be noted that back in 2004 the millionth returnee to BiH was recorded.

34. So far a total number of 1,032,895 returnees have been registered in BiH, of which 447,136 are refugees and 585,759 are displaced persons.

Out of the total number of returnees, about 72% returned to F BiH, around 26% to RS and about 2% to Brcko District BiH.

The national structure of the returnees is the following: 62% are Bosniaks, 13% Croats, 24% Serbs and 1% others.

Furthermore, official statistics recorded around 470,000 so-called "minority" returns. The rate of "minority" returns calculated based on the estimated number of people who had left their pre-war places of residence in relation to the number of returnees, amounts to 32% in F BiH, and 28.5% in RS, whereas the rate of return of Bosniaks to RS is 35%, and Croats 8.5%.

35. Finally, it is necessary to positively comment on the results that BiH has made in this regard because it undoubtedly represents a significant success if the achieved return rate in BiH of around 50% is compared with the post-crisis situations in other areas.

### **Restitution of property and tenancy rights**

36. In accordance with Annex VII of the Dayton Peace Agreement, in 1998 and 1999, the competent Entity authorities, assisted by and in coordination with relevant institutions and organizations of the international community in BiH, adopted a set of property laws aimed at creating a legal framework which should result in compliance with obligations under Annex VII, i.e., in restitution of property to pre-war owners and users.

37. The process of property restitution to refugees and displaced persons was carried out in accordance with the entity property laws. This process was basically completed by late 2006.

38. According to recent statistics published by the PLIP agency<sup>8</sup>, a total of 211,791 requests for return of property and tenancy rights were made in BiH.

There were 197,815 positive decisions and 12,642 negative decisions passed.

Number of closed cases was 197,688.

On the whole, more than 99% cases are considered as concluded and this task is in its final stage of implementation in BiH.

39. Owing to the results achieved in terms of property and tenancy rights restitution, BiH is treated as a good example in the region and beyond.

40. Since the essential completion implies that the pre-war owners/users were introduced to their property/tenancy rights, the remaining cases are still under administrative proceedings, disputes or litigations initiated before the competent courts, due to their disputed factual and legal status.

### **Current situation with refugees from Bosnia and Herzegovina**

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<sup>8</sup> In 2000, the international community in BiH established the so-called. PLIP cell for monitoring and implementation of relevant regulations (Property Law Implementation Plan), which consisted of 4 major organizations of the international community: OHR, OSCE, UNHCR and CRPC. Representatives of PLIP began to publish monthly statistics from the municipal level to BiH level, analyzing and comparing the indicators.

41. It is estimated that currently about 400,000 people still reside outside BiH, out of about 1.2 million of our citizens who left BiH from 1992 to 1995, and they are registered as refugees from BiH. Most of them integrated in the host countries, and it is estimated that nearly 80,000 refugees from BiH still need durable solutions, primarily through the return to BiH.

42. Approximately 6,500 families from abroad have registered for aid in the reconstruction for the return of around 23,000 refugees, of whom almost three quarters (75%) live in neighbouring countries in the region, about 20% in European countries, while about 5% live in overseas countries of emigration.

43. The big problem is the return of particularly vulnerable categories of refugees from countries of acceptance, because despite bilateral efforts made in many years in this regard, the burning BiH issue has not yet been systematically and fully resolved. This especially applies to the return of mental patients who are completely dependent on government assistance in their return.

### **Displaced Persons in BiH**

44. About one million of displaced people in BiH welcomed the signing of the Peace Agreement in late 1995, which represents almost a quarter of pre-war population of BiH. Among them, one third were displaced within their municipality of residence, which led to the conclusion that the causes of displacement were not solely related to persecution and/or well-founded fear of persecution, but they can also be in direct connection with the consequences of conflicts caused to the property or homes in which the displaced persons had their pre-war homes.

45. The first, comprehensive, official listing of displaced persons in BiH was conducted in late 2000, when 185,233 displaced families were recorded (a total of 557,275 displaced persons), of which 93,422 families, or 50.43% in F BiH, 84,318 or 45.52% in RS and 7,493 or 4.05% in Brcko District BiH.

The national structure of the registered comprised 44.4% of displaced Bosniaks, 47.7%, of displaced Serbs, 7.5% of Croats and 0.4% of the remaining displaced persons registered as members of other peoples in BiH.

46. The collection of requests for review of the status on the whole territory of BiH, which was concluded on 31 March 2005, was followed by the revision of the number and the status of displaced persons. On the territory of BiH 59, 825 applications were filed for (re) registration of 186,451 displaced persons.

47. Currently, there are 37,408 families in the status of internally displaced persons in BiH, that is, a total of 113,642 displaced persons, of whom 48,772 or 43% were displaced in F BiH and 64,624 or 57% in RS. In the national structure of the displaced persons 65,642 displaced persons (57.8%) are Serbian, 40,399 or 35.5% are Bosniak, 7,006 or 6.2% are Croatian, and the remaining 561 (0.5%) are members of other nationalities.

### **Condition of housing**

48. Out of the rough number of 1.2 million housing units in BiH registered at the last census in 1991, about 322,000 housing units have been reconstructed in BiH to date, which makes the 70% rehabilitation rate. Out of that number, about 236,200 housing units were reconstructed in F BiH, around 73,300 in RS, and about 12,600 units were restored in the area of Brcko District BiH.

49. It is estimated that nearly two thirds, or about 200,000 housing units were rehabilitated with support of various international and local donations, while the remaining third, mostly less damaged buildings, was repaired with the private funds of the owners and holders of tenancy rights.

50. Based on data collected in the field from the relevant municipal departments, there are still around 146,000 housing units in BiH for reconstruction, which accounts for 30% of the total of damaged or destroyed housing stock. Most of these housing units were badly damaged, or completely devastated.

51. In the area of F BiH there are still about 78,500 housing units that have not been reconstructed, which accounts for 25% of the destroyed and damaged housing units in F BiH, in RS the number is about 65,000 or 47% of the destroyed and damaged housing units in RS, while there are about 2,700 non-rehabilitated housing units in Brcko District BiH, which accounts for 18% of the destroyed and damaged housing units in this area.

### **Employment in BiH**

52. The Labour and Employment Agency of Bosnia and Herzegovina was constituted in 2003 as an independent administrative organization within the institutions of BiH, by the Law on Agency for Labour and Employment of Bosnia and Herzegovina ("Official Gazette of BiH" No. 21/03.).

53. According to the Law on Amendments to the Law on Agency for Labour and Employment of Bosnia and Herzegovina ("Official Gazette of BiH", No. 43/09), the Labour and Employment Agency of Bosnia and Herzegovina is responsible for:

- a) representing the Agency in the areas of employment within its competence and cooperation with relevant agencies, institutions and international organizations in these areas;
- b) execution, in coordination with the Ministry of Civil Affairs of Bosnia and Herzegovina (hereinafter: the competent BiH ministry), of the assumed international obligations in the employment field, through cooperation with the competent Employment Institutes of Entities and the Employment Institute of Brcko District BiH (hereinafter referred to as Employment Institute of Brcko District BiH);
- c) monitoring the implementation of international standards and policies in the area of employment and, in cooperation with the Entities' Employment Institutes and the Employment Institute of Brcko District BiH, participation in their implementation;
- d) initiating the conclusion of international agreements related to employment and participation in the conduct of negotiations for concluding international agreements in the field of social security related to

unemployment and monitoring their implementation in cooperation with the Entities' Employment Institutes and the Employment Institute of Brcko District BiH;

e) coordinating the activities around domestic and international projects in the areas of employment that are of interest for BiH and cooperation with the Entities' Employment Institutes and the Employment Institute of Brcko District BiH in their realization;

f) the collection of foreign and domestic applications and information on supply and demand of domestic and foreign labour force and, in cooperation with the Entities' Employment Institutes and the Employment Institute of Brcko District BiH, their realization within the limits of its competence and possibilities of BiH labour market;

g) monitoring, analysing and researching the economic, social and other trends, data on employment and unemployment, and their mutual influence, in cooperation with the Entities' Employment Institutes and the Employment Institute of Brcko District BiH, on the basis of which it proposes the necessary measures and activities to improve employment;

h) initiating the necessary activities in the Entities' Employment Institutes and the Employment Institute of Brcko District BiH to work together in cooperation with employers, unions, educational institutions and other associations and organize and implement programs of vocational guidance and education to increase employment and other forms of active employment policy ;

i) coordinating the recruitment of BiH citizens abroad within its statutory jurisdiction and in cooperation with the Entities' and the Employment Institute of Brcko District BiH;

j) performing the necessary analysis and producing reports and documents related to employment, drafts, proposals, working papers and documents to be approved and adopted by the BiH authorities based upon requests of the Council of Ministers of BiH and the competent BiH ministry, if necessary in cooperation with the Entities' and the Employment Institute of Brcko District BiH;

k) proposing to the Council of Ministers of BiH long-term, medium term and annual plans on guidelines on labour market policies and active employment measures in BiH, together with the entities' and the Employment Institute of Brcko District BiH through the competent BiH ministry;

l) giving opinions and suggestions for the employment of foreigners in BiH (quotas) to the competent BiH Ministry, in cooperation with the Entities' Employment Institutes and the Employment Institute of Brcko District BiH;

m) providing the necessary data in the field of unemployment, particularly those relating to the enforcement of international obligations, in cooperation with the Entities' Employment Institutes and the Employment Institute of Brcko District BiH;

n) regular submission of annual reports and annual work program to the Council of Ministers of BiH;

o) conducting training of its staff in order to meet the demands and challenges of international obligations and international integration processes, and initiating it with the Entities' Employment Institutes and the Employment Institute of Breko District BiH.

54. In mid 1990, a total of 1,054,000 employed persons were registered in BiH, according to the statistical yearbook of BiH for 1991. The industry employed 85 per cent and public sector employed 15 per cent of that number.

Table: 10.

Active population by censuses

	1971	1981	1991
total	2,205,536	2,675,096	2,857,092
men (age 15-64)	1,092,781	1,360,016	1,500,378
Women (age 15-59)	1,112,755	1,315,080	1,356,719
Share of active in total population, in percentage (%)	58.9	64.9	65.3

55. A total of 633,860 employed persons were registered at the end of 2001 - 75% in the industrial and 25% in the public sector.

According to surveys conducted in 2006 and 2007 the number of active population decreased by 8,000, which is a sign of aging population.

Table: 11.

Active population by activity, age groups and sex, BiH<sup>1</sup>

(000)

	Active population		Total		Employed persons		Unemployed persons	
	2006	2007	2006	2007	2006	2007	2006	2007
total	2,733	2,725	1,177	1,196	811	850	366	347
men	1,322	1,317	743	760	528	557	283	292
women	1,410	1,408	434	436	283	292	151	144
Share of active in total population (%)			66.5	67.4	67.4	68.6	65.7	66.2

Table: 12

Labour market situation in BiH – as of 31 December 2009

Registered employment, unemployment and unemployment rate according to the data by the Statistics Agency of BiH - November 2009<sup>9</sup>

REGISTERED EMPLOYMENT	- 687,309
REGISTERED UNEMPLOYMENT	- 506,460
REGISTERED UNEMPLOYMENT RATE	- 42.4%
SURVEY UNEMPLOYMENT RATE FOR 2009	- 24.1%

**Table 13. Registered employment and unemployment in BiH**

<sup>9</sup> BiH Statistics Agency -Release No. 11 - Employment by sector in November 2009. (Preliminary data)



	Nov 2009		Oct 2009		Indexes <u>Nov 2009</u> Oct 2009	
	total	women	total	women	total	women
Total employed	687,309	275,165	688,052	274,862	99.9	100.1
Total unemployed	506,460	255,152	503,979	254,274	100.5	100.3
Registered unemployment rate, %	42.4	48.	42.3	48.1		

According to the data of the Agency for Statistics of BiH, in **November 2009**, the number of the employed in legal entities in BiH amounted to **687,309**, out of which 275,165 women. Compared to October 2009, the total number of the employed in legal entities decreased by 0.1%, whereas the number of the employed women increased by 0.1%. **The registered unemployment rate for November 2009 amounted to 42.4%** and it is higher by 0.1 per cent compared to October.

#### 56. Registered unemployment as of 31 December 2009

According to figures by the Employment Institutes and Services in BH, as of **31 December 2009**, the records show **510,580** of unemployed persons, which represents an increase by 4,136 persons or **0.82%** compared to the situation as of **31 November 2009**. The number of women was **255,808** or **50.10%** out of the total number of the persons seeking employment.

	<i>BiH</i>	F BiH	RS	Brčko -District BiH
Registered unemployment – 31/12/ 2009	510,580	354,577	145.396	10.607
Registered unemployment – 30/11/2009	506,444	352,563	143,305	10,576
Indices 31/12/2009 – 30/11/2009	100.82	100.57	101.46	100.29

In the structure of persons seeking employment, as of 31/12/2009, 162,046 or 31.74% accounted for unskilled workers, 14,271 or 2.80% for semi-skilled, 181,913 or 35.63% for skilled, 41,23 or 0.81% for highly skilled, while 2,170 or 0.43% accounted for primary education, 121,365 or 23.77% for secondary education, 7,176 or 1.41% for advanced education and 17,516 or 3.43% for higher education. **The largest number of registered unemployed are people with third level of education, i.e. skilled workers by 35.63% and unskilled workers 31.74%**. Out of the total number of registered unemployment, **persons with university education (university and tertiary level) account for 24,692 or 4.84%**. In the total number of people with college and university degree, **women share in the amount of 15,335 or 62.11%**.

#### Entrances and exits from registered unemployment

Out of the total number of registered unemployed in December 2009, **14,800** accounted for newly registered people looking for employment. **The number of persons deleted from the employment**

**institutes and services records was 11,106. The number of 4,620 or 41.60% persons out of the total number of persons deleted from employment institutes and services got employed.**

In December 2009, the employers reported to Employment Institutes and services in BiH 22,026 needs to recruit new workers, whereas, at the same time, **8,353 persons whose job terminated were recorded, which is by 1,136 or 15.74% more than in the previous month, while compared to January 2009, that number is lower by 1,757 or 17.38%.** This is the total number and refers to the termination of employment on various grounds including dismissal due to bankruptcy and liquidation of enterprises, technological or organizational surplus, the employers' work cessation, termination of fixed-term contracts, an amicable termination, labour obligations violation or other reasons.

57. The economic recovery of BiH started after the end of the war. The introduction of the uniform currency has encouraged stable functioning of the Central Bank. Overall gross domestic product in 1996 was USD 830 per capita, and in 2001 it amounted to USD 1,255. However, the transition processes, do not run at a speed required for the recovery of BiH.

58. Measuring of the living standard (LSMS) carried out in BiH revealed that between 19 and 25 percent of the population lives in poverty, or about 40 percent of the population live from hand to mouth.

*Table: 15.*

*Percentage of population in BiH living below the poverty line, by area*

<i>AREA</i>	<i>Urban</i>	<i>Mixed</i>	<i>Rural</i>	<i>Average</i>
<i>Bosnia and Herzegovina</i>	<i>14.5</i>	<i>22.4</i>	<i>19.4</i>	<i>19.1</i>
<i>Federation of BiH</i>	<i>15.3</i>	<i>13.5</i>	<i>16.9</i>	<i>15.6</i>
<i>Republika Srpska</i>	<i>12.3</i>	<i>30.5</i>	<i>24.3</i>	<i>24.8</i>

**Source: LSMS 2001 – Poverty, May 2002**

## **B. Constitutional, political and legal structure of Bosnia and Herzegovina**

59. After the signing of the General Framework Agreement for Peace in BiH (hereinafter: Dayton Peace Agreement), BiH has continued to exist with the new territorial organization.

Pursuant to the Article 1 of the BiH Constitution:

“The Republic of Bosnia and Herzegovina, the official name of which shall henceforth be " Bosnia and Herzegovina ," shall continue its legal existence under international law as a state, with its internal structure modified as provided herein and with its present internationally recognized borders. It shall remain a Member State of the United Nations and may as Bosnia and Herzegovina maintain or apply for membership in organizations within the United Nations system and other international organizations."

60. The Preamble of the Constitution recalls the Basic Principles agreed in Geneva on 8 September 1995 and on 26 September 1995 in New York: “Bosniacs, Croats, and Serbs, as constituent peoples (along with

Others), and citizens of Bosnia and Herzegovina hereby determine the Constitution of BiH...” BiH is a complex democratic state, which consists of two entities: the Federation of BiH and the Republika Srpska and the Brcko District of BiH, as ("sui generis"), an independent administrative unit. F BiH covers 51%, and RS 49% of the territory.

61. F BiH is administratively subdivided into 10 cantons. The cantons are divided into municipalities. In the F BiH, there are 79 municipalities.

RS is administratively organized into 62 municipalities.

The town of Brcko is a separate administrative unit, organized as the Brcko District of BiH.

The capital of BiH is Sarajevo. BiH has its own coat of arms, flag and anthem.

62. In accordance with the new organization, BiH has its Parliamentary Assembly, which has two chambers, the House of Peoples and the House of Representatives.

The House of Peoples consists of fifteen delegates, the two thirds from F BiH and one third from RS.

The House of Representatives consists of 42 members, of which two thirds are from F BiH and one third from RS.

63. BiH has a three-member Presidency consisting of three members, one Bosniak, one Croat and one Serb, who are elected by direct vote.

Each member of the Presidency, by virtue of their official duty, has a civilian command authority over the armed forces.

64. The judicial authorities in BiH are the Constitutional Court and the Court of BiH. The Constitutional Court was established on the basis of the Constitution of BiH and the Court of Bosnia and Herzegovina on the basis of the Law on Court of BiH, which was passed by the Parliamentary Assembly of BiH in 2003, at the initiative of the High Representative.

65. The Council of Ministers is the body responsible for implementing decisions and policies of Bosnia and Herzegovina, as set forth in the Constitution of BiH. In accordance with the new Law on the Council of Ministers of Bosnia and Herzegovina ("Official Gazette of BiH", No: 30/03, 42/03, 81/06, 76/07, 81/07, 24/08) and the Law on Ministries and Other Authorities of Bosnia and Herzegovina ("Official Gazette of BiH", no. 5/03, 42/03, 26/04, 42/04, 45/06, 88/07, 35/09, 59/09 and 103/09), the Council of Ministers consists of nine ministries: the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Security (including the Agency for Information and Protection of Bosnia and Herzegovina - SIPA, the Border Police of Bosnia and Herzegovina, the Office for Cooperation with Interpol), the Ministry of Civil Affairs, the Ministry of Communications, the Ministry for Human Rights and Refugees, the Ministry of Finance and Treasury, the Ministry of Foreign Trade and Economic Relations and the Ministry of Defence. Ministries are managed by the minister who has a deputy minister and who may not be from the same constituent people as the minister.

66. There are diplomatic and consular missions (DKP) across Europe and the world to facilitate the realization of the rights of BiH citizens who live abroad, such as the embassies in London, Madrid, Paris, Berne, New York, Vienna, Ankara, Moscow, etc., consulates general in Munich, Stuttgart, Istanbul, Milan and permanent missions to the international bodies in Strasbourg, Geneva, Brussels, Vienna and New York. Consulates carry out legal administrative tasks within their competences, such as registration in the register of births, marriages and deaths, issuance of travel documents, drafting wills, the issuance of letters (certificates, travel documents, general and special powers of attorney).

67. Other institutions of BiH are the following: the Directorate for European Integration, the Ombudsman for Human Rights of Bosnia and Herzegovina, the Archives of Bosnia and Herzegovina, the Office for Auditing of Financial Operations of the Institutions of Bosnia and Herzegovina, the Central Bank of Bosnia and Herzegovina, the State Veterinary Office of Bosnia and Herzegovina, the Communications Regulatory Agency of Bosnia and Herzegovina, the Department of Civil Aviation, the Election Commission of Bosnia and Herzegovina, the Agency for Promotion of Foreign Investment of Bosnia and Herzegovina, the Foreign Trade Chamber of Bosnia and Herzegovina, the Institute for Standards, Metrology and Intellectual Property, the Mine Action Centre, the Border Police, the Agency for Statistics of Bosnia and Herzegovina, the Intelligence and Security Agency (OSA).

68. The **Federation of Bosnia and Herzegovina** is one of the two entities of the state of BiH and its territory is divided into 10 cantons. F BiH has its own Constitution.

The House of Representatives and the House of Peoples carry out the legislative authority in F BiH.

The House of Representatives has ninety-eight (98) representatives, with at least four members from each constituent people represented in this House.

The House of Peoples has parity representation, every constituent people having the same number of representatives. The House is composed of fifty-eight (58) representatives, each constituent people having 17 representatives, while “others” have seven (7) delegates, which provides the right to representation for other peoples living in F BiH. The representatives to the House of Peoples are elected by the Cantonal Assemblies among its delegates proportionally with the national structure of population.

The Federation has a president and vice presidents of F BiH appointed by the Parliamentary Assembly of the Federation of Bosnia and Herzegovina, while respecting the principle of proportional representation of the population of BiH by one candidate from each constituent people.

The judicial authorities of the F BiH are the Constitutional Court of the Federation of Bosnia and Herzegovina and the Supreme Court of the Federation of Bosnia and Herzegovina.

F BiH has the Government composed of the Prime Minister and 16 ministers.

The Cantons in the F BiH have their own Constitution and Assemblies as the highest legislative body. The executive authority of the canton is the Canton Government, composed of ministries. The judicial authority in the cantons is organized in (10) ten Cantonal Courts.

The municipalities (79) are the lowest level of government organization in F BiH. All municipalities have their own councils-municipal parliaments and municipal administrative services, run by the Mayor.

69. **The Republika Srpska** has a President and two Vice-Presidents, one from each constituent people.

The National Assembly of the Republika Srpska is the highest legislative authority and consists of 83 members.

The Council of Peoples of the Republika Srpska is elected by the parliamentary groups and consists of 8 members from each constituent people and 4 members from the others. The Council of Peoples has a total of 28 members.

The judicial authorities of RS are the Constitutional Court of the Republika Srpska, the Supreme Court of the Republika Srpska, municipal courts and commercial courts.

The RS government has a Prime Minister and 16 ministers.

RS is territorially organized within 62 municipalities that have their own Municipal Assemblies and municipal administrative services managed by the mayors.

70. The structure of government organizations in the entities has been modified in accordance with the decision by Constitutional Court of BiH on the constitutionality of all three peoples throughout BiH, and, according to that decision, the entities have obligation to harmonize their constitutions with the Constitution of BiH and change the structure of authority in accordance with the decision of the Constitutional Court, which has been mainly realized by conforming Amendments to the entity constitutions with the assistance of the Office of the High Representative. In the coming period it is expected to synchronize the structure of government in BiH regarding the implementation of decisions of the European Court of Human Rights (case of Jakob Finci and Dervo Sejdić). The commission was set up at the level of the Council of Ministers of Bosnia and Herzegovina (hereinafter: the Council of Ministers of BiH), which is working hard every day to improve the solution of the aforementioned issues.

71. **Brcko District BiH** was established on 8 March 2000, based on the Decision of international arbitration on the status of the Brcko area made by the International Tribunal 5 March 1999. Brcko District BiH stretches along the Sava river basin and covers 493 square kilometres. According to recent estimates, the District has about 85,000 inhabitants, of which 40,000 live in the city.

Brcko District BiH has its own Statute and the Assembly, which has 29 parliament members, and the Government of Brcko District BiH led by the mayor.

The judicial authorities of Brcko District BiH are independent and consist of the Court of First Instance of Brcko District of BiH and the Appellate Court of Brcko District of BiH. Establishment of an impartial court is provided by the Judicial Commission of Brcko District of BiH.

### **The independence of the judiciary**

72. The judicial authorities are independent bodies, particularly after the formation of the High Judicial and Prosecutorial Council of BiH, which was appointed by the High Representative for BiH in order to ensure better implementation of international and European standards and the successful reorganization of the courts and prosecutor's offices through the proper selection of judges and prosecutors.

Prosecutor's Offices have been formed at the BiH entities and cantons levels.

73. In accordance with the constitutional principles every individual has the right to freely express their ethnic orientation. The amendments to the Constitution of entities and the Electoral Law of Bosnia and Herzegovina ("Official Gazette of BiH", No: 21/01, 7/02, 9/02, 20/02, 25/02, 4/04, 20/04, 25/05, 52/05, 62/05, 77/05, 11/06, 24/06, 32/07, 33/08, 37/08 and 32/10) improved the minorities' rights in terms of minority participation in local elections in proportion to percentage of representation of ethnic minorities in the local community, which enabled minorities to participate in their local community on the basis of belonging to minority community, and not based on an organized political party affiliation.

74. Considering that Roma are the largest national minority in BiH, the Council of Ministers of BiH established the Roma Committee and the Council for National Minorities exists within the Parliamentary Assembly of Bosnia and Herzegovina. In addition, the bodies of similar competence were established within the Parliament of F BiH and the National Assembly of the Republika Srpska.

### **The function of the Office of the High Representative**

75. The General Framework Agreement for Peace in BiH, Annex 10 Article V (Agreement on Civilian Implementation of Peace Agreement), establishes that the High Representative is the final authority in the country regarding interpretation of this Agreement. Office of the High Representative and EU Special Representative for BiH is the leading organization for civilian aspects of peace implementation in BiH. The headquarters of the OHR is in Sarajevo and it consists of the Political Department, Economic Transition Unit, Legal Department, Resources and Financial Affairs Department and Press-office. OHR has two regional offices in Banja Luka and Mostar, the Brcko arbitration office and the satellite office in Bratunac. High Representative is proposed by the Steering Committee and his appointment is confirmed by the UN Security Council under whose auspices the Dayton Peace Agreement was concluded. Since 1995 to date BiH has had six High Representatives. One of them, Mr. Valentin Incko, appointed 23 March 2009 now holds the said position and he was also promoted as the EU Special Representative for BiH.

The High Representative can provide assistance, when he deems necessary, in the resolution of any difficulties arising in connection with civilian implementation.

Under the Conclusion of the Peace Implementation Conference held in Bonn on 9 and 10 December 1997, the High Representative could use his final authority in BiH, in order to solve any problem, by making binding decisions as he judges necessary on certain issues, including measures to ensure the Peace Agreement throughout Bosnia and Herzegovina and its entities, which may include dismissal of public servants holding public office or high-ranking officials for whom the High Representative determines that they violated legal obligations and that their activities constitute an obstacle to the implementation of the Dayton Peace Accords.

76. The BiH Constitution ensures the highest level of protection of internationally recognized human rights and fundamental freedoms. Article II of the Constitution of Bosnia and Herzegovina stipulates that the rights and freedoms provided by the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall directly apply in the legal system of BiH. These international instruments have priority over all other laws.

77. Article II, Paragraph 3 of the BiH Constitution sets forth the catalogue of human rights that includes the following rights guaranteed by internationally recognized documents:

- a) The right to life,
- b) The right not to be subjected to torture or to inhuman or degrading treatment or punishment,
- c) The right not to be held in slavery or servitude, or forced or compulsory labour,
- d) Right to personal freedom and security,
- e) The right to a fair hearing in civil and criminal matters and other rights in relation to criminal proceedings,
- f) The right to private and family life, home and correspondence,
- g) Freedom of thought, conscience and religion,
- h) Freedom of expression,
- i) Freedom of peaceful assembly and freedom of association with others,
- j) The right to marry and to found a family,
- k) The right to property,
- l) The right to education,
- m) The right to freedom of movement and residence.

78. BiH has undertaken to ensure the highest level of protection of economic, social and cultural rights provided for by national legislation and international regulations.

79. BiH Constitution prohibits discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status (BiH Constitution, Art. II. Para. 4). Also, Article 14 of the European Convention on Human Rights and Fundamental Freedoms, which is an integral part of the Constitution, and thus directly applicable in the legal system of BiH, prohibits discrimination on any grounds. In 2009, BiH adopted the **Law on Prohibition of Discrimination in Bosnia and Herzegovina** ("Official Gazette of BiH" No. 59/09)

which establishes a framework for the implementation of equal rights and opportunities for all persons in BiH and regulates the system of protection against discrimination, and outlines the responsibilities and obligations of the legislative, judicial and executive authorities in BiH, as well as legal and natural persons to act in the way to provide protection from discrimination, and promote and create conditions for equal treatment for everyone.

The Law on Prohibition of Discrimination of Bosnia and Herzegovina was established and designed by European standards. Provisions of the Law protect the citizens of BiH against discrimination in all spheres of life and work, including: employment, health and social care, judiciary and administration, housing, public information, education, sports, culture, science, economy, etc. Then, it prohibits all forms of harassment, sexual harassment, mobbing, segregation or incitement to discrimination. Under this law, all public bodies and authorities have an obligation and duty to fight against discrimination and to refrain from it, removing obstacles that may directly or indirectly result in discrimination. These institutions also have a duty to actively design and develop conditions for equal treatment. They must do it through amendments and adoption of laws, policies and practices of work, but all in accordance with the Law on Prohibition of Discrimination.

BiH has incorporated the postulates from the International Convention on the Elimination of All Forms of Racial Discrimination into the criminal legislation, prescribing criminal penalties for crimes against humanity and international law, *genocide, war crimes against civilians, war crimes against wounded and sick, war crimes against prisoners*, organizing group of people and incitement to commit criminal acts of genocide, crimes against humanity and war crimes, violation of equality of man and citizen, the destruction of cultural, historical and religious monuments and thus established the legislative mechanisms to protect human rights and fundamental freedoms for all, without prejudice as to race, gender, language or religion, etc.

80. **Personal, political rights and freedoms of citizens** are guaranteed by the Constitutions of BiH, entities, cantons and the Statute of the Brcko District of BiH.

The conscripts can be mobilized only if the competent authority declares state of war, imminent threat of war or natural disasters.

81. Personal liberty and security of citizens are assured by police forces organized within the ministries of interior of entities. The police officer must transfer the person detained under reasonable suspicion of having committed the crime, without delay and no later than 24 hours, to the competent prosecutor.

Restriction of personal freedom can occur only in cases stipulated by the Laws on Criminal Procedure and Execution of Criminal Sanctions, or on the basis of a decision of the competent court. Freedoms may be restricted for ill persons referred to the mandatory treatment due to the risk they pose to their own lives or other people's life. Referral to the health-care facility for treatment is carried out only on the basis of the



diagnosis established by an authorized medical board or medical institution competent to issue such medical findings. The work of such committees is regulated by special regulations.

At the initiative of the Parliamentary Assembly of BiH, and based on the recommendations of the UN Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, working meetings were held with representatives of associations of families of war victims and the International Committee for Missing Persons for the purpose of making a complete analysis and preparation of concepts of law on the rights of victims of torture and civil war victims in BiH.

82. In order to protect vulnerable population groups, especially disabled persons, BiH has concluded the process of ratification of the Convention on the Rights of Persons with Disabilities and activities on the formation of the Council for the Protection of Persons with Disabilities are underway.

Implementing the recommendations of CAT and CPT-*ea* (The Committee Against Torture and the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment), BiH has established the following Commissions: the Commission for monitoring residential facilities for accommodation and care of children, victims of domestic violence, trafficking, asylum seekers, illegal immigrants, refugees, elderly people, persons with disabilities and other agencies as appropriate and the Commission for monitoring of correctional institutions (prisons, detention and detention facilities for juveniles), police stations and psychiatric institutions where the persons deprived of their liberty against their will are accommodated.

83. **Freedom of movement:** freedom of movement and freedom to choose their place of residence (the *animus vivendi*) are not restricted to citizens of BiH, and they can freely choose their place of living. The only obligation of citizens relates to the provision of appropriate identification documents indicating the address of their permanent residence. (CIPS records)

In order to contribute to the progress of implementation of Annex VII of the Dayton Peace Agreement for Bosnia and Herzegovina, i.e. to the achievement of sustainable return of refugees and displaced persons to their former places of residence, BiH adopted the Revised strategy for the implementation of Annex VII of the Dayton Peace Accords.

In addition, it is important to note that on 13 November 2008, the Council of Ministers of Bosnia and Herzegovina considered and adopted the Information on population and housing census in BiH and made the following conclusions: that the year 2011 is defined as the target year for the census, and that the census of 1991 continues to be the basis for national representation in all state, entity, cantonal and municipal institutions ending with 2014.

84. **Economic, social and cultural rights** are also guaranteed by the Constitution of BiH and Entity Constitutions and the individual governing laws. Due to the recent war in BiH and in accordance with the

Dayton Agreement, particular attention has been given to legislation concerning the rights to property, return to the former place of residence, education, employment and social welfare.

85. **Competition Council of Bosnia and Herzegovina** (hereinafter the Competition Council of BiH) has the sole authority in deciding on the presence of prohibited competitive activity in the market of Bosnia and Herzegovina.

The Competition Council, as an autonomous and independent body with the status of a legal person with its headquarters in Sarajevo, was established 1 May 2004, pursuant to the provisions of the Law on Competition ("Official Gazette of BiH" No. 30/01), adopted in 2001.

The Law on Competition for the first time regulated competition policy as one of the most important instruments and pillars to create and strengthen a single economic space or market in BiH.

In order to promote social rights, in September 2008 BiH completed the process of ratification of the Revised Social Charter of Council of Europe (1996) and started to prepare the first report of Bosnia and Herzegovina on the implementation of the said international instrument.

86. **Freedom of access to the market:** BiH is the country in transition and that is why a new policy of market economy is being introduced, which brings birth to the need for a new legal framework that will regulate this area. The BiH Parliament adopted the Law on Labour and Employment of BiH. It should be noted that, besides confirming the continuity of BiH as a subject in international law, the provision of Article II of the Constitution also provides for retention of membership in international organizations. BiH has maintained its membership in the International Labour Organization (ILO) and thus is a signatory to 79 ILO Conventions 79 that it is obliged to implement. The entities have arranged labour and employment field with their laws and the process of harmonization with the Conventions signed by Bosnia and Herzegovina is underway.

87. **Freedom to choose an occupation**, the right to equal remuneration for work (men and women). The laws that regulate labour in BiH and its entities in terms of acquiring the right to work and rights accruing from labour do not distinguish between men and women except in the case of statutory benefits provided to new mothers. The current economic situation in BiH, entities and cantons where the rights are exercised, affects the realization of workers' rights. Due to high unemployment rate and slow economic recovery, there is an outstanding problem with regard to exercising the workers' rights.

88. **The right to health and social care** in BiH is realized at the entity level and is regulated by entities laws on social and health care. The realization of these rights is difficult because of lack of funds in the budgets of entities and cantons which are obliged to ensure the funds for this purpose. The laws governing this area are in the process of harmonization with the Conventions that BiH has committed to apply. In this regard, we note that in 2007 BiH ratified the Convention of the Council of Europe on Biomedicine and the

Biomedical Research, as well as the Additional Protocol thereto, and that the process of harmonization of BiH legislation with this Convention is underway.

89. **The right to freedom of association and assembly** is defined by the Constitution of BiH. The Article II, Item 3 of the Constitution stipulates that a citizen of Bosnia and Herzegovina has the freedom of peaceful assembly and association with others. In connection with these freedoms BiH has passed several laws regulating this area. Freedom of association and assembly at the state level is regulated by the Constitution and the laws enacted at the state and entities levels, which set forth an obligation of organizers to notify the intention of assembly to the relevant authority. Practice shows that there are situations when there are attempts to prevent or otherwise restrict an assembly of citizens. Organizers also often misuse their right of assembly for the purposes of some other goals that were not reported as the reasons for the assembly.

The BiH Constitution, the Constitutions of the Entities and the Brcko District of BiH, guarantee the right of association and right to peaceful assembly, freedom of association with others, so that freedom of association is the constitutional right of all persons in BiH.

The Constitution of BiH and Entity Constitutions do not introduce restrictions on the exercise of the right to peaceful assembly. The competent authority shall prohibit the public assembly which is aimed at forcible changing the order established by the Constitution, violation of territorial integrity of Bosnia and Herzegovina, a violation of constitutionally guaranteed rights and freedoms of man and citizen, inciting national, racial and religious intolerance and hatred. The competent authority may prohibit the maintenance of public assembly in order to prevent disruption of public traffic, endangering the health, public morals or safety of persons and property. The person against whom the court has pronounced a security measure prohibiting public appearance cannot convene any public gathering of people or speak out thereon. This issue is governed by the **laws of the gathering of citizens**, both at the state level and the level of both entities and Brcko District BiH. They treat the gathering of citizens as free and democratic, if exercised in accordance with legal regulations. Gathering of citizens, in terms of the laws in force, means the convening and holding meetings on the designated area. **The Law on Freedom of Religion and Legal Position of Churches and Religious Communities in Bosnia and Herzegovina ("Official Gazette of BiH", No. 5 / 04)** provides that freedom of religion or belief includes the right of any person, or church or religious community to be able to perform religious rites in their own or rented buildings or premises that meet the requirements for bringing a large number of persons in open spaces of religious buildings, cemeteries, and homes and farms of its believers. In addition, they can freely organize public religious ceremonies, performances and other religious and cultural gatherings in public places in accordance with the law governing the assembly of citizens. The **Law on Associations and Foundations**, at state and entity level, regulates in an identical manner the issues of establishment, registration, internal organization and cessation

of work of associations and foundations and does not apply to political organizations, religious groups, trade unions and sports organizations.

90. **Freedom of religion:** the Constitution of BiH and Entity Constitutions prohibit any kind of discrimination on the ground of religious affiliation. BiH adopted the Law on Freedom of Religion and Legal Position of Churches and Religious Communities in Bosnia and Herzegovina, which is in line with international conventions on protection of human rights signed by BiH. Members of religious denominations working in BiH, organized in the Inter-religious Council of Bosnia and Herzegovina also work on the prevention of discrimination on the basis of religion. This Council is actively cooperating with the authorities of BiH and together with the authorities carry out joint activities to improve freedom of religion, the legal status of churches and religious communities in BiH. The principles of this Law were the basis upon which BiH has concluded and ratified two bilateral agreements, with the Holy See and the Serbian Orthodox Church, while concluding an agreement with the BiH Islamic community is in the process. Pursuant to the Agreement of BiH with the Holy See, the Mixed Commission was established, composed of high-ranking representatives of BiH authorities (ministers of government ministries) and representatives of the Vatican (of which one is accredited as the Papal Nuncio in BiH) responsible for monitoring the implementation of obligations arising from the said agreement.

It should be noted that BiH is a country in which (besides Jerusalem) there are four great monotheistic religions - in Sarajevo, the capital of Bosnia and Herzegovina, in the space of only 500 m<sup>2</sup> there are located the Bey Mosque, the Cathedral, and the old Orthodox church and the Synagogue of Ashkenazi Jews as well as the Old Temple of Sephardic Jews who found refuge in the territory of BiH (which was then part of the Ottoman empire) after being expelled from Spain in 1492, in the period of great geographical discoveries, by King Philip and Queen Isabella. All of the above indicates, especially after the tragic conflict in BiH in 1992-1995, that among other things, revealed religious differences, that BiH must approach this issue seriously and how seriously it does it so in order to connect diversities to the benefit of society as a whole.

91. **Education:** BiH committed to undertake the reform of educational systems that was initiated within the European space and laid down in a joint declaration of European Ministers in Bologna, in June 1999. The basic condition for the realization of this process is the adoption and harmonization of laws on primary, secondary and higher education in BiH, in order to meet above obligations and ensure access to education without discrimination. In addition to passing the Framework Law on Primary and Secondary Education in Bosnia and Herzegovina ("Official Gazette of BiH" No. 18/03), this area is predominantly regulated by entities and cantonal laws that have largely been harmonized with the principles set out in the international conventions signed and ratified by BiH. Namely, BiH has established a system of nine-year basic education, and introduced a system of compulsory pre-school education starting from the child's age of five years, which will be implemented within the framework of institutions for pre-school education by place of residence of the parents of a minor child.

Within the reform of the educational system, BiH has introduced the principles of Bologna (3 +5) in higher educational system, which allows the acquisition of the diploma for the BiH young people after three years of higher education, or degree /MASTER DEGREE/ after five years of education at the higher educational institutions.

92. **Ethnic minorities:** the Law on the Protection of National Minorities ("Official Gazette of BiH", No: 12/03 and 76/05) sets forth obligations for Entities, cantons, municipalities and towns in Bosnia and Herzegovina to regulate more fully rights and obligations arising from this Law. This Law is based on fundamental principles from the Framework Convention for the Protection of National Minorities that BiH ratified on 24 February 2000, and which entered into force on 1 June 2000.

The national minorities which are listed exhaustively in the said Law, and there are 17 of them in BiH, some of which are traditional, and some have acquired the name of minorities after dissolution of the former SFRY (e.g., Slovenes, Montenegrins and Macedonians) because in ex Yugoslavia they belonged to one of six peoples, while ethnic minorities in the state Constitution and the constitutions of the then Republics were treated as a nationality. We can conclude that in this region the Law on Protection of National Minorities was adopted for the first time.

Amendments to the **Electoral Law of Bosnia and Herzegovina** have ensured participation of representatives of national minorities in proportion to their share in the total population of the local community (3%). These statutory provisions made major advances in protecting the rights of national minorities in BiH, because they can be present on electoral lists as members of certain minority communities and not to ensure participation in the government as representatives of particular political parties.

In 2004, in order to improve the position of national minorities, BiH signed the European Charter for Regional or Minority Languages, and on 22 September 2010 deposited the ratification documents with the Council of Europe in Strasbourg, which officially ended the ratification of this important European document.

The Council for National Minorities was established and started operating within the Parliamentary Assembly of BiH, as well as Parliaments of both Entities. Bearing in mind the fact that Roma are the largest and most vulnerable minority in BiH, the Council for Roma of Bosnia and Herzegovina started to be operational in addition to the Board of Roma, composed of representatives of the government and Roma associations within the Council of Ministers of BiH.

In order to protect the rights of the Roma, in April 2005 the Council of Ministers of BiH adopted a Strategy of BiH for Solving Problems of the Roma, as a national program, which was the basis for making up the Action Plan for Roma adopted on 3 July 2008, in the areas of: employment, housing and health care. Activities to revise the Action Plan on the Educational Needs of Roma are in the final stage. The project on registering the Roma birth in birth registries is also implemented.

In the fall of 2007, at the meeting held in Belgrade, BiH joined the Decade of Roma Inclusion 2005-2015, which have made major advances in protecting the rights of numerous national minorities in BiH. The accession to the Decade of Roma created the conditions for more specific and complete resolution of the problems of Roma. The Coordinating Committee was formed headed by the coordinator who will monitor the implementation of the adopted action plans. BiH joined the project of Recording needs of the Roma minority in the whole territory of Bosnia and Herzegovina on the basis of which the Central Register of Roma (CER) will be established within the Ministry for Human Rights.

93. **Women's rights: the Law on Gender Equality in Bosnia and Herzegovina** ("Official Gazette of BiH" No. 32/10- revised text) regulates, promotes and protects gender equality and guarantees equal opportunities for all citizens in both the public and private sphere of life, and prohibits direct and indirect discrimination based on sex.

In late 2003, The National Action Plan was prepared and the Gender Equality Agency of Bosnia and Herzegovina was formed, in accordance with this Law. The Commission for Gender Equality of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina and the Joint Commission for Human Rights, Rights of Children, Youth, Immigration, Refugees, Asylum and Ethics were established as well as the Gender Equality Agency of Bosnia and Herzegovina. Gender centres were established at the entity level, and commissions and committees for gender equality were appointed. The Commissions for Gender Equality were appointed at the cantonal, town and municipal levels.

The adoption of this Law, the National Action Plan and the establishment of the Agency seek to prevent all forms of discrimination against women in BiH.

94. **Children's rights:** The rights of children in BiH are guaranteed by the Constitution of BiH and Entity Constitutions and by the laws passed at the Entities, Brcko District and cantonal level. Laws that protect children's rights are the laws in the field of social care, family law, law on child's protection, laws in the field of education and health. The Council of Ministers of BiH adopted the Plan of Action for Children 2002-2010. On the basis of the adopted Plan of Action, the Council for Children of BiH was established and it is responsible for implementing this Plan, whose activities will be geared towards preventing discrimination against children. U 2010, it is planned to create the new Action Plan for Children for the period 2011-2014.

By succession of 1 September 1993, BiH adopted the Convention on the Rights of the Child on 7 September 2000 and 4 September 2000 it signed two Optional Protocols to the Convention on the Rights of the Child, namely: on participation of children in armed conflicts, and the sale of children and child prostitution and pornography. After submission of its First Initial Report on the Convention on Rights of the Child, BiH also made additional reports. The combined second, third and fourth periodic report on implementation of the Convention on the Rights of the Child was created and successfully presented before the competent UN bodies.

95. **Stabilisation and Accession Process:** The comprehensive process of harmonization of laws in BiH is underway, in order to make harmonization with the established principles contained in international documents, to include BiH into the European integration process, as well as the preparation of Feasibility study for the stabilization and accession to the European Union. In May 2008, BiH signed the Agreement on Stabilization and Accession to European Union, thus paving the way for BiH towards all-European unity.

Effective protection of human rights requires an efficient state, with legal instruments of power necessary for the rule of law and the construction of BiH as a democratic state that guarantees the highest level of protection of human rights and fundamental freedoms.

In this respect, the BiH authorities have established working bodies in charge of the process of harmonizing legislation with EU legislation on the basis of *acquis communautaire*.

## **2. GENERAL FRAMEWORK FOR THE PROTECTION AND PROMOTION OF HUMAN RIGHTS**

### **C. Acceptance of international human rights norms**

96. Expressing a desire to improve and persevere on the protection of human rights, BiH signed and ratified many international conventions on human rights.

#### **Ratification of international treaties on human rights**

BiH ratified the following UN international treaties on human rights.

- a) Convention on the Prevention and Punishment of Crimes and Genocide, ("Official Gazette of R BiH", No. 25/93), succession of 29 December 1992,
- b) Convention on Non-Applicability of Statutory Restrictions of the Crime against Humanity ("Official Gazette of R BiH", No. 25/93, succession of 1 September 1993,
- c) International Convention on the Prevention and Punishment of Crimes in Connection with Apartheid, ("Official Gazette of R BiH", No. 25/93, succession of 1 September 1993,
- d) International Convention on the Prevention of Racial Discrimination in Sports ("Official Gazette of R BiH", No. 25/93), succession of 1 September 1993,
- e) International Covenant on Economic, Social and Cultural Rights (ICESCR) - ("Official Gazette of R BiH", No. 25/93, succession of 1 September 1993,
- f) International Covenant on Civil and Political Rights (CCPR) - ("Official Gazette of R BiH", No. 25/93), succession of 1 September 1993,
- g) Optional Protocol to the International Covenant on Civil and Political Rights (CCPR-OP1) - ratification of 1 March 1995,

- h) The Second Optional Protocol to the International Covenant on Civil and Political Rights aimed at abolishment of the death penalty (CCPR-OP2-DP) - Signed - 7 September 2000, ratification of the 16 March 2001,
- i) International Convention on the Elimination of All Forms of Racial Discrimination (CERD) - ("Official Gazette of R BiH", No. 25/93), succession on 16 July 1993,
- j) Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) - ("Official Gazette of R BiH", No. 25/93), succession on 1 September 1993,
- k) Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW-OP) - signed on 7 September 2000, ratified on 4 September 2002,
- l) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) - ("Official Gazette of R BiH ", No. 25/93), succession on 1 September 1993,
- m) Convention on the Rights of the Child (CRC) - ("Official Gazette of R BiH", No. 25/93), succession on 1 September 1993,
- n) Optional Protocol to the Convention on the Rights of the Child (CRC-OP-C) on the Participation of Children in Armed Conflict, signed on 7 September 2000, the instrument of ratification has not yet been deposited,
- o) Optional Protocol to the Convention on the Rights of the Child (CRC-OP-SC) on the Sale of Children, Child Prostitution and Child Pornography, signed on 7 September 2000, ratification on 4 September 2002,
- p) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC) – accession on 13 December 1996,
- q) Convention on the Status of Refugees from 1951- succession on 1 September 1993,
- r) Protocol on the Status of Refugees from 1967 – succession on 1 September 1993,
- s) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Trans-national Organized Crime,
- t) Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Trans-national Organized Crime, ("Official Gazette of BiH, No. 3/02), ratification on 27 March 2002.
- u) Protocol to Prevent Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Trans-national Organized Crime ("Official Gazette of BiH", No. 3 / 02), ratification on 27 March 2002.

The ratification of the Convention on Forcibly Disappeared is in the process.

#### ILO instruments on human rights

97. ILO instruments on human rights that BiH has signed and ratified:



- a) Convention on Forced Labour, 1930 (No. 29),
- b) Convention on Freedom of Assembly and Protection of the Rights to Organize, 1948 (No. 87),
- c) Convention on the Right to Organising and Collective Bargaining, 1949 (No. 98),
- d) Convention on Equal Remuneration, 1951 (No. 100),
- e) Convention on Minimum Standards of Social Security, 1952 (No. 102),
- f) Convention on Discrimination in Employment and Work, 1958 (No. 111),
- g) Convention on Employment Policy, 1964 (No. 122),
- h) Convention on Minimum Age for Employment, 1973 (No. 138),
- i) Convention on the Worst Forms of Child Labour, 1999 (No. 182), and others.

### **The instruments of the Council of Europe ratified by Bosnia and Herzegovina**

98. The instruments of the Council of Europe on human rights signed and ratified by BiH:
- a) Convention on the Protection of Human Rights and Fundamental Freedoms - signed on 24 April 2002, ratified on 12 July 2002 - came into force on 12 July 2002,
  - b) Protocol to the Convention on the Protection of Human Rights and Fundamental Freedoms, signed on 24 April 2002, ratified 12 July 2002r - came into force on 12 July 2002,
  - c) Protocol No. 2 to the Convention on the Protection of Human Rights and Fundamental Freedoms, which is transferred to the jurisdiction of the European Court of Human Rights for advisory opinion, signed on 24 April 2002, ratified on 12 July 2002 - came into force on 12 July 2002,
  - d) Protocol No. 3 to the Convention on the Protection of Human Rights and Fundamental Freedoms, which amended Articles 29, 30 and 34 of the Convention, signed on 24 April 2002, ratified on 12 July 2002 - came into force on 12 July 2002,
  - e) Protocol No. 4 to the Convention on the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms different from those already included in the Convention and its First Protocol, signed on 24 April 2002, ratified on 2 July 2002 - came into force on 12 July 2002,
  - f) Protocol No. 5 to the Convention on the Protection of Human Rights and Fundamental Freedoms, amending and supplementing Articles 22 and 44 of the Convention, signed on 24 April 2002, ratified on 12 July 2002 - came into force on 12 July 2002,
  - g) Protocol No. 6 to the Convention on the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty, signed on 24 April 2002, ratified on 12 July 2002 - came into force on 1 August 2002,

- h) Protocol No. 7 to the Convention on the Protection of Human Rights and Fundamental Freedoms, signed on 24 April 2002, ratified on 12 July 2002 - came into force on 1 October 2002,
- i) Protocol No. 8 to the Convention on the Protection of Human Rights and Fundamental Freedoms, signed on 24 April 2002, ratified on 12 July 2002 - came into force on 12 July 2002,
- j) The European Convention for the Protection of Torture and Inhuman or Degrading Treatment or Punishment, signed on 12 July 2002, ratified on 12 July 2002, entered into force on 1 November 2002,
- k) Protocol number 11 to the Convention on the Protection of Human Rights and Fundamental Freedoms concerning the modification of previously established control mechanism, signed on 24 April 2002, ratified on 12 July 2002, entered into force on 12 July 2002,
- l) Framework Convention for the Protection of National Minorities, ratified on 24 February 2000, entered into force on 1 June 2001,
- m) Protocol No. 12 to the Convention on the Protection of Human Rights and Fundamental Freedoms, signed on 24 April 2002, ratified on 29 July 2003,
- n) Protocol No. 13 to the Convention on the Protection of Human Rights and Fundamental Freedoms, signed 3 May 2002, ratified on 29 July 2003, came into force on 1 November 2003,
- o) The Revised Social Charter, 1996, signed on 24 May 2004, ratified on 7 October 2008.
- p) Protocol No. 14 to the Convention on the Protection of Human Rights and Fundamental Freedoms, ratified 2006, whereas after the accession of the Russian Federation to the Protocol No. 14 to the European Convention on Human Rights and Fundamental Freedoms, the Protocol 14 was withdrawn from the process of ratification because it lost its importance and appropriateness.

99. The instruments of the Council of Europe regarding human rights, signed but not ratified by BiH:

European Charter on Regional or Minority Languages, signed on 7 September 2005 and on 21 September 2010.

#### **D. The legal framework for the protection of human rights at the national level**

100. We note that for the sake of easier understanding of the human rights in BiH, the text below will clarify the normative and legal framework as well as objective obstacles that BiH faces in advancing and promoting the human rights.

101. Law on the Protection of National Minorities was adopted and came into force in May 2003 ("Official Gazette of BiH" No. 12/03). After its adoption, the Law on the Protection of National Minorities,

was published in three official languages in the "Official Gazette of BiH", translated into English and Roma language, which is of great importance for the emancipation of the Roma national minority in BiH.

The RS National Assembly, as the highest body of legislative power, adopted already at the end of December 2004, **the Law on Protection of National Minorities in the RS** ("Official Gazette of RS "no. 2/05), and the Parliamentary Assembly of F BiH has not yet completed this job though it works on it intensively.

102. **Law on Amendments to the Law on the Protection of National Minorities** was adopted in October 2005 ("Official Gazette of BiH" No. 76/05).

**The decision to establish the Council for National Minorities of the Parliamentary Assembly of Bosnia and Herzegovina** was adopted and published in May 2006 ("Official Gazette of BiH" No. 38/06), on whose basis this advisory body was constituted. The body of the same jurisdiction was constituted within the Republika Srpska National Assembly and the Parliament of the Federation of Bosnia and Herzegovina.

103. In February 2004, with the mediation of the OSCE Mission and regarding the education of national minorities in BiH, the BiH authorities adopted the **Plan of action to meet the educational needs of Roma and other ethnic minorities in Bosnia and Herzegovina**, whose review is currently under the work of the Committee for the review of the Action Plan.

104. The Ministry for Human Rights and Refugees of BiH, in cooperation with the Roma Committee of BiH has prepared a document entitled "**Strategy of BiH for solving the problems of Roma**", which was adopted by the Council of Ministers of BiH and published in the "**Official Gazette of BiH**", **No. 67/05, of 27 September 2005**. Adoption of this document means the adoption of specific program of activities in different areas of life that will affect change and improve the overall social situation of the Roma population in BiH (education, employment, housing, health and social care, recording of needs of Roma, etc.).

On 3 July 2008, the Council of Ministers of BiH adopted the Action Plan for Roma for solving problems of Roma in the areas of: employment, housing and health care. On 4 September 2008, at the Conference in Belgrade, BiH joined the Decade of Roma, and in early 2009, formed the Coordination Committee for the monitoring and implementation of the Action Plan and the Chairman of the Council of Ministers of BiH appointed the National Coordinator for the Decade of Roma. Based on this Action Plan, in late 2009, BiH carried out the recording needs of the Roma in the above mentioned areas.

105. Adoption of the Law on Protection of National Minorities of BiH formally extended the possibility of exercising the rights of national minorities, especially after the enactment of adequate legislation and adopting the basic international documents relating to the protection of national minorities. Special places belong to the **Framework Convention for the Protection of National Minorities, the European Convention on Human Rights and Fundamental Freedoms and the European Charter for Regional or Minority Languages**.

106. Starting with its Constitution (which incorporates the European Convention on Human Rights and Fundamental Freedoms of Man and Citizen) BiH has been committed to **respecting the rights to freedom of religion and free expression of beliefs.**

107. In order to exercise the rights to freedom of conscience and religion as guaranteed by the Constitution of BiH and by the highest international standards, in March 2004, Bosnia and Herzegovina adopted, through the Parliamentary procedure, **the Law on Freedom of Religion and Legal Position of Churches and Religious Communities in Bosnia and Herzegovina** with intention to contribute to improving mutual understanding with respect to its own heritage and traditional values of tolerance and coexistence present in the centuries-long life of BiH.

Pursuant to the provisions of the said Law, BiH signed and ratified two international legal instruments, as follows:

1. **The Basic Agreement between BiH and the Holy See** (signed in April 2006) and the **Additional Protocol** to the Basic Agreement, signed in September 2006. In September 2010, in Vatican, the BiH delegation concluded a Concordat on Spiritual Office in the Armed Forces of BiH with the representatives of the Holy See.
2. **The basic Agreement between Bosnia and Herzegovina and the Serbian Orthodox Church**, signed in 2007 and ratified in 2008.
3. **The Agreement between BiH and the Islamic Community in BiH is in preparation.**

Subject to the provisions of the Basic Agreement between BiH and the Holy See, in December 2008, the **Joint committee for the implementation of the Agreement** was established.

108. The highest efficiency in promoting gender equality in BiH, as we noted, is attributed to the passing of the **Law on Gender Equality in Bosnia and Herzegovina** ("Official Gazette of BiH" No. 32/10-revised text) that follows the provisions of the UN Convention on the Elimination of All Forms of Discrimination against Women - CEDAW and to the establishment of the Agency for Gender Equality of BiH, Commission for Gender Equality of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina, Gender Centres at entities level as well as to other gender institutional mechanisms at state, entity, cantonal, town and municipal levels, in both the executive and in legislature authorities.

In 2009, the **Amendments to the Law on Gender Equality in Bosnia and Herzegovina** ("Official Gazette of BiH" No. 102/09) and **the revised text of the Law** ("Official Gazette of BiH" No. 32/10) were adopted. The amendments are in line with new EU directives and the General recommendations of the UN CEDAW Committee. The text of the Law promotes and clearly defines the terms and obligations of the competent institutions.

In 2006, the Council of Ministers of BiH adopted the **BiH Gender Action Plan**, a strategic document, whose main goal is inclusion and the realization of the principle of gender equality in BiH in all spheres of public and private life. It contains fifteen chapters, as follows: European integration in light of gender equality, Cooperation and capacity building, Macroeconomic and development strategies, Gender sensitive budgets, Political life and decision-making, Employment and labour market, Social inclusion, Gender sensitive media, Lifelong learning, Health, prevention and protection, Domestic violence, Sexual harassment, Harassment and trafficking in persons, Role of men, Harmonization of work and family life, Gender and sustainable environment and Communications and information technology. The main task of the Gender Action Plan is that the competent institutions take responsibility for the implementation of activities under their jurisdiction according to the document and to include them in their regular work programs and provide adequate funding in the budget.

The Agency for Gender Equality of BiH has initiated the establishment of the **Financial mechanism for implementing the Gender Action Plan of Bosnia and Herzegovina (FIGAP program)** in cooperation with entity Gender Centres. The cooperation was established and the Agreement signed between the group of donors and the Council of Ministers of BiH on joint funding of activities of the Gender Action Plan of Bosnia and Herzegovina.

FIGAP program defines a five-year plan for implementing the Gender Action Plan of Bosnia and Herzegovina. Priorities and annual plans of FIGAP program will be brought in conformity with the annual plans of institutions at all levels. FIGAP provides activities that will continue to strengthen the capacity of institutional mechanisms concerning gender issues in BiH and their institutional and non-institutional partners as defined in the BiH Gender Action Plan.

The aim is to enable the integration of gender equality at all levels of government in which ownership and commitment in the process of gender integration lies with all government institutions.

The principle of gender equality has been integrated into the Development Strategy of BiH 2008-2013 and the Strategy on Social Inclusion 2008-2013 of the Directorate for Economic Planning of BiH, which is a prerequisite for reducing poverty in BiH, given the increasing "feminisation of poverty". This process is acknowledged as the necessity for integrating gender components into the most important development documents in BiH, and thus contributes to the objectives of the international framework for global development, poverty reduction and promotion of the realization and enjoyment of human rights and equality between men and women.

109. Very early, the Agency for Gender Equality of BiH, the Ministry for Human Rights and Refugees, of BiH in cooperation with the Ministry of Foreign Affairs of BiH, the Ministry of Defence of BiH, the Ministry of Security of BiH, BHMACH, Entity Gender Centres and police forces of entities and non-governmental organizations in BiH, recognized the importance of **UNSCR 1325 "Women, Peace and Security"** for BiH. So far, they have carried out numerous activities aimed at implementing the Resolution.

These activities resulted in the drafting of the **Action Plan for Implementation of UNSCR 1325 in BiH**, which is the first action plan in the region and is already an example for other developments of action plans for implementation of this Resolution.

110. BiH pays special attention to issues of domestic violence victims. Of the total number of victims of domestic violence, women account for 92-98%. **The Strategy for the Prevention and Fight against Domestic Violence in Bosnia and Herzegovina for the period 2009-2011** ("Official Gazette of BiH", No. 70/09) was adopted at the state level in order to define the activities on prevention and elimination of domestic violence. **The Strategic Plan for the Prevention of Domestic Violence of the Federation of Bosnia and Herzegovina for the period 2009-2010 and the Action Plan to Combat Domestic Violence in 2008 and 2009 in the Republika Srpska** were enacted at the entity level.

In order to provide a high level of protection of human rights, both entities of BiH adopted the Law on Protection from Domestic Violence of F BiH ("Official Gazette of F BiH" no. 22/05) and the Law on Protection from Domestic Violence in RS (" Official Gazette of RS", no. 118/05) and amendments to the said Law ("Official Gazette of RS " no. 17/08) to sanction offenders and protect victims of violence through legislation.

Learning from the negative experience and many victims caused by the last armed conflict (1992-95), the evidence of which is the adoption of the Law on Missing Persons of BiH("Official Gazette of BiH", no. 50/04) and the establishment of the Institute for the Missing Persons of BiH (number of missing persons in BiH is about 8,000 missing persons), BiH, as a member of the UN and the Council of Europe and as a country with millennial existence on the European ground, which recently signed an Agreement on Stabilisation and Accession with the EU, is committed to (as evidenced through the above legislation) to strengthen the multinational, multicultural democratic society in which the members of the three constituent peoples of BiH and 17 national minorities listed exhaustively in the law will fully enjoy human rights guaranteed by international instruments to protect them, without fear of some new genocide.

111. Following the example of European countries that support the adoption of comprehensive anti-discrimination legislation, BiH adopted the **Law on the Prohibition of Discrimination**.

The Law on Banishment of All Fascist and Neo-Fascist Organizations and Use of Their Symbols in BiH is in the parliamentary procedure.

## **E. The framework within which to promote human rights at the state level**

### **Institutions for the Protection of Human Rights in Bosnia and Herzegovina**

112. In accordance with the laws of BiH, the following institutions currently have a mandate to promote, enhance and protect human rights at the state level, as follows: the Constitutional Court of BiH, the Court of BiH, the institution of Ombudsman for Human Rights of BiH (established in accordance with Annex 6 of

DPA), the Ministry for Human Rights and Refugees of BiH, the Missing Persons Institute of BiH, and the commissions and committees that deal with issues of human rights, established within the Parliamentary Assembly of BiH and Assemblies of the Entities and Brcko District of BiH.

#### **a) The Constitutional Court of Bosnia and Herzegovina**

113. The Constitutional Court of BiH has exclusive jurisdiction to decide any dispute that arises under the Constitution of BiH between two Entities, or between BiH and one or both entities, and between institutions of BiH. The Constitutional Court of BiH has jurisdiction over issues referred to it by any court in BiH in connection with whether a law, on whose validity its decisions depend, is compatible with the Constitution, with the European Convention on Human Rights and Fundamental Freedoms and its Protocols, or with the laws of BiH; or the existence or the general scope of rule of international law pertinent to the decision of the given court.

Decisions of the Constitutional Court are final and binding.

The Constitutional Court consists of 9 members, 4 members are elected by the F BiH House of Representatives, 2 members are elected by the National Assembly of the Republika Srpska and the other 3 members are elected by the President of the European Court of Human Rights after consultation with the Presidency. Initially appointed judges serve for the period of five years, unless they resign earlier or are removed for cause by consensus of other judges. Initially appointed judges are not eligible for reappointment. Judges may serve until age of 70, unless they resign earlier or are removed for cause by consensus of other judges.

The Human Rights Commission functions within the Constitutional Court of BiH. Its work began after the closing of the Human Rights Chamber, institution *sui generis* - formed in accordance with Article 6 of the Dayton Peace Agreement for BiH, which treats alleged or apparent violations of human rights that are guaranteed by the European Convention on Human Rights and Fundamental Freedoms and its supporting documents.

BiH has ratified the European Convention on Human Rights and Fundamental Freedoms on 12 July 2002, as well as its accompanying protocols, and based on the control mechanisms of this document it falls under the jurisdiction of the European Court for Human Rights. Bearing in mind the above mentioned, upon the proposal by the Council of Ministers of BiH, the BiH Parliament adopted the Decision on the transfer of responsibilities from the House for Human Rights onto the Constitutional Court of BiH.

#### **b) The Court of Bosnia and Herzegovina**

114. The Court of Bosnia and Herzegovina (hereinafter the Court of BiH) ensures better protection and respect for human rights and the rule of law. The Court of BiH was formed on the basis of the Law on Court, which entered into force in July 2003. The Court is composed of 15 judges. The impartiality in the selection

of judges is assured through the appointment by the Commission for the Nomination of Judges, the High Judicial and Prosecutorial Council of BiH. The judicial function is incompatible with any political function.

The Court comprises three chambers: Penalty Chamber, Administrative Chamber and Appeal Chamber.

The Court of BiH has jurisdiction to make the final and binding decisions on the enforcement of State laws and international treaties upon the appeal of any court of the Entities or any court of the Brcko District BiH entrusted with the application of State laws; it resolves the conflict of jurisdiction between Entity courts; resumes criminal proceedings; decides on complaints against final administrative decisions/acts of the institutions of Bosnia and Herzegovina; evaluates the legality of individual and general acts passed on the basis of State laws; resolves property disputes between the State and Entities and Brcko District BiH, etc. The decisions of the Court are final and binding.

### **c) The Institution of the Ombudsman for Human Rights in Bosnia and Herzegovina**

115. The Institution of the Ombudsman for Human Rights in Bosnia and Herzegovina (hereinafter referred to as the Ombudsman) has the authority to investigate alleged human rights violations and to issue findings and recommendations. The Ombudsman may investigate either in response to an allegation or on its own initiative, while its efforts are focused on the peaceful settlement of disputes. The Ombudsman investigates claims of human rights violations, immediately issues findings and conclusions and informs the competent official or institution of its reports or requests. The Ombudsman may initiate proceedings before the Human Rights Chamber, and it may have access to and examine all official documents.

According to Article IV of Annex 6, the Ombudsman was appointed by the Chairman-in-Office of the Organization for Security and Cooperation in Europe (OSCE), and could not be a citizen of BiH or any neighbouring State.

On 12 December 2000, the High Representative imposed the Law on Ombudsman for Human Rights in Bosnia and Herzegovina, enabling transfer of responsibilities to the authorities of BiH.

In the meantime, the Law on Ombudsman for Human Rights in Bosnia and Herzegovina was confirmed by the Parliament of Bosnia and Herzegovina, thereby fulfilling the first important condition for the transfer of competence onto the State of BiH. The mandate of the Ombudsman appointed by the Chairman-in-Office of the OSCE expired on 31 December 2003. The Presidency of Bosnia and Herzegovina appointed new State Ombudsmen – a Bosniak, a Serb and a Croat. They took up their responsibilities on 6 January 2004. On 4 December 2008, the Parliamentary Assembly of Bosnia and Herzegovina appointed three ombudsmen for human rights from each constituent nation.

In August 2007, the Parliament of the Federation of Bosnia and Herzegovina also passed the Law on the manner of termination of operation of the Ombudsmen of the Federation of Bosnia and Herzegovina during the transitional period and on the transfer of authority to Institution of the Human Rights Ombudsman of Bosnia and Herzegovina, and in December 2009, the Republika Srpska National Assembly passed the Law



on Cessation of the Law on the Ombudsman of the Republika Srpska - Protector of Human Rights ("Official Gazette of RS" No. 118/09).

In the Ombudsman the new department were established, namely: Department for the Rights of Children, Department for Protection of the Rights of Persons with Disabilities, Department for the Rights of Ethnic, Religious and Other Minorities, Department for Economic, Social and Cultural Rights, Department for Political and Civil Rights, Department for the Elimination of All Forms of Discrimination, Department for Protection of the Rights of Detainees/Prisoners.

Thus, the merging was made between the Ombudsmen for Human Rights of BiH with the Entities Ombudsman Institutions, and a functional national mechanism for protection of human rights in BiH was fully established.

Fifteen employees were retrieved from the entity organizations. All active cases were overtaken, resolved and filed. The main difficulty is the financing of the overtaken staff funded from the existing BiH institutions budget that has been reduced compared to 2009. Expectations provide for the financing of such institutions from the budget of BiH, as of December 2010. The solutions related to adequate funding of the Ombudsmen of BiH through budget increase for 2011 are actively considered.

**d) Ministry for Human Rights and Refugees of Bosnia and Herzegovina**

116. **The Ministry for Human Rights and Refugees of Bosnia and Herzegovina** was established in April 2000, and among other things, it is responsible for: the promotion and protection of individual and collective human rights and freedoms; the development and implementation of activities to meet obligations in respect of accession of BiH to Euro-Atlantic integrations, in particular the activities enabling implementation of the European Convention on Human Rights and Fundamental Freedoms and protocols thereto, and the establishment of the Gender Equality Agency of Bosnia and Herzegovina.

**e) Missing Persons Institute of Bosnia and Herzegovina**

117. The Law on Missing Persons ("Official Gazette of BiH" No. 50/04), adopted in late 2004, set out principles for improving the process of tracing the missing persons, the definition of missing persons, ways of keeping the central register, exercise of social and other rights of the missing persons family members, as well as other issues related to tracing missing persons from BiH and in BiH.

The law established and guaranteed the full right to the missing persons family members to know the fate of the missing members of family and relatives, their place of residence/domicile, or, if they are dead, the circumstances, the cause of death and burial, if such place is known, and to receive their remains. The authorities and the bodies are obliged to provide available information to families of missing persons and to institutions responsible for tracing missing persons as well as all necessary assistance related to the improvement of searching and solving cases of missing persons from BiH and in BiH.

In order to advance the process of tracing missing persons and to efficiently identify the remains of the missing persons, the Institute for Missing Persons of Bosnia and Herzegovina (hereafter the Institute) was established at the state level as an independent institution for searching missing persons from BiH and in BiH. Co-founders of the Institute for Missing Persons are the Council of Ministers of BiH and ICMP (International Commission for Missing Persons).

Although the Law provided for establishment of the Fund for assistance to families of missing persons, this independent administrative organization has not yet started working because the Governments of F BiH, RS and Brcko District BiH have not agreed on the percentage of funding to be allocated for financing of the Fund. The issue of funding and the seat has been delegated to the competent authorities, and it is expected to clarify the above concerns in due time.

The importance of supporting the work of the Institute is based on the fact that BiH is still working on clarification and finding of 8,000 missing persons.

The Important role in protecting human rights and fundamental freedoms in BiH is played by the parliamentary/assembly commissions and committees acting as permanent working bodies of the Parliamentary Assembly of BiH – the Joint Committee on Human Rights, Rights of Children, Youth, Immigration, Refugees, Asylum and Ethics; the Commission for Human rights and Freedoms of the House of Peoples of the Parliament of the Federation of Bosnia and Herzegovina; the Commission on Human Rights and Freedoms of the House of Representatives of the Federation of Bosnia and Herzegovina; the Committee for Equal Opportunities within the National Assembly of the Republika Srpska. Typically, these working bodies deal with issues of human rights protection often triggered by the Ombudsmen, the citizens, political organizations, civic associations, other organizations and communities, and they notify the competent authorities who develop and make their decisions and attitudes thereon.

#### **f) The role of civil society**

118. BiH shows a growing interest for the inclusion of the non-government sector in all aspects of society. Thus, the non-government sector is increasingly becoming a significant factor in the conduct of public affairs and providing services in engagements concerning the exercise of protection of public interests close to the citizens.

The legal status of the non-government sector in BiH is based on the provisions of the Constitution of BiH and the Constitutions of the Entities. On this basis, the Law on Associations and Foundations of Bosnia and Herzegovina ("Official Gazette of BiH", No: 32/01 and 42/03) was enacted and its value is indisputable in view of putting in the same position all persons on the whole territory of BiH and provides for the same conditions for all persons to exercise and protect their human and internationally recognized right to associate freely with others.

The Department for civil society was formed within the Ministry of Justice of Bosnia and Herzegovina, as institutional support to civil society organizations in BiH, with very broad competencies. Besides obligations to develop the Strategy to create supportive environment for development of the civil society of BiH, for which proposals have already been made, the conditions are also created for NGO to play an important role in the procedures for enacting laws, especially concerning the timely consultation phase.

In this regard, the tasks of the government sector include the independence of the NGO sector, material and financial support and preparation of legal and other solutions that will serve to strengthen the non-government sector. On the other side, the tasks of the non-government sector should move towards more responsible attitude to the execution of the obligations and use of resources, self-initiated involvement in the overall development and communication trends, while steadily strengthening and improving the quality of their work and activities.

#### **F. The process of reporting at the national level**

119. BiH is in the process of producing a report on the implementation of international documents on human rights, and in accordance with the procedures it appoints inter-departmental working groups who participate in the preparation of reports submitted to the competent committees. The Ministry for Human Rights and Refugees of Bosnia and Herzegovina has a coordinating role in making the BiH report.

The inter-departmental working groups are composed of representatives of the competent institutions at BiH level, the entity ministries and representatives of Brcko District BiH. It means that there are representatives from all levels of government organization in BiH, with the active participation of the representatives of the non-government sector.

In April 2007, the Council of Ministers of BiH, concluded the Agreement on Cooperation between the Council of Ministers of BiH and the NGO sector in BiH. The aforementioned Agreement provides a framework that will help the steering of joint relationship at all government levels in BiH, from local to national level. The NGO sector has a crucial role in society as the third sector, working together with government and business sector. The Agreement aims to create a new approach to partnerships between the Council of Ministers of BiH and the NGO sector in BiH.

In this regard, non-governmental organizations are involved in public hearings that are conducted for the purpose of consultation with civil society, giving suggestions and opinions on the Draft Reports. Round tables and seminars are also organized in order to make the BiH report.

The Draft report is submitted for review to eminent experts from a number of areas treated by international documents. The Proposal of the report is submitted to the competent institutions for obtaining their opinion, particularly to the Office for Legislation of the Council of Ministers of BiH and other ministries, whose subject matter is within jurisdiction thereof. Before submitting the report to the competent committees, and

after the receipt of the above-mentioned opinions, it is referred to the Council of Ministers of BiH, along with draft conclusions, for its consideration and adoption.

When the Council of Ministers of BiH adopts the BiH report, the Ministry for Human Rights and Refugees of Bosnia and Herzegovina sets it on the web page, and sends a notification on the adoption of a report to the Council of Ministers of BiH, the Parliamentary Assembly of Bosnia and Herzegovina, the Governments of the Entities and Brcko District BIH, the judicial and legislative bodies and all relevant institutions in BiH.

Some of the reports have been published, such as Universal periodic review on human rights in BiH. In this way reports are available to the general public for information.

The concluding observations-recommendations with proposed conclusions of international bodies are submitted to the Council of Ministers of BiH for adoption. In addition, the concluding remarks - recommendations of the Committee, as well as BiH reports, are submitted to all BiH authorities and institutions in BiH, and are placed on the website of the Ministry for Human Rights and Refugees of Bosnia and Herzegovina, made in three official languages in use in BiH and in two alphabets. Based on the concluding observations-recommendations of the competent committees, the Ministry for Human Rights and Refugees of Bosnia and Herzegovina prepared, and the Council of Ministers of BiH adopted the Framework Plan for the implementation of the concluding recommendations of the UN Committees for the period 2008-2010, which is continuously implemented and monitored.

120. BiH has presented to the competent UN committees, the following initial reports on the implementation of international documents on human rights:

- ❖ In February 2005, the Report on the implementation of the UN Convention on the Elimination of Racism and Racial Discrimination in BiH was discussed;
- ❖ In May 2005, The initial report of Bosnia and Herzegovina to the Committee on the Rights of the Child;
- ❖ In mid-November 2005, the Initial report on implementation of the International Covenant on Economic, Social and Cultural Rights in Bosnia and Herzegovina for the period 1993-2003;
- ❖ In November 2005, the Report on the Convention against Torture and Other Cruel, Inhuman or Degrading Punishments and Procedures;
- ❖ The Report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women in BiH in May 2006 to The Committee of the UN in New York;
- ❖ In October 2006, the Initial report on implementation of the International Covenant on Civil and Political Rights,

- ❖ In April 2009, the Initial report on implementation of the provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their families in BiH, 2003-2006.

121. The following documents were developed and submitted:

- The Seventh and eighth periodic report on implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) in Bosnia and Herzegovina, in July 2008, the presentation is scheduled for August 2010.
- The Combined II, III and IV Periodic Report of BiH on implementation of the Convention on the Rights of the Child, which was successfully presented.
- The Second Periodic Report on implementation of the International Covenant on Economic, Social and Cultural Rights in BiH.
- In September 2009, the Council of Ministers of BiH adopted the Periodic Report submitted to the UN Committee against Torture, based on the submitted list of questions. Presentation of this Report is scheduled for November 2010.
- The Report on the Optional Protocols to the Convention on the Rights of the Child: Children in Armed Conflict and the Sale of Children, Child Prostitution and Child Pornography.
- In September 2009, the Council of Ministers adopted the Report of the European Commission for Monitoring of Torture and Inhuman or Degrading Treatment or Punishment (CPT), after monitoring which was conducted in May 2009.
- In February 2010, the Universal Periodic Review on the situation of human rights in BiH was adopted and successfully presented before the Human Rights Council.

The Second Periodic Report on implementation of the International Covenant on Civil and Political Rights and the Report on the implementation of the European Social Charter (revised) are in the final phase of development.

In 2011, activities are planned for preparation of Periodic Reports on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and on the application of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families in BiH.