

**Universal Periodic Review on Situation of Human Rights in
BiH**

Sarajevo, November 2009

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Universal periodic review on situation of human rights in BiH

I - Introduction

1. This report of BiH (hereinafter BiH) has been prepared in accordance with general guidelines for the preparation of information under the Universal Periodic Review mechanism, which is based on the Resolution of the Council for Human Rights 5/1 of 18 June 2007.
2. In preparation and drafting of the above mentioned report, the Ministry for Human Rights and Refugees of BiH collected different reports, analyses, information and recommendations in order to complete the presentation of human rights in BiH, all in accordance with Article 12 of the Law on Ministries and Other BiH Public Authorities and in line with general guidelines, with the participation of a number of state and entity institutions, representatives of the civil society, NGOs and associations, which are more directly concerned with the protection of human rights and fundamental freedoms.¹ A draft text of the Universal Periodic Review was also prepared and it was presented within the public debate to a broader number of participants from governmental and non-governmental sector.

II. BASIC LEGAL FRAMEWORK FOR IMPROVEMENT AND PROTECTION OF HUMAN RIGHTS

A1. Constitutions and human rights in BiH

3. BiH has committed itself to ensure the achievement of the highest level of protection of internationally recognized human rights and fundamental freedoms. The Article II of the Constitution of BiH sets forth that the rights and freedoms provided for under the European Convention for the Protection of Human Rights and Fundamental Freedoms and the accompanying protocols shall be directly applied in the legal system of BiH, so they are given priority over other domestic positive legal regulations.² Besides the BiH Constitution, the primacy of human rights is also provided in the constitutions of the entities, the Statute of the Brčko District BiH, and the constitutions of 10 cantons in the Federation. Although the current BiH Constitution guarantees basic human rights and freedoms it should be noted that the BiH authorities try to harmonize the existing restrictions in certain provisions of the Constitution of BiH with the European Convention on Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights and the First and Second Optional Protocols.

4. When assessing the current situation of human rights in comparison to the reports, including the initial and the periodic ones, already submitted during the past period to the UN committees in the area of human rights, it is visible that there are improvements related to better protection of rights of: refugees and displaced persons, persons with disabilities, children, women, particularly victims of violence and trafficking, aliens under subsidiary protection, asylum seekers, persons belonging to national minorities,

¹ Several meetings were held with representatives of the civil society in BiH, on 25 February 2009., Helsinki Committee for Human Rights, ICVA, Center "Women and Society", meeting of 21 April 2009, with representatives of the NGO sector in BiH. (39 representatives invited). With support of the Swiss Embassy in BiH a workshop was held on 08 June 2009, at which the Swiss experience on developing UPR were presented and the topics proposed for the development of UPR of Bosnia and Herzegovina.

² The Article II, paragraph 3 of the Constitution of Bosnia and Herzegovina, provides for the catalog of human rights that includes the following rights guaranteed by internationally recognized documents: the right to life, the right of persons not to be subjected to torture or inhuman or degrading treatment or punishment, the right of persons not to be held in slavery or servitude, or forced or obliged work, the right to personal liberty and security, the right to a fair hearing in civil and criminal matters and other rights in connection with criminal proceedings, the right to private and family life, home and correspondence, freedom of thought, conscience and religion, freedom of expression, freedom of peaceful assembly and freedom of association with others, the right to marry and have family, the right to property, the right to education, the right to freedom of movement and residence.

especially the Roma rights, the rights to information, religious freedom. The fact is also that there are some challenges for the competent BiH authorities with regard to ensuring the necessary financial resources for a reformed approach to certain areas of human rights protection, such as the more efficient work of the judiciary and better coordination of law enforcement services, and especially the accelerated implementation of activities related to reform of the social sector (poverty reduction), namely the establishment of a sustainable system of assistance for the unemployed and faster employment, further reforms in education, problems in better protection of the environment - natural resources and access to them. All these areas need further harmonization of the legal framework, particularly in accordance with the revised European Social Charter, which entered into force on ratification of 15/09/2008, with the International Covenant on Economic, Social and Cultural Rights (by succession of 01/09/1993) and with the International Convention on Protection of the Rights of All Migrant Workers and Members of Their Families (accession of 13/12/1996).

5. In order to present the human rights situation in BiH it is also necessary to emphasize the most important political issues that relate to the efforts of the BiH authorities to find not only the appropriate legal solutions in BiH laws but also the adequate mechanisms for the implementation of positive legal regulations since post-war transition and economic challenges and political problems are extremely strong. This primarily relates to the first reform of the BiH Constitution and further economic development of BiH.

A2. Legal requirements relevant to the protection of human rights and international commitments

6. Improvement of the legislative framework in the field of protection of individual rights and freedoms in BiH is particularly evident in recent years in terms of improving the human rights of vulnerable groups of BiH population, for which in the previous period the legal solutions have been innovated and adopted in many sectors, regardless of difficulties in the process of harmonization of BiH legislation with international legal standards. It should be particularly emphasized that BiH adopted a unique methodology of passing laws, which means that in the preparation of all new BiH laws it is required in the procedure of the passing of the law to determine the degree of compliance with international legal sources, of which BiH is a member. Compared to earlier laws, the BiH legal framework concerning the protection of human rights of certain vulnerable categories in BiH has been significantly enhanced, in particular in certain sectors of protection, which ensures the continuity of improving the legal mechanism for protection of human rights and freedoms.

7. In order to ensure the rights to sustainable return of **displaced persons and refugees**, in addition to the Law on Refugees from BiH and Displaced Persons in BiH, entity laws were passed and they are fully harmonized with the Convention on the Status of Refugees from the 1951 and the Protocol on the Status of Refugees from 1967 that BiH adopted by succession on 1st September 1993, which made an appropriate legal mechanism that ensures equal rights and protection of displaced persons and refugees in BiH, including the refugees – foreign citizens.

8. It should be also especially noted that the Law on Protection of the Rights of National Minorities in BiH was adopted in promoting the protection of **national minorities**, as well as laws protecting the rights of minorities in the entities which are also harmonized with the International Convention on the Elimination of All Forms of Racial Discrimination., of which BiH is a member by succession of 16 July 1993, and the European Framework Convention for the Protection of National Minorities which has been applied in BiH since 1 July 2001. The ratification of the European Charter for Regional and Minority Languages is currently in process in BiH. BiH has also signed the Declaration on the accession to "Decade of Roma Inclusion 2005-2015" and has begun its implementation.

9. In order to better ensure the freedom of thought, conscience and religion, BiH has also passed the **Law**

on Freedom of Religion and Legal Position of Churches and Religious Communities in BiH, which guarantees equal status of churches and religious communities. In order to regulate mutual relations with religious communities and churches BiH undertook activities such as harmonization of the **Basic Agreement between BiH and the Holy See** which was signed in April 2006 and the Additional Protocol to the basic agreement signed in September 2006, the Basic Agreement between BiH with the Serbian Orthodox Church signed in 2007 and ratified in 2008, and it is expected to sign a similar agreement with the Islamic community in BiH. All these contracts were agreed not only with the European Convention on Human Rights and Freedoms and the accompanying protocols, but also with the International Covenant on Economic, Social and Cultural Rights, which has been applied since 1 September 1993.

10. **The Law on Gender Equality of BiH** provides formally an equal access to rights of women and men in accordance with international standards, and laws against domestic violence in the entities contribute to comprehensive protection of vulnerable categories - women and children from domestic violence. In addition to these legislative projects it is also worth mentioning that strategic and planning documents were made to ensure more effective prevention of discrimination in practice, especially against women and so BiH adopted several strategic documents: the BiH Gender Action Plan for the period 2006-2012, the National Action Plan for combating domestic violence, the National Action Plan to combat human trafficking and illegal migration 2008-2012, Rules on protection of citizens of BiH victims of trafficking and witnesses of trafficking in human beings and the Rules on protection of foreign victims of trafficking. These laws and above mentioned plans are harmonized with the Convention on the Elimination of All Forms of Discrimination against Women, which has been applied in BiH since 1 September 1993 and with the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, which has been applied in BiH since 4 September 2002 as well as with the EC directives relating to gender equality established by the Protocol to Prevent, Stop and Punish Trafficking in Persons, especially women and children, which complements the UN Convention against Transnational Organized Crime, ratified in March 2002 and the European Convention on Action against Trafficking in Human Beings, ratified in 2006. As a special segment of protection, the BiH authorities have adopted previously ratified Convention on the Rights of Children, taken by succession on 01 September 1993 and the Optional Protocols relating to the sale of children, child prostitution and pornography and the involvement of children in armed conflicts, ratified in September and March 2002.

11. With the view to protection of war victims in BiH, and especially the families of missing persons, the **Law on Missing Persons of BiH** was adopted on the basis of which the Institute for Missing Persons of BiH was established as an independent professional institution in charge of the search for missing persons in BiH, in which the significant role is played by the representatives of the families of missing persons whose work is organized within the framework of the Advisory Committee established under the Missing Persons Institute of BiH. The implementation of activities on accession to *the International Convention for the Protection of All Persons from Forced Disappearance* is in process. The prosecution of war crime cases is the mechanism to establish the responsibility of individuals for violations of human rights and international humanitarian law in the Court of BiH. The additional mechanism was established under the Missing Persons Institute of BiH which ensures and provides forensic/judicial truth in order to ensure justice for the victims (the right to know the fate of missing persons) and set up a culture of punishing those who violated the law. The appropriate legal regulations are crucial to the prosecution of war crimes, and addressing the problem of missing persons in BiH.

In addition to laws that were enacted in the area of civil war victims in the entities and The Brcko District BiH, which need to be harmonized in line with the UN Committee recommendation, it is important to point out that the Council of Ministers at its 87th session held on 14 May 2009 adopted a conclusion which supports the initiative to make the Strategy in the field of the transitional justice in BiH on the basis of the Strategy for Justice Sector Reform, which would significantly improve the situation and the protection of war victims in BiH.

12. The **Law on Prohibition of Discrimination in BiH** came into effect in mid 2009 and it established a unique legal mechanism for the prevention of discrimination. It contains comprehensive anti-discrimination standards and is a general framework for the protection of human rights, providing additional powers to the Ombudsman of BiH. It is also important to note that the passing of the Law on the prohibition of all fascist and neo-fascist organizations and use of their symbols in BiH is under process, which practically establishes an umbrella mechanism for the suppression of all, including the worst forms, of racial discrimination in BiH, the spread of hate speech and other forms of intolerance. BiH, as a member of the Council of Europe, is obliged to respect the European Resolution on preventing racism, xenophobia and racial intolerance in sport. BiH is also a signatory of the European Convention on violence and misconduct of spectators at sporting events, particularly at football matches. In this regard, the Law on Sport in BiH stipulates that a special unique law at national level shall determine the manner and measures to prevent and combat violence and misconduct of spectators at sporting events, including racism, xenophobia and racial intolerance.

13. Besides the **BiH Constitution**, the right to freedom of opinion and expression is also guaranteed by the **Constitution of the Federation of BiH**, Article 2(1), **Constitution of Republika Srpska**, articles 25, 26 and 27, the constitutions of the cantons of FBiH, and is more precisely formulated by the **Law on Freedom of Access to Information in BiH** adopted in 2001, the entity laws on Freedom of Access to Information and the **Law on Protection against Defamation**, adopted in 2002, which decriminalizes libel and repeals the so-called verbal act, by the **Law on Communications** of BiH, /passed in 2003/ which governs the area of communications, including the field of broadcasting (electronic media) and telecommunications and provides the highest degree of respect for freedoms guaranteed by international and local applicable laws, especially in the part related to freedom of expression, by the **Law on the Basis of the Public Broadcasting System and Public Broadcasting Service of BiH**, a common law at the BiH level, which regulates the activity of the public broadcasting system in BiH. The Article 10 of the Law imposes the obligation for broadcasters to respect the rules and regulations of the Communications Regulatory Agency of BiH.

All of these laws reflect the world's highest standards of respect for the rights to freedom of opinion and expression, guarantee a free, objective and democratic operation of the media, without any pressure (political, economic, ownership) on journalists and editorial policies.

14. BiH is a member and signatory of many international treaties, such as, among others, the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, overtaken by succession in September 1993 and the European Convention for the Protection from Torture and Inhuman or Degrading Treatment or Punishment, which came into force on 1 November 2002. The reform of criminal legislation began with the adoption of criminal legislation in the Federation of BiH (1998), RS (2000) and The Brcko District BiH (2001). The more comprehensive approach was assumed in 2002 when the process of adopting legislation for all levels of government started, but this process was primarily completed by the efforts of the OHR because in 2003 the High Representative imposed the Criminal Code of BiH and the Law on Criminal Procedure of BiH, which was a necessary step for creating the conditions for the start of the work of the Court of BiH. The Criminal Code of BiH has been significantly reformed. This Law brings a new reformed legal framework which is largely aligned with international standards of human rights and fundamental freedoms. The Criminal Code of BiH³ in the Chapter XVII sets forth the crimes against humanity and values protected by international law within the following crimes: art. 171-Genocide; 172-Crimes against humanity; 173-War crimes against civilians; 174-War crimes against wounded and sick; 175-War crimes against prisoners of war; 176-Organizing a group of people and inciting commitment of crimes of genocide, crimes against humanity and war crimes; 177-Unlawful

³ The Criminal Code of BiH (Official Gazette of BiH ", No. 3/03, 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06, 32/07)

killing and wounding of the enemy; 178-Unlawful seizure of items from the killed and wounded on the battlefield; 179-Violation of the laws or customs of war; 180-Individual criminal responsibility; 182-Unduly delay of the return of prisoners of war. **Criminal Procedure Codes of BiH, FBiH, RS and BD**⁴ in which the specific news in relation to the previously applicable law relates to the institute of "the abolition of the investigating judges in criminal proceedings (Article 229)", and the plea (Article 230) and especially to "plea bargaining" (Article 231) as well as introducing the possibility of using "special investigation activities" provided only for acts for which a prison sentence of up to three (3) years or more severe penalty may be pronounced.

The police and prosecutor's offices are allowed to use undercover agents, monitoring or recording and other investigation activities in order to facilitate the proving of commitment of the offense.

In accordance with the Law on Criminal Procedure of BiH, entities and The Brcko District BiH, the Prosecutor's Offices can undertake special investigations for crimes against humanity and values protected by international law because the proscribed penalties are above certain minimum.

15. **The Law on Protection of Witnesses under Threat and Vulnerable Witnesses**⁵. This Law regulates the measures to ensure protection of witnesses under threat and vulnerable witnesses in criminal proceedings conducted by the Court of BiH or the Chief Prosecutor of BiH. The law gives the definition of a witness under threat, vulnerable witness and protected witness. The Court decides on the protection of witnesses. The same laws were also passed in the entities and the Brcko District BiH.

16. The Convention on the Protection of Human Rights, Biomedicine and the Dignity of the Human Being, which was ratified in 2007, should also be mentioned here. It initiated the process of harmonization of the laws that regulate health care which is under the responsibility of the entities.

A3. The relationship of international and domestic law

17. The standards of UN conventions ratified by BiH, and in particular the European Convention for the Protection of Human Rights and Fundamental Freedoms, which guarantees the preservation and realization of human rights and fundamental freedoms, are incorporated in the Constitution of BiH and have priority over all other laws. It can be concluded that BiH is committed to the process of harmonizing domestic legislation with European and international legal regulations in order to develop democratic institutions and civil society and faster inclusion into European integration processes. BiH has made the Study of compliance/compatibility of BiH legislation with the provisions of the European Convention, which has emphasized the problematic parts of the domestic legislation which are not in accordance with the provisions of these Conventions and the process of harmonization of BiH legislation with the European *acquis communautaire* develops in accordance with the progress of the process of the European accession of BiH.

A4. Implementation of decisions of international bodies

18. BiH has established the **Representative/agent office before the European Court of Human Rights** after receipt of BiH to the Council of Europe. The decisions of the European Court of Human Rights against BiH, as the defendant, related mostly to the old foreign currency savings and labor relations disputes. There is a challenge with respect to the execution of previous decisions of the European Court in terms of implementation of certain decisions of the European Court, which most often are not of legal but of financial nature.

⁴ The Code on Criminal Procedure ("Official Gazette of BiH ", No. 3/03)

The Code on Criminal Procedure of the Federation of Bosnia and Herzegovina ("Official Gazette of FBiH ", No. 35/03)

The Code on Criminal Procedure of Republika Srpska ("Official Gazette of RS", No. 49/03)

The Code on Criminal Procedure of the Brcko District BiH ("Official Gazette of BD ", No. 10/03)

⁵ The Law on Protection of Witnesses under Threat and Vulnerable Witnesses ("Official Gazette of BiH ", No. 3/03)

III - INSTITUTIONS FOR THE PROTECTION OF HUMAN RIGHTS

B1. Independence of the courts and the right to judicial protection

19. The most powerful reform has been practically realized in the field of justice. The judicial system in BiH follows the administrative division of BiH, so the Constitutional Court of BiH and the Court of BiH were established at the level of BiH. Only the Constitutional Court of BiH has the jurisdiction, as appellate court, to decide on any dispute that may arise under the Constitution of BiH between the two entities, or between BiH and one or both entities, and between the institutions of BiH, concerning positive or negative conflict of jurisdiction, as well as on any other dispute which may arise in the relationship between national and entity governments, namely the institutions of BiH.

20. The special role in the judicial system of BiH is played by the High Judicial and Prosecutorial Council of BiH, formed on the basis of the Law on High Judicial and Prosecutorial Council of BiH. The Council is an independent body of BiH and is a legal person, which in addition to other duties provides for the election of judges and prosecutors of regular courts in BiH, independence and autonomy of courts and judges in BiH. The functioning of the judicial system is based on four key principles, such as independence, accountability, efficiency and quality. The election of all judges and prosecutors in BiH (except the election of judges to the Constitutional Court of BiH) is conducted by the High Judicial and Prosecutorial Council in accordance with the Law on High Judicial and Prosecutorial Council of BiH, which further ensures the independence of the courts. Thus, there is no independent body to control the election of judges to the Constitutional Court of BiH.

The Judicial Commission of the Brcko District BiH was established in order to form an independent and impartial judiciary and prosecution and to ensure the independence and competence in performing judicial and prosecutorial functions. There is possibility of exemption of judges from judicial proceedings in procedural laws in BiH as another form of guarantee of impartiality of the Court and it can be done for more than one reason that might affect their bias.

21. The independence of the court is assured through the process of appointing judges, and the judicial function is incompatible with any political function. In the Court of BiH there exist three departments, namely: Criminal, Administrative and Appellate Division. The Court has jurisdiction to take a final and binding position in connection with the enforcement of state laws and international treaties at the request of any court of the entities or any court of the Brcko District BiH entrusted to implement the laws of the state. Judicial authority in the Federation of BiH is carried out by the courts of the Federation of BiH, 10 cantonal courts and 28 municipal courts. The federal courts are the Constitutional Court of the Federation of BiH and the Supreme Court. The judicial authority of the Federation of BiH is independent and autonomous. The courts provide equal position for all parties in court proceedings. The judicial authorities in the cantons are carried out by cantonal and municipal courts that were established on the basis of the constitution of the canton. The following courts operate in RS: the Supreme Court of RS, which consists of civil, criminal and administrative departments, 5 district courts and 19 basic courts. The Law on Amendments to the Law on Courts of RS established five new commercial district courts and one higher commercial court. The magistrate courts, as courts of special jurisdiction in BiH, existed until December 2006. In the Federation of BiH their function was assumed by newly formed departments of municipal courts and in RS by courts of first instance. In the Federation of BiH the cantonal courts were assigned as courts of second instance, and in RS the district courts were assigned as courts of second instance. The Law on Courts of the Brcko District BiH established the Court of first instance and the Appellate Court. The importance and the role of the prosecutors' offices in BiH (State and Entities) is very significant since they represent an integral part of the judicial system in terms of the protection of human rights of BiH citizens.

22. The access to the courts is assured to the citizens of BiH in accordance with local and territorial

jurisdiction in Entities and the Brcko District BiH. The BiH Constitutional Court is the highest national judicial instance which guarantees the protection of human rights and freedoms in BiH, before which the BiH citizens may file an appeal for the violation of human rights and freedoms established by the Constitution of BiH and international standards. The appeal may be lodged against individual acts or actions of state agencies or organizations which are entrusted with public authorities. The Constitutional Court of BiH fully applies the accepted principles of the European Court for Human Rights in order to protect human rights.

The Court of BiH was established by the Law on the Court of BiH, which determined its criminal, administrative and appellate jurisdiction. It consists of 38 national and 8 international judges and is competent to deal with cases relating to the jurisdiction of the state institutions.

It should be noted that the right to appeal in BiH is ensured through the BiH two-level procedures, and under some special conditions the three-level ones are also allowed in decision-making. BiH criminal legislation protects the rights and freedoms of citizens guaranteed by the constitution and it treats the prevention or restriction of the enjoyment of the guaranteed freedoms as a criminal offense.

In addition, the right to judicial protection provides also for the right to a fair trial, the right to the efficiency of the court, the right to appeal, the right to compensation, etc.

B2. Institutions for the Protection of Human Rights

23. The basic local mechanisms for the protection of human rights are: the Human Rights Ombudsmen of BiH, the Ministry for Human Rights and Refugees, commissions and committees that deal with human rights issues and were established within the BiH Parliamentary Assembly and the Assemblies of the entities and the Brcko District BiH.

24. In compliance with the Law on Human Rights Ombudsmen of BiH, the Human Rights Ombudsman of BiH has jurisdiction to examine alleged human rights violations and make recommendations for their elimination. The Ombudsmen can work on the basis of complaints or on their own initiative, and their efforts are directed to the peaceful settlement of disputes. They investigate allegations of human rights violations, immediately issue findings and conclusions, notify the competent official or institution of their findings or request. They may initiate proceedings before the Court for Human Rights and they have access to and may examine the official documents.

In early December 2008, three new ombudsmen of BiH were appointed. A number of specialized departments were established for monitoring of: children's rights, persons with disabilities, ethnic, religious and other minorities, economic, social and cultural rights, political and civil rights and for the elimination of all forms of discrimination. The Department for the elimination of all forms of discrimination is very important, bearing in mind the fact that the Law on the prohibition of discrimination was enforced, which suggests for the Human Rights Ombudsman of BiH to be a mechanism for monitoring the application of the law and filing of appeals. In accordance with the provisions of the Law on Prohibition of Discrimination, the Human Rights Ombudsman of BiH is defined as the central institution for protection against discrimination. The Article 7 of the said Law, inter alia, defines that the Ombudsman is competent to receive individual and group complaints regarding discrimination, provide legal and natural persons with notices about their rights and obligations, and the possibilities of judicial and other protection; on the basis of the appeal it decides whether to accept the appeal or to start the investigation process; it proposes to start the mediation process.

Unifying the three Ombudsmen institutions in the Human Rights Ombudsman of BiH should have been completed by the end of 2006, so that a single institution was to begin its work on 01 January 2007.

The RS National Assembly has not passed yet a law on the dissolution of the Ombudsman Institution of RS. The unification of the institution of Ombudsman is a post-accession obligation of BiH to the Council of Europe and is one of the 16 EU preconditions that preceded the signing of the Stabilization and Accession Agreement. The liberalization of the visa regime for the citizens of BiH depends on the unification of the mentioned institutions.

Unfortunately the joining of the Human Rights Ombudsman of BiH with the Entity Ombudsman institutions has not been done yet, which is the reason why the functional national mechanism for protection of human rights in BiH has not been established in full capacity so far.

25. The Ministry for Human Rights and Refugees was established in April 2000, and among other things, it is responsible for: the promotion and protection of personal and collective human rights and freedoms; the creation and implementation of activities to meet obligations in respect of admission of BiH into Euro-Atlantic integrations, particularly in connection with the implementation of the European Convention on Human Rights and Fundamental Freedoms and its Protocols; and the establishment of the Agency for Gender Equality in BiH. The Ministry is responsible for the preparation and presentation of national reports on implementation of international conventions and protocols to which BiH is a member and developing cooperation with NGOs and international organizations, the families of missing persons, the international Red Cross and the Red Cross of BiH. It is also responsible to monitor the exercise and the degree of protection of individual and collective human rights, to collect data in accordance with its responsibilities, to follow up the implementation of laws relating to human rights and freedoms.

26. An important role in protection of human rights and fundamental freedoms in BiH is played by parliamentary/assembly commissions and committees that act as permanent working bodies of the BiH Parliamentary Assembly - Joint commission on human rights, rights of the child, youth, immigration, refugees, asylum and ethics; Commission on human rights and freedoms of the House of Peoples of the FBiH Parliament, Commission for the protection of human rights and freedoms of the House of Representatives of the FBiH Parliament, Committee for equal opportunities within the National assembly of RS. As a rule, these working bodies deal with issues of human rights protection, usually initiated by the ombudsmen, citizens, political organizations, citizens' associations, other organizations and communities, and they notify the competent authorities who determine and make their decisions and views thereupon. The Parliamentary Assembly of BiH has formed the Council of National Minorities of BiH, as a special advisory body that deals with the protection of rights of national minorities in BiH. The commissions and bodies established by the Council of Ministers have a special role in protecting the rights of certain categories of population. Thus the Council of Ministers of BiH established an advisory and coordinating body, the Committee for Roma, within the Council of Ministers of BiH, whose task is to improve the human rights of Roma as the largest national minority, as well as the Council for Children of BiH, Agency for Gender Equality of BiH, etc.

IV - IMPROVEMENT AND PROTECTION OF HUMAN RIGHTS IN BIH - IMPLEMENTATION

C1. Rights of national minorities, with special reference to the position of Roma

27. The Law on protection of the rights of national minorities in BiH (2003) and entity laws ensure that national minorities are parts of the population-citizens of BiH, in accordance with the aforementioned laws, who do not belong to any one of the three constituent peoples, and who consist of people of the same or similar ethnic origin, the same or similar traditions, customs, beliefs, language, culture and spirituality and close or related history and other characteristics. The Article 5 of the Law on protection of the rights of the national minorities states that "persons belonging to national minorities have the right to freedom of assembly in order to express their cultural, religious, educational, social, economic and political freedoms, rights, interests, needs and identity".

By passing of the legislation, as well as through the establishment of legislative bodies, the Council of national minorities at the level of BiH and the entities, BiH has institutionally and legally created the necessary conditions that enable national minorities to preserve and develop their ethnic, national, religious and cultural identity and to integrate into society of BiH.

28. The difficulties inherent in solving the problems of Roma, which relate to the lack of relevant data on their number, level of education, unemployment, housing needs and other demographic indicators will be substantially overcome by the realization of the Program of recording in established database on Roma in BiH. In order to protect the Roma, the most vulnerable minority in BiH, the "Strategy of BiH for solving problems of Roma" was adopted and it gave way to adoption of the action plans in the areas of education, employment, housing and health care. In 2008 BiH joined the Decade of Roma and in early 2009 it established the mechanism for monitoring and enforcement of adopted action plans. By recognition of the status of the minority to Roma and through respect of the fact that Roma in BiH are the most endangered national group by all indicators, BiH has taken concrete actions and made significant positive progress in solving the problems of Roma. Through their associations of Roma, the Council of Roma in the Federation of BiH and the Union of Roma in Republika Srpska as well as through the Committee for Roma within the Council of Ministers of BiH, the Roma in BiH achieve cooperation with government authorities and institutions of BiH at all levels of organization in addressing their life problems.

Having in mind the fact that the problems of Roma are most present in the areas of employment, housing, health care and education, the competent authorities of BiH in cooperation with Roma and international NGOs prepared the Action plan for solving the problems of Roma in these areas, and the Council of Ministers of BiH adopted it. The Action plan on the educational needs of Roma (passed in 2004) is currently in revision stage, i.e. in the phase of adjustment to the demands of the Roma association.

By adoption of the Action plan and joining the Decade of the social inclusion of Roma 2005-2015, BiH has committed itself to provide budgetary resources for the duration of the Decade and to deal with the Roma issues contained in the Action plan in a systematic and planned way. The budget of BiH institutions for 2009 secured 3,000,000 KM and the amount of 320,000 KM was allocated within the Federal Ministry for Planning for the implementation of the Action plan for solving the issues of Roma in the areas of housing, health care and employment. The Council of Ministers of BiH made a decision that establishes criteria for funds allocation, and the Ministry for Human Rights and Refugees established a methodology for implementation of the funds earmarked for construction of houses for Roma, the improvement of housing conditions, self-employment and stimulation of employers to employ Roma, as well as for implementing preventive measures to improve the health care-immunization of the Roma children. The realization of the program is in progress and it is implemented by the Ministry for Human Rights and Refugees in cooperation with the bodies of the entities, cantons and responsible authorities of municipalities and with Roma associations, with financial support from international NGOs.

C2. Rights of the Child

29. The difficulties caused by a complicated political system in BiH are well known, due to fragmentation and/or ambiguities in the division of responsibilities, which in all child-important areas are at lower levels other than the state government. The key problem is the lack of awareness of professionals in government bodies and other institutions of the obligation to apply in practice the principles of international instruments for protection of human rights because their use is guaranteed by the Constitution of BiH.

Bearing in mind the UN Convention on the Rights of the Child, which is contained in Annex I of the Dayton Peace Agreement and the standards established under other conventions that BiH ratified, the policy towards children can be considered in light of the implementation of these international sources.

In addition, BiH became a signatory of two Protocols to the Convention on the Rights of the Child, namely: the Optional Protocol on the Inclusion of Children in Armed Conflicts and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography in 2000, and it also signed the Millennium Declaration. In order to implement the Convention on the Rights of the Child and to meet the UN Millennium development goals, the Action Plan for Children of BiH for the Period 2002 – 2010 was adopted with the objective to strengthen the position of children in BiH. The Action Plan includes the general objectives outlined at the World Summit for Children and it imposes the commitment to address the judicial and legislative reform, the issues of children in contact with the law, health and health care, education, social and child protection. According to the Action Plan, a prerequisite for strengthening the

position of children in BiH is the inclusion of all resources within the society to develop a well thought-out action that would improve living conditions in the interest of the child's development as well as all available resources of the governmental and non-governmental sectors, families and individuals. Such a multidisciplinary approach advocated by the Action Plan for Children in BiH is appropriate, given the highly fragmented administrative system in BiH.

The state is aware of the fact that a large number of children in BiH does not enjoy free health care, that they are exposed to poverty, violence, mine threat and other risks, so it adopted and implements a number of documents to improve public child care and systematically enhance the situation of children's rights: the Strategy on Social Inclusion with the National Development Plan (2008 - 2012), the National Strategy for Combating Violence against Children (2007-2010), the Mine Action Strategy, the Strategy on Inclusion of Children with Special Needs (2006), the National Strategy on Early Child Development (2006), the Strategic Directions of Development of Education in BiH (2008-2015), the National Strategy of the Narcotic Drug Control, Prevention and Elimination of Abuse of Narcotic Drugs in BiH (2009-2013), the Strategy against Juvenile Delinquency in BiH (2006-2010). In 2008, the Ministry for Human Rights and Refugees of BiH, in cooperation with UNICEF, produced a comprehensive analysis of legislation in the field of regulation of identity (birth registration and citizenship acquisition), carried out an action that resulted in the birth registration of more than 2,000 children in the birth registries and almost the whole recording of children-families who have problems with such entry, and it offered solutions for other similar cases, which will positively reflect on the exercise of the rights of children to education, health and social protection.

The current implementation of the project "Strengthening the system of social protection and inclusion of children in BiH" will contribute to the process of establishing and implementing a sustainable development strategy for the integrated system of social protection of children and their families. It is planned that the Ministry of Security of BiH organizes the development of the Action Plan to improve the system for the protection of children against child pornography, as well as to organize training for the NGO on child pornography and the mechanisms of prevention. The Law on Amendments to the Law on Health Protection of F BiH was adopted and it ensures that all children under 15 years of age have the right to health care but there are difficulties in its implementation, because some cantons have not brought the enforcement regulations

C3. Prohibition of discrimination

30. The Constitution of BiH and Entity Constitutions establish the right to protection from discrimination. Since the application of the European Convention on Human Rights and Freedoms and its accompanying protocols is noted to have the advantage of implementation, their direct application is possible both in the judicial and in executive practice.

31. Most laws applied in BiH contain the anti-discrimination provision as a general provision which prohibits any form of discrimination on any grounds. Such provisions are included in the legislation governing the right to education, health and social care, labor and employment, achievement of political freedom, access to information, justice, minority rights, disability-pension insurance and many other rights arising from international standards and they are built in the domestic laws which tend to achieve the effectiveness of legal protection and the introduction of anti-discrimination policies in almost all segments of the public life.

32. The Law on Prohibition of Discrimination in BiH was adopted and it provided the equal mechanism of protection against discrimination, particularly emphasizing the positive measures to combat discrimination directed towards the most vulnerable groups. The fact is also that in BiH it is not always possible to fully ensure the effective protection because of a very complex organization of the state or under-built and functionally related institutional mechanisms, due to growing poverty, transitional changes and especially slowed strengthening of the public administration and improvement of functioning of the state structure as a whole.

33. There are often legitimate criticisms by NGOs in terms of lack of respect for human rights and the growing number of human rights violations in certain areas such as social security, health, housing, access to employment, etc., committed by the existing institutions, but it is also necessary to point out that some mechanisms have been improved and that it is a continuous process of building a system that will in the coming period increasingly promote the protection of human rights and freedoms.

34. It should also be noted that the forthcoming establishment of a system - the methodology for collecting and monitoring of human rights is a special priority in BiH, so that we expect significant progress in the coming period. Some of the activities have already been implemented, such as recording of the needs of Roma within the action plans for Roma, or collecting and tracking data in the field of protection of children against violence or data on the victims of trafficking and data on the missing persons and their families, and finally the data on returnees and refugees in BiH. In the coming period this system built-on in continuity will facilitate the identification of the state priorities whose main goal is to establish a faster system response to major issues of human rights and freedoms violations in BiH, which directly provides a better rule of law and inhibits corruption and speeds up the process of the BiH European accession. The concrete action of the Ministry for Human Rights and Refugees of BiH is established based on the relevant information and so the said Ministry provides its own emergency budgets or directs donor budgets aimed to assist the local institutions directly or through non-governmental organizations for activities focused on the protection of vulnerable categories (e.g. children and women victims in criminal cases and members of minorities, refugees and displaced persons and other vulnerable categories).

C4. Cooperation with the NGO sector in BiH

35. BiH shows an increasing interest in the inclusion of the NGO sector in all pores of the society. Thus, the NGO sector is increasingly becoming a significant factor in the exercise of public affairs and provision of services on matters concerning the exercise of protection of public interests close to the citizens.

The legal status of the NGO sector in BiH is based on the provisions of the Constitution of BiH and entity constitutions. On this basis, the Law on Associations and Foundations was passed and its indisputable value is that it puts in the same position people on the whole territory of BiH and allows them to exercise and protect, under the same conditions, their human and internationally recognized right to associate freely with others.

Despite positive results, it is noticeable that in the functioning of the NGO sector there are certain difficulties that impede its work and which relate to the limitations in higher territorial mobility, the way and extent of funding at their applications for public projects tenders. A special problem is the tax policy that is applied differently in different parts of BiH. The coming period requires more precise work on the upgrading of existing legal solutions, and the Strategy for the Development of the NGO sector in BiH which is in preparation will contribute to it.

The recently adopted Agreement on Cooperation of the Council of Ministers of BiH and the NGO sector can serve as an example of good practice in the development of the NGO sector in BiH. The power of this Agreement rests on the consent of partners through mutual consultations, discussions and agreements, especially when it comes to important issues and topics. Other agreements were signed as well between the various ministries and NGOs on current topics, the preparation of draft laws, by-laws, making of the initial and periodic reports that BiH as a member of the UN and the Council of Europe shall regularly submit to international institutions.

Good cooperation between government and NGOs sectors is realized with NGOs that bring together the civilian war victims, the representatives of the missing persons, the Roma NGO sector, the minority associations and associations of refugees and displaced persons, etc. The constructive cooperation is continuously realized with the Human Rights Ombudsmen of BiH, the Helsinki Committee for Human Rights of BiH, the Helsinki Committee for Human Rights of Republika Srpska and international organizations such as UNICEF, UNHCR, Save the Children Norway, UNDP, etc.

There are also positive initiatives related to the Strategy of sustainable development of the NGO sector launched towards the government sector by non-governmental sector, which brings together a number of organizations, such as the Committee of coalition "Work and Succeed Together" with 300 NGOs.

This means that in the coming period the NGO sector in BiH should be strengthened and guided in the direction of continuous and meaningful cooperation with the government sector and strengthening of its material base and financial capabilities in order to make it qualified for the implementation of activities and goals that it was set up for.

The civil society sector with very broad competencies was established within the Ministry of Justice of BiH as an institutional support to civil society organizations of BiH. In addition to the obligations on the development of the Strategy for creating a supportive environment for the development of the civil society of BiH, for which the proposals have already been made, the conditions are created for the NGO to take more important role in the law-making processes, particularly at the stage of timely consultations.

36. 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 the strengthening of the NGO sector. While, on the other side, the tasks of the NGO sector should move towards more responsible attitude towards the execution of the given obligations and use of resources, self-initiated inclusion in the overall development and communication trends, with constant strengthening and improvement of the quality of work and activities.

C5. Gender Equality

37. BiH has established appropriate mechanisms to prevent discrimination based on sex by defining within the legal framework the right to equal treatment on the grounds of gender and sexual orientation of any person by his/her own choice. BiH established institutional mechanisms for gender equality in order to integrate gender concept in all laws, policies, strategies and program documents. The established gender mechanisms include the Agency for Gender Equality of BiH , the entity gender centers, the commissions for gender equality within the BiH Parliament and entities assemblies, and the commissions for gender equality in the cantons and municipalities. It is important to note that the institutional mechanisms for gender equality cooperate with NGOs in the implementation of the activities. Although the BiH Election Law provides for quotas for candidate lists, gender equality is not at a satisfactory level in the legislative and executive bodies.

BiH has ratified numerous international documents, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1993, which is an integral part of the Constitution, the Optional Protocol in 2002 and it passed the Law on Gender Equality in BiH, which was adopted in 2003. The BiH Gender Action Plan (GAP), adopted by the Council of Ministers of BiH, is a strategic document for achieving gender equality in BiH, and the financial mechanism for the implementation of GAP (FIGAP program) was drafted, as a five-year plan, for which the donor community in BiH provided support.

The Strategy of prevention and fight against domestic violence for BiH for the period from 2009 to 2011 was adopted at the level of BiH, and the entity governments have adopted a strategic plan and action plan. The domestic violence is incriminated at the entity level, the laws against domestic violence were enacted and they define the protective measures (measures of expulsion, prohibition of access, compulsory treatment, etc.). The SOS lines for victims of violence were established in the FBiH and RS, while nine safe houses operate in BiH in order to protect victims of domestic violence.

C6. Combat against human trafficking

38. Generally speaking, the cases of trafficking are usually of cross-border nature as presented in the report on the situation of trafficking in BiH. BiH is there usually a transit country or destination for victims coming from Eastern Europe countries. However, in the past few years there appeared a new phenomenon - trafficking in women and girls who are recruited in the chain of human trafficking at the local level, with the aim of sexual exploitation in other parts of the country, while the number of identified

foreign victims of trafficking is in permanent decline and the number of female citizens of BiH identified as victims of trafficking in BiH until this year (2009) is constantly growing. Increase of trafficking of women BiH citizens within the borders of BiH faced the law enforcement agencies with new challenges in identification and investigation of crimes in the field of human trafficking. However, the current data on victims of trafficking are not disturbing and there is a continuous trend of reduced number of identified victims. BiH has invested sufficient efforts in terms of creating a **sustainable system** including establishment of a uniform system of data keeping and establishment of the system of direct aid and assistance to victims of trafficking, which provides intervention resources at the state level. This system was established in partnership of government, NGO and international sector and therefore has a special value especially in terms of strengthening both the partnership of the governmental and non-governmental sector and international and regional cooperation.

C7. Protection of the rights of persons with disabilities

39. BiH is committed to solving the problems of persons with disabilities, improving the status and protection of their fundamental human rights and defining policies to reduce discrimination against this population. Under the current legislation, BiH is obliged to amend the laws relating to employment, social and health care (unequal assessment of levels of disability and disharmony of differences in benefits between war and non-war invalids), education, participation in public and cultural life and availability of all public services and public transport for persons with disabilities. These activities include organized and planned approach to the harmonization of laws governing the protection of persons with disabilities. In view of concrete provision of health care to vulnerable categories, such as women, children, Roma, refugees and displaced persons, the fundamental right has been provided in primary care through the health care system in the entities and the Brcko District BiH. According to available data, it is evident that the health funds are insufficient for the needs of a large number of persons who are beneficiaries of these funds and that the comprehensive reform of the sector is necessary. Back in 2003, BiH made a Decision on acceptance of the Standard Rules for the equalization of opportunities for persons with disabilities. The document "Policy in the field of disability in BiH" was adopted in 2008. This document contains the principles that enable the competent entity authorities to improve the situation with the rights of persons with disabilities through development of strategies and action plans in the area of disability, as well as of planning the budget funds for their preparation and implementation. This especially concerns the harmonization of laws and effectiveness, equality of rights, on the territory of the entire BiH.

40. On 29 July 2009, BiH joined the UN Convention on the Rights of Persons with Disabilities, and undertook all necessary actions to put an end to the process of ratification of this Convention. After the ratification of the Convention and Protocol, BiH is obliged to launch the activities on the development of programs to implement the said Convention in order to raise the level of protection for persons with disabilities. The accession and ratification of the UN Convention for Persons with Disabilities will provide concrete legal mechanism **for monitoring implementation of the rights of persons with disabilities** at the state level. Along with the existing legal mechanisms and adopted policies and strategies for people with disabilities in BiH it will ensure in the future period the relevant indicators for BiH level on the existing problems of this category of the population, whose needs are planned and provided by the entity governments and the the Brcko District BiH government.

In cooperation with representatives of governmental and non-governmental sector, the Ministry for Human Rights and Refugees formed a team for drafting the Action Plan for the promotion and full participation of persons with disabilities in society for 2010-2015, in accordance with the Council of Europe Action Plan for promoting the rights and full social inclusion of persons with disabilities - improving the quality of life of persons with disabilities in Europe 2006-2015, especially considering that there is a problem related to the disproportion of social welfare for civilian war victims, disabled war veterans and non-war disabled persons including a specific problem related to employment opportunities and inclusion of disabled persons in public and cultural life, although in terms of their participation in the sport life they achieve extremely valuable sports results.

In order to promote the rights of persons with disabilities based on human rights and in cooperation with the League of Persons with Disabilities of BiH, the competent authorities initiated activities to establish a Council for Persons with Disabilities. The BiH aspiration is to establish an advisory body that will at the state level promote, advocate, monitor the implementation of health care for persons with disabilities, prepare and give opinions and recommendations, reports and analyses for the relevant institutions of BiH, entities and the Brcko District BiH.

In August 2009, upon the proposal of the Ministry of Civil Affairs, the Council of Ministers adopted Information on the activities of the Council of Europe in the field of disability, including the Council of Europe Action Plan for the promotion and full participation of persons with disabilities for 2006-2015, and, among other things, entrusted the Ministry of Civil Affairs to participate in the coordination of the implementation of the Action Plan of the Council of Europe.

C8. Freedom of opinion and expression

41. The Communications Regulatory Agency (CRA) is the first to be mentioned in the field of electronic media and electronic communication. The electronic media in BiH were in a state of complete chaos before the establishment of a regulatory body: the frequency coordination and licensing of broadcasting, the practice of respect for any rules, regulations or codes of professional journalism did not exist. The hate speech was widespread, and many broadcasters were under full political control.

CRA was established by the Law on Communications of BiH, as a unique independent regulatory body responsible for regulating the field of communications (including telecommunications and broadcasting), the allocation and arrangement of radio-frequency spectrum in BiH. Jurisdiction and operation of the Agency have been established in accordance with European standards and best practices. CRA established professional rules and regulations related to the field of electronic media, including the Code of broadcast of radio and TV programs and other regulations based on principles of protection of the rights to freedom of expression and high standards of professional journalism. Particular emphasis is on protecting children and minors, as well as raising public awareness about the potential impact of media on these social categories. The Agency is among the top European and international regulatory bodies due to its operation and results achieved in the regulation of electronic media in BiH. During previous years, the number of cases of violations of the provisions relating to the hate speech and incitement of national or religious intolerance has drastically reduced, while the programs that might emit the risk of inciting ethnic or religious hatred or disturbance of the rights of others have become rare.

CRA has jurisdiction over the licensing of broadcasting electronic media and other permits issued in the field of electronic communications, as well as authority to monitor compliance with permit terms and the adopted rules and regulations in the field of electronic media, which, among other things, includes possible sanctions for license holders who are found to have violated certain provisions of the rules and regulations of the CRA. Imposing sanctions is made in accordance with the provisions of the Article 10 of the European Convention on Human Rights and Fundamental Freedoms (ECHR), and proscribed sanctions range from oral and written warnings, imposing fines, to the possible revocation of licenses in cases of extremely serious and repeated violations of CRA rules and regulations. It is important to note that legal proceedings can be instituted against all decisions of the CRA before the Court of BiH. In previous work, the CRA has pronounced one (1) sanction of revocation of license for a TV station which in a period of several years repeatedly violated the CRA rules and regulations regarding broadcast programs. This decision of CRA was the subject of court proceedings before the Chamber for Human Rights of BiH, i.e. the court that was competent to deal with cases on the basis of the ECHR, and the aforementioned court ruled that the CRA decision did not break the Article 10 of ECHR, that this measure was necessary in a democratic society and that it was in accordance with the law.

In the past few years the public authorities have made intensive pressures on the Communications Regulatory Agency. This is reflected in attempts to withdraw the jurisdiction of CRA, in direct political

pressure on all aspects of work, which include administrative, operational, financial and institutional capacities. In the event that the attacks on the CRA result in loss of its independence in the financial sense and independence in choosing its management and bodies, one can freely say that the right to freedom of expression, at least in part related to the electronic media, will be seriously jeopardized.

42. **The Press Council in BiH** was established in 2000, as a self-regulatory body, pursuant to the resolution 1636 of the Council of Europe, and it is tasked both with developing citizens' awareness of their right to individual reaction in demanding truthful reporting of the press, and raising journalists' awareness about the responsibility to comply with professional standards without the existence of criminal measures and criminal prosecution. This is a multi-ethnic institution, unique to the entire country, founded by 10 major publishing houses, with the task of monitoring the application of professional standards of newspaper reporting. It is a mediation body that raises awareness of citizens about their right to true and valid information, which mediates between dissatisfied readers and the media in order to release the response, correction or denial and thus prevent a complaint against the media who made a mistake, and to give quick satisfaction to the citizen who has been damaged, by making the correction. The main task of this body is to protect the public from unprofessional conduct of journalists and editors in print media and the protection of freedom of expression. The Press Council makes decisions which should be accepted and publicly disclosed by the media concerned.

43. Two powerful media institutions, **the Sarajevo Media Center, the Media Plan Institute and the Center for Investigative Journalism** operate in BiH and they deal with education of journalists, research of media contents and environment for work of media as well as with research of media corruption, crime, etc. There are six associations of journalists in BiH. The fragmentation of the journalistic community and work of several journalistic associations reflect on the effectiveness of their work.

There is only one **Association/BiH Journalists** at the BiH level with 600 registered members and the special service **Free Media Help Line** for the protection of freedom of expression and free legal assistance to journalists and the media, whose rights are threatened or who are under pressure of political, economic, religious or other lobbies. From 1999 until 2008 the line registered and solved nearly 2000 cases of restriction of freedom of expression, attacks on journalists, pressure on the media and human rights violations.

In 2008, there were 54 cases of violations of journalistic rights and freedom of media and 25 brutal attacks on journalists, which includes physical assaults, threats and death threats /data from Free Media Help Line - the Association of Journalists of BiH/. There was also political pressure on the CRA as an independent body, which threatens freedom of expression.

There were also systematic and rough attacks of the RS Prime Minister on journalists and participants of the TV magazine "60 Minutes" and submission of the court petitions.

The issue of freedom of expression, including the issue of media freedom, reflects all the complexity of BiH society and it is associated with the general socio-political and economic situation.

Factors affecting the right to freedom of opinion and expression in BiH are:

- Inconsistent use of existing legal solutions which are good,
- Strong influences of national political parties, religious and economic lobbies on the media owners and editors, to subdue themselves under the control of political power centers,
- Low development of the BiH media market, which leads to economic dependence of the media,
- Poor material position of journalists and media employees,
- Attacks on freedom of expression that are manifested through: endangering of personal safety of journalists and attacks on the media, the pressures on journalists and the media through threats, by budget reduction or through court cases,
- Self-censorship of journalists,
- Closure and the unavailability of sources of information and non-transparency in the work of bodies at all levels of government authorities, public enterprises and institutions,

- Insufficient education of judges dealing with cases of libel on the basic postulates of freedom of expression and media reporting,
- The global economic crisis that deepens the differences between media in achieving positive business results,
- Pressure on the political, personnel, financial and institutional independence of the Communications Regulatory Agency to operate in full capacity without determent,
- Inability to establish the operational and professional public broadcasting system and corporation,
- Media fragmentation along ethnic lines with the result that every community has its own print media and television media, and
- Insufficient training of the journalists how to combat the hate speech and intolerance.

C9. Freedom of association and peaceful assembly

44. The BiH Constitution, the constitutions of the Entities and the Statute of the Brcko District BiH, guarantee the right of association and right to peaceful assembly, freedom of association with others, and so the freedom of association is a constitutional right for all persons in BiH.

The Constitution of BiH and the FBiH Constitution do not impose restrictions in the exercise of the right to peaceful assembly. The competent authority shall prohibit the maintenance of public assembly which is aimed at forcible changing of the constitutional order, violation of territorial integrity of BiH, the violation of constitutionally guaranteed rights and freedoms of a man and a citizen, provocation and incitement of 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 of the health, public morals or safety of persons and property. The public meeting can not be convened nor can the person against whom the court pronounced the security measure of prohibition of public appearance appear at the meeting. These problems are regulated by the **Law on the Gathering of Citizens**, both at the state level and at the levels of both entities and the Brcko District BiH, which consider the gathering of citizens as free and democratic, if exercised in accordance with the law. The gathering of the citizens, in terms of the laws in force, means the convening and holding meetings on the designated places. **The Law on Freedom of Religion and Legal Position of Churches and Religious Communities in BiH** provides that freedom of religion or belief includes the right of any person, or church or religious community to practice religious services in their own or rented buildings or premises that meet the requirements for assembling of a number of people, in open spaces belonging to religious buildings, in cemeteries, and homes and farms of the believers. They may also freely organize public religious ceremonies, performances and other religious and cultural gatherings in public places in accordance with the law that regulates the assembly of citizens. **The Law on Associations and Foundations**, at the state and entities levels, regulate in the same manner the issues of establishment, registration, internal organization and cessation of work of associations and foundations and it does not apply to political organizations, religious groups, trade unions and sports organizations. The Law on Associations and Foundations of BiH will deny entry in the register for associations and foundations if it is found that their activities are aimed for political purposes. The association and the foundation will cease to operate by force of law, if it is found that their objectives and program are aimed at violent destruction and incitement of racial, religious or national hatred, and if their statutory goal is gaining profit.

45. The Ministry of Justice of BiH and the entities are responsible for the registration of associations and foundations. The registration of associations and foundations is essential to acquire the properties of a legal person and the possibility of involvement in legal operations. The association may perform its activities as determined by its statute without having registration. All rules that apply to domestic associations and foundations also apply to the registration of foreign and international associations and foundations that are located and operate in the territory of BiH.

46. All employees have the right to organize trade unions and the right to strike. BiH has harmonized

labor legislation at the state and entity levels and they are consistent with international labor conventions (ILO Conventions) adopted by BiH.

47. The right to political association or the establishment of political parties is governed by **the Law on Political Organizing**. The keeping of the registry of political organizations is regulated by special rules that specify the content and manner of keeping the register of political organizations. The political organization, in terms of law, is an independent and voluntary organization of citizens (party, association, movement, union or other organization) established for achieving political goals. According to **the Law on financing political parties** the political parties are organizations in which citizens freely and voluntarily organize and register with the competent court in order to carry out political activities and achieve political goals. The work of a political organization shall be banned if it operates for the purpose of: the violent destruction of the constitutional arrangement, if it works on incitement of national, racial or religious hatred or intolerance; if its activities include juvenile or if it abuses them for political purposes, if it joins an international organization or association which acts towards the above objectives.

C10. Corruption and Human Rights

48. The current judicial reform and legislation intended to establish a strong judicial system and clear and functional laws are positive trends in BiH. The positive indicators are also the louder demands of local and international public to fight against corruption - the European Commission, ESI, ICG, local independent media, intellectuals and ordinary citizens. The problem of corruption is also emphasized in the document *the Strategy for the fight against poverty* which puts the issue of fighting the corruption as the priority for all reforms in the society. The corruption and impunity of the crimes are among the causes of breaching human rights. Reducing corruption is a precondition for the stability of the democratic BiH society and strengthening of the rule of law. The policies of prevention and combating corruption are directly related to the upcoming activities on the adoption of the Law on Combating Corruption, which is now in the Parliamentary Assembly of BiH. BiH ratified the Protocol of Council of Europe related to Convention on the Criminal Code on Corruption, which entered into force on 27 July 2009. Current activities on combating corruption are focused on the implementation of the policy that will ensure effective control of this problem. The Council of Ministers of BiH adopted the draft Strategy of BiH for the fight against organized crime for 2009-2012, the draft Strategy for fighting corruption and the Proposal of an action plan for implementation of the Strategy 2009-2014, as well as the draft National action plan against drug abuse in BiH. Despite huge number of political obstacles, the BiH authorities are committed to adopt all necessary statutory planning solutions harmonized with the International Convention on combating corruption. It should be noted that in this period of economic crisis BiH will be faced with many problems that slow down the solution to this problem which as a whole depends on the current political groups who are obliged to take decisive actions against corruption in BiH.

C11. Refugees and displaced persons

49. We recall that 2.2 million people left their pre-war homes in BiH from 1992 to 1995, which makes up more than half of the pre-war domestic population. Around 1.2 million people out of this number sought refugee protection in more than 100 countries around the world, while at the same time about a million people were displaced within BiH.

The estimates of the Ministry for Human Rights and Refugees speak of over half a million people who left BiH because of the conflict residing temporarily out of BiH. More than 80 percent out of this number has been integrated in the countries of acceptance, while about 80 thousands of refugees from BiH still needs the permanent solutions, including voluntary return to BiH. At the same time, over 39,000 families, or about 117,000 people are currently under the status of displaced persons in BiH. In the past fourteen years, since the signing of the Dayton Peace Agreement, nearly all the occupied property was returned to its prewar owners, 320,000 out of 450,000 destroyed houses have been rehabilitated, the representation of minorities in the public sector increased, at present all persons enjoy the freedom of movement, and the security of returnees has been significantly improved .

50. Although it is evident that significant results have been achieved in the implementation of the provisions of the Annex 7 of the Dayton Peace Agreement - more than half of the refugees and displaced persons have not returned to their homes and there is a large number of refugees, displaced persons and other persons affected by the conflict, who still need a permanent solution. Many of these people are highly endangered and traumatized and live in inhumane conditions in displacement. Unfortunately, about 2,700 families are still living in collective care centers in BiH and finding appropriate durable solutions for these people is undoubtedly the priority for BiH. Moreover, many of them can not return because their pre-war property was destroyed and it is on the list of nearly 45,000 housing units of returnees waiting to be renewed or because the terrain in their places of return has not been cleared of mines. At the same time, many returnees who have returned so far are faced with conditions that jeopardize the possibility of their existence in places of return.

Economic opportunities are scarce and there is often the infrastructure lacking, including electricity, and their access to the rights and services such as health care, education and social protection and pensions, is limited. These restrictions are often rooted in discrimination, which is in contradiction with the principles set out in the Annex 7 of the BiH Constitution and by the international law.

In some cases, a transformed social environment is the primary difficulty since there are many people, especially young people seeking opportunities for higher education and employment in larger cities and not in rural areas. The BiH Constitution and international standards guarantee equal rights to refugees, displaced persons and returnees as to all other BiH citizens.

51. However, there are many challenges that have to be overcome in order to provide access to human rights for many refugees, displaced persons and returnees, especially the most vulnerable ones, who need additional financial and social support.

The progress in the BiH society is slow in many areas. This especially applies to economic and social development. As a result, potential returnees are often faced with the depressing realities of life throughout the country. However, despite all the present problems and many years of living outside their pre-war residence, a large number of displaced persons expressed the desire and intent to return. In the last two years the Ministry for Human Rights and Refugees has ensured the state budget in the amount over 100 million KM for the reconstruction and electrification of the returnee settlements, rehabilitation of infrastructure, sustainable return and support to the development of Srebrenica. The implementation of these funds is under way. It is therefore necessary not only to keep the focus but also to undertake additional efforts towards continuous support to access to the rights for safe, dignified return and full reintegration of returnees, without preference for any group or individual, in a manner that guarantees equal rights of refugees, displaced persons and returnees and without prejudice to their individual right to choose other available and preferred permanent solution. The Ministry for Human Rights and Refugees is determined to fully implement through coordinated activities, in cooperation with other relevant participants, the Agreement on the return of refugees and displaced persons (Annex 7) until the last refugee, displaced person and returnee has been provided with assured access to the rights that are guaranteed by this Agreement - the process can not be concluded.

C12. Refugees in BiH

52. Besides being among the countries with extremely evident refugee-returnee problem in Europe, BiH has accepted and is taking care of thousands of refugees, mainly from neighboring countries in the region. Currently 187 refugees with recognized refugee status are temporarily residing in BiH. (According to the data of the Ministry of Security of BiH about 250 refugee cards have been issued. The difference in the number of issued refugee cards and the number of people who currently reside in BiH is the number of refugees moved to third countries through the UNHCR programs. These refugees still have the refugee status in BiH). The largest number of refugees in BiH is from Serbia and Montenegro, but there are also refugees from other countries (Palestine, Syria, Tunisia, Macedonia, Algeria, Albania, Croatia, Moldova,

Saudi Arabia). In accordance with the Law on Movement and Stay of Aliens and Asylum, the Ministry of Security of BiH is competent to determine the status, and the Ministry for Human Rights and Refugees of BiH is obliged to provide refugees with the recognized status with access to the right to work, education, health and social care, the same as for the BiH citizens. In this regard, the Ministry for Human Rights and Refugees has passed a number of by-laws which guarantee the refugees with the recognized status the guaranteed rights, namely: the Rules on how to achieve health insurance and health care for persons with recognized refugee status or other form of international legal protection in BiH, the Regulation on the registration of personal status and the fact of birth, marriage and death for refugees and persons under international protection in BiH, the Regulation on the manner of exercising the right to work for persons with recognized international protection in BiH and the Rules on the manner of exercising the right to social care for persons with recognized international protection in BiH.

53. In accordance with the aforementioned regulations, the Ministry for Human Rights and Refugees of BiH pays health insurance for 51 insured persons with the recognized status in BiH, which covers about 112 people. The Ministry for Human Rights and Refugees of BiH pays funds through centers for social work to ensure the right to social care, limited financial assistance for 11 families, which covers about 55 people. The condition for access to the right to social care is that the person does not have income from labor-legal status, which means that 55 persons are registered with the Employment Office with the same possibility of employment as for the BiH citizens. The Ministry for Human Rights and Refugees is also responsible for the functioning of refugee-acceptance center Salakovci - Mostar, which accommodates 114 persons, of which 33 persons with recognized refugee status. The remaining number of refugees with the recognized refugee status is mainly in private accommodation.

In addition to persons with recognized refugee status in BiH, a large number of people who were accepted as refugee persons have been staying in BiH for many years, but they have not been integrated in BiH yet. These are mostly Serbs from Croatia, Bosniaks, Roma and Albanians from Serbia and Montenegro. These people have no settled status and other issues in BiH, which would enable their easier integration.

V-COMMITMENT OF BIH TO PROMOTION AND PROTECTION OF HUMAN RIGHTS

54. In evaluating the general BiH situation in achievements made in the protection of human rights it can be concluded that there is no doubt that BiH has achieved notable progress. But it is also the fact that BiH must continue to strengthen institutional mechanisms for the protection of human rights and freedoms at BiH level as well as the institutional mechanisms at lower levels of government, especially in municipalities that actually provide direct servicing of BiH citizens.

55. Many non-governmental organizations in BiH have made a very important contribution to the rule of law and the strengthening of democratization and there is continuous and successful cooperation between the BiH state, its entities and the Brcko District BiH, non-governmental sector, the Office of the Council of Europe and the Office of UN High Commissioner for Human Rights in Sarajevo, especially during the preparation and presenting before competent international bodies the BiH report on the implementation of internationally recognized documents that BiH has signed, ratified or overtaken by succession as well as in development of planning and action documents, and in recent years in passing of very important legal projects.

56. BiH is committed to fulfill its international obligations in the field of human rights through constant efforts to improve the BiH legislation and implementation of international agreements of multilateral character in BiH. In some areas these initiatives have lived its materialization in the legislative or executive authorities, such as making of concrete and strategic documents previously mentioned in this text, which make the BiH policy concrete in the area of displaced persons and refugees, war victims, children, women, including victims of violence and sexual exploitation, the old people, persons with disabilities, members of minorities. Specific capacities have been established in order to implement these

policies, such as: the councils of national minorities in BiH Parliamentary Assembly and the parliaments/assemblies of entities, BiH Council for Children, the Inter-religious Council and the independent Commission for monitoring of prisons and residential institutions, the Committee for Roma, youth associations, and activities on formation of the Council for people with disabilities in also ahead in BiH.

57. BiH is committed to respect for human rights as a part of its foreign policy, as an important determinant for the normalization of relations with countries in the region and beyond, both in the BiH post-conflict society and in the modern world affected by the process of globalization, thereby restoring confidence among citizens and contributing to the development of BH democracy.

58. In this regard, the constitutional amendments are priority for the BiH society, which will treat all BiH citizens in the same way and which will expand the scope of the state authority to make it have the same powers as the countries in the region, Europe and the world. Having in mind the overall needs of BiH society, the priorities are the following: adoption of a national action plan for human rights, capacity building and unifying of the BiH Ombudsmen institutions, enforcement of the Law on Prohibition of Discrimination, harmonization of domestic legislation with the European *acquis communautaire*, implementation of recommendations of UN committees, training of judges, prosecutors and others actors in the field of human rights, population census, the analysis of the social situation in BiH (better cooperation between entities and the state), the implementation of action plans for Roma and improvement of implementation of educational needs of Roma (Education and training of the Roma population), improve the protection of the human rights activists, conducting specific measures to eliminate segregation in schools (two schools under one roof), promote women politicians and leaders- promote the importance and the role of women in political life, condemnation of violence in the family- (talk publicly about the violence in the family - the politicians and leaders), the realization of the National strategy on war crimes processing, the Strategy and reform of the judicial system (OSCE - Report), the establishment of the best national mechanisms for the protection against torture, the improvement of mechanisms to preserve the independence of the judiciary (High Judicial and Prosecutorial Council of BiH-HJPC, prosecutor's office, courts, SIPA, the establishment of a unique BiH ombudsman institution, the Constitutional Court and the competent ministries should propose legal measures for the timely execution of final judgments and insurance of funds and other resources for substantial return.