

**BOSNA I HERCEGOVINA**



*Ministarstvo za ljudska prava i izbjeglice  
Ministry of Human Rights and Refugees*

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**THE SECOND PERIODIC REPORT  
of Bosnia and Herzegovina on International Covenant on  
Economic, Social and Cultural Rights**

Sarajevo, June 2010

## Introduction

The Committee on Economic, Social and Cultural Rights considered the initial report of Bosnia and Herzegovina on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.65) at its 41st to 43rd meetings, held on 14 and 15 November 2005 (E/C.12/2005/SR.41-43), and adopted, at its 58th meeting held on 25 November 2005, the concluding observations noting positive aspects, factors and difficulties hindering the implementation of the International Covenant on Economic, Social and Cultural Rights, identified the major issues of concern and gave suggestions and recommendations that Bosnia and Herzegovina (hereafter: BiH) as a UN member state and State party to the UN Committee on Economic, Social and Cultural Rights is obliged to comment and submit a periodic report answering the questions asked in the Concluding observations of UN Committee and inform the Committee about it by 30 June 2010.

The Ministry of Human Rights and Refugees of BiH (hereafter: the Ministry), as responsible ministry, started fulfilling its obligations in a timely fashion. After the presentation and adoption of the initial report before UN Committee on Economic, Social and Cultural Rights, the Ministry informed the Council of Ministers of BiH about the BiH delegation report on the presentation of initial report and Concluding observations given by the UN Committee that also gave recommendations obliging the Ministry of Human Rights and Refugees of BiH to inform all relevant authorities and institutions about the concluding observations so that, in a timely fashion, they could start implementing the concluding observations, especially the ones noting factors and difficulties giving rise to concerns and hindering the implementation of the ICESCR. Implementing Conclusions of the Council of Ministers of BiH, the Ministry of Human Rights and Refugees of BiH sent the documents together with guidelines to all relevant authorities and institutions that are directly involved in the matter of economic, social and cultural rights in line with their mandate. Also the documents were posted on the web site of the Ministry so that non-governmental organizations and the general public in BiH can become familiar with their content. In late 2009 and early 2010 the Ministry started establishing the Working Group for the preparation of Periodic report appointed by relevant ministries at the level of Bosnia and Herzegovina, the entity ministries and departments of Brčko District of BiH. The institutions that are directly involved in a particular matter were also included in the Working Group.

At the first meeting the Working Group for the preparation of the Second Periodic Report on the human rights situation in BiH under International Covenant on Economic, Social and Cultural Rights were briefed about their mandate and then the following documents **were** submitted to them for their information and use in the preparation of periodic report: the International Covenant on Economic, Social and Cultural Rights, Concluding observations by the UN Committee on Economic, Social and Cultural Rights and Points for the preparation of periodic report on the human rights situation in BiH under International Covenant on Economic, Social and Cultural Rights, which were drafted by the Human Rights Department on the basis of the above-mentioned documents. Of course, we took care that the preparation of the second periodic report included experts and specialists who were most directly involved in the matter throughout BiH.

We are giving below answers put together on the basis of Concluding observations by the UN Committee on Economic, Social and Cultural Rights adopted on 25 November 2005 and activities that BiH took on the subject-matters:

### **Recommendation 30**

***The Committee recommends that the State party ensure the independence and impartiality of the Office of the State Ombudsman and adopt one common human rights approach.***

The BiH Ombudsman for human rights operates in accordance with the Law on Ombudsman for human rights of BiH (BiH Official Gazette 19/02, 32/06). The Ombudsman has authority to examine any alleged human rights violation and gives recommendation to remedy it. The BiH Ombudsman for human rights may act ex officio or upon a complaint and puts efforts into peaceful settling of any dispute, investigations of human rights violation allegations, publishing of findings without delay and notification to the competent officers or institutions of his/her findings or request. The Ombudsman may initiate proceedings before the Court of Human Rights, has access to and may examine the official documents. Respecting the Law on the Human Rights Ombudsman of Bosnia and Herzegovina and with the aim of streamlining and efficiency, the Ombudsman institution was restructured. In this way, entity Ombudsmen ceased working. In early December 2008 three ombudsmen were appointed at the level of BiH. Seven specialized departments were established and they are: Department for Protection of Children's Rights; Department for Protection of Rights Of Persons With Disabilities, the Department for Protection of Rights of National, Religious And Other Minorities, the Department for Protection of Economic, Social and Cultural Rights, Department of Civil and Political Rights; Department for the Elimination of All Forms of Discrimination and the Department for Protection of Rights of Detainees / Prisoners.

Special support for the work of the BiH Ombudsman for Human Rights is given in the Law on the Prohibition of Discrimination (BiH Official Gazette 50/09), which defines the institution as a central institution for protection from discrimination. Article 7 of the Law provides that the Ombudsman is competent to receive individual and class complaints regarding discrimination. It also should provide physical and legal persons with advice on their rights and responsibilities and possibilities of judicial protection. On the basis of an appeal the Ombudsman decides on the acceptance of a complaint or investigative proceedings and suggests mediation proceedings.

Therefore, we can say that all necessary conditions for the Human Rights Ombudsman of Bosnia and Herzegovina to work in full capacity were created, its independence and impartiality were ensured and a unique approach to human rights in Bosnia and Herzegovina was provided.

### **Recommendation 31**

***The Committee urges the State party to ensure the justifiability of the Covenant rights in domestic courts and draws its attention to general comment No. 9 on the domestic application of the Covenant. It invites the State party to include information concerning case law on the application of the Covenant.***

When it comes to response to this recommendation it is necessary to emphasize the fact that Bosnia and Herzegovina is a country that belongs to the so-called continental law where, in accordance with the constitution, the courts decide cases according to law. This approach to laws as a source of law makes clear distinction between the so-called case law in which case law is a source of law and at the beginning gives an obligation of different treatment consisting of harmonization of court practice, which in no way devalue the obligations and the need to harmonize the judicial practice in Bosnia and Herzegovina, thus not bringing into question the constitutional definition of the laws as a source of law.

Here are examples of case law in Bosnia and Herzegovina in which, because of inconsistent practices of courts involving the same or similar issues when applying the same law, the Constitutional Court of Bosnia and Herzegovina refuses to issue a temporary measure (an injunction) because of possible adverse consequences that may result from the adoption of the particular temporary measure. Thus, in decisions AP-2157/08 and AP-1274/08, Constitutional Court states: "In the circumstances, before a detailed analysis of different legal opinions of the courts of first instance and courts of two levels of appeal applying the same substantive law this application invokes, the Constitutional Court believes that the execution of judgments of the Supreme Court, which ordered the appellants to surrender possession of

business property vacant from people and goods to the plaintiff, could cause unforeseeable harmful effects to the appellants if they were evicted from the premises, and that four employees would be rendered unemployed. In addition, the Constitutional Court notes that the application pointed to the different treatment by the courts in similar cases, which violated the principle of legality and legal certainty. In this regard the Constitutional Court considers that the different practices of the courts are an important reason that the Constitutional Court should take into account pending a final decision on the appeal“.

Therefore, several decisions of the Court of BiH concerning the economic, social and cultural rights, point out the arbitrariness of interpretation and application of regulations and unsubstantiated court decisions, as a separate issue in evaluating the grounds of appeals. This is particularly true of the issues related to privatization, labour issues, social policy, pensions, property and other rights.

The aforementioned and many other practices of the judiciary of Bosnia and Herzegovina show the importance of harmonization of court practice in BiH and unacceptability of arbitrary and unsubstantiated legal standpoints and their application in particular. Certainly, most damage is suffered by citizens of Bosnia and Herzegovina, because in this context their legal certainty, the principle of legality and the principle of rule of law come into question. Therefore, in the coming period, work on harmonization of court practice in BiH should be more based on respect for and implementation of the Rulebooks on the Internal Operations of the Courts, both within Entities and between the highest courts in the Entities and Brcko District, seeking a foothold of its consistent application and thereby overcoming differences in judicial decision making on the same issues.

Therefore, in order for the judicial practice of Bosnia and Herzegovina to be more balanced and to have unified approach in making court decisions, there are more and more ideas for the establishment of the Supreme Court that would issue decisions more fairly and successfully and have judicial decisions implemented more efficiently and effectively.

As part of the overall reform of the judicial system of Bosnia and Herzegovina, the Entity Judicial and Prosecutorial Training Centres and the Judicial Commission of Brcko District, under the supervision of the High Judicial and Prosecutorial Council of BiH, regularly organize courses of training on international standards.

The program includes the following topics: the European Convention on Human Rights, case law of the European Court of Human Rights in Strasbourg, the International Legal Assistance in Criminal Matters, European Convention and gender equality, international humanitarian law, international conventions in the fields of labour, family and other rights, gender equality in BiH in the context of the recommendations of UN committees, mutual legal assistance in civil matters.

The 2008 -2012 Strategy for Justice Sector Reform in BiH envisages strengthening of independence of the judiciary and the harmonization of the judicial system, which would result in fulfilling commitments under European partnerships for BiH. Also activities on the implementation of international standards in the system of execution of criminal sanctions in BiH and the establishment of mechanisms for training of judges and prosecutors in the area of international legal assistance and cooperation are planned.

### **Recommendation 32**

***The Committee calls on the State party to intensify its efforts to ensure the sustainable return of returnees to their home communities by ensuring their equal enjoyment of the Covenant rights, especially in the fields of social protection, health care and education.***

For several years now BiH has been making great efforts for return of refugees and displaced persons to their pre-war homes, which they left because of the war. In order to ensure their sustainable return, 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 1951 Convention on the Status of Refugees and the 1967 Protocol on the Status of Refugees, which BiH accepted by succession on 1 September 1993, which set up an appropriate legal mechanism for ensuring equal rights and protection of displaced persons in BiH,

including refugees and displaced persons residing in Bosnia and Herzegovina and refugees in BiH from other countries.

It should be recalled that about 2.2 million people in Bosnia and Herzegovina left their homes because of the war, which makes up more than half of the pre-war population. Out of the number about 1.2 million sought refuge in over 100 countries around the world, while at the same time about one million persons were displaced within BiH.

According to current estimates more than half a million people who fled Bosnia and Herzegovina because of the war are still living outside BiH. More than 80% of them are integrated in the receiving countries. According to estimates, more than 80 thousand refugees from BiH need durable solutions, including voluntary return to BiH. About 39,000 families or about 117,000 persons have the status of displaced persons in BiH. However, it should be noted that since the signing of the Dayton Peace Accords to date almost all pre-war property has been returned to their owners. 320,000 houses out of 450,000 houses destroyed have been reconstructed, minority representation has increased in the public sector, freedom of movement has been fully secured, and the safety of returnees has been significantly improved.

Although significant results have been achieved in implementing provisions of Annex 7 of the Dayton peace agreement - more than half of the refugees and displaced persons have not returned to their homes and a large number of refugees, displaced persons and others affected by conflict need permanent solutions. Many of these categories are extremely vulnerable because they live in inadequate and inhumane conditions as refugees. About 2,700 families who are still living in collective centres are in the most difficult situation. Families and persons whose pre-war property was completely destroyed are in a very difficult situation, too. They are, of course, on the list of nearly 45,000 housing units of returnees who expect their destroyed homes to be repaired. At the same time, we should emphasize the situation of many returnees who have returned to face the difficult conditions of survival, primarily because many fields are not cleared of mines, economic opportunities are scarce and the economic situation is difficult because they lack jobs, infrastructure is lacking, especially connections to electricity and water supply systems, roads, access to rights and services such as health care and pensions, which in the future should be resolved.

The constrictions are often rooted in discrimination, which is contrary to the principles set out in Annex VII, the Constitution of BiH, the Law on Discrimination and numerous international instruments, including the European Convention on Human Rights and Fundamental Freedoms, which is an integral part of the Constitution of BiH. In most cases, difficulties posed to returning population are altered social environment in which a large number of persons are found, especially young people who are looking for opportunities of higher education and employment in larger cities, not in rural areas.

In this area BiH faces numerous challenges which should be addressed without delay to meet needs of a large number of refugees and displaced persons, especially the most vulnerable who need additional financial and social support. Despite the difficult economic situation in the return of refugees and displaced persons the state budget provided more than BAM 100 million for the reconstruction, electrification of returnees' villages, rehabilitation of infrastructure and sustainable return. In addition to these activities, additional efforts focused on the continued support to the rights to the safe and dignified return and full reintegration of returnees should be made. The Ministry, in cooperation with other relevant stakeholders, seeks to fully implement the Agreement on the Return of Refugees and Internally Displaced Persons (Annex VII) of the Dayton Peace Agreement. It is dedicated not to give up these activities and the process must not be considered completed as long as there is a single refugee or displaced person who needs help.

### **Recommendation 33**

***The Committee requests the State party to include updated statistical data, disaggregated by age, ethnic group, social and other relevant status, on the representation of women in the public and private***

***employment sectors, as well as on the salaries received by women as compared to those received by men for equal work.***

In Bosnia and Herzegovina there is a very strong connection between the social role of a woman, her education, profession and position in the labour market. The data available from the researches shows that in Bosnia and Herzegovina there are typically female and typically male occupations. The stereotypes about desirable occupations and professions, which are preferred by women or men, are still very deep. The possibility of BiH women to respond to the demands dictated by the labour market is considerably limited. This fact is produced by many factors, such as the patriarchal conception of the role of women in family and society, the low level of education and information available to women in rural areas, male favouritism in employment, poor credit ability (high interest rates, a small percentage of women who have title to real estate).

From the statistics below we can see the real gender equality situation in some parts of the fields of labour, employment and access to all economic resources. The biggest problem with making a comprehensive analysis is that all competent authorities in Bosnia and Herzegovina do not fulfil the obligation under the Law on Gender Equality in BiH of obligatory gender disaggregated statistics and to keep proper statistical sex-based records. The RS Gender Centre, for example, sought information about access to financial services and resources from banks, savings and micro-credit organizations, but the statistics are not kept, disaggregated or presented by sex, which is an obligation under the Law on Gender Equality in BiH. The Gender Centre of the Federation of Bosnia and Herzegovina is facing the same problem. Disrespect for an obligation of orderly keeping and classification of statistics makes the work of the Agency and the Institute for Statistics of BiH difficult. However, there are positive examples of keeping statistics in the field of gender equality, notably by the competent agency for statistics, but also other authorities. Thus, the Federal Employment Service and all cantonal offices stated that statistics were disaggregated by sex in the areas covered, and in the attachment to the response they submitted their monthly newsletters and excerpts from the newsletter - statistical overviews from which the gender statistics are apparent.

According to the Agency for Statistics of Bosnia and Herzegovina the unemployment rate in BiH is 23.4% (21.4% for men and 26.8% for women), while in the same period of 2007 it amounted to 29.0% (26.7% for men and 32.9% for women). The unemployment rate is highest among young people aged 15 to 24 years, and amounts to 47.5% (44.8% for men and 52.3% for women). According to the ALS, in 2008 the rates of activity and employment amounted to 43.9% and 33.6%, while in 2007 they were 43.9% and 31.2%, the rates being significantly higher for men than for women. The rates of activity and employment were highest in the age group of between 25 to 49 years old (68.6% and 53.4%). The structure of employed persons by status in employment shows that people in paid employment (employees) have the largest share (72.5%, of which 35.6% women). Participation of self-employed persons was 22.1% (including 27.4% women), and unpaid supporting members was 5.4% (including 68.9% women).

***Labour force:***

- Total: 2,648,618
- Women: 1,371,638 (51.7%)

***Employed persons:***

- Total: 890,239
- Women: 316,960 (35.6%)

***Unemployed persons:***

- Total: 272,034
- Women: 115,953 (42.6%)<sup>1</sup>

From the above, it is visible that, among other things, women aged between 16-64 years make only 35%

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<sup>1</sup> Labour Force Survey, 2008, Statistics Agency of Bosnia and Herzegovina

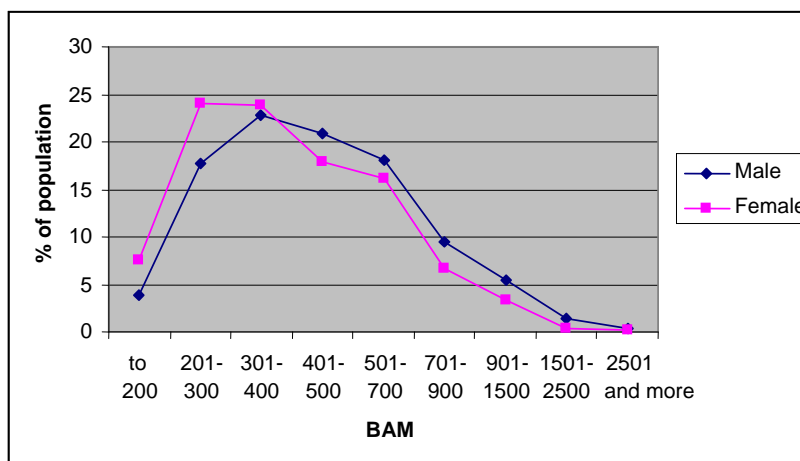
of the active labour force in Bosnia and Herzegovina, which is the lowest level of representation of women in the labour market in Southeast Europe.

In 2008 "Gender Gap in Income in BiH" publication was promoted and it was the first study of wage differences between men and women in Bosnia and Herzegovina. Gender gap in income is the difference between the average monthly income of female and male employees (employed men and women) that is expressed as a percentage of monthly income of employees (male). An analysis of the gender gap in income in Bosnia and Herzegovina was prepared on the basis of analysis of findings in the 2006 Labour Force Survey - LFS, 2001 - 2004 Live in BiH Survey and available data from the statistical system of Bosnia and Herzegovina. The survey was developed in cooperation with the Gender Equality Agency of Bosnia and Herzegovina and the Independent Bureau for Humanitarian Issues, and with the support of CIDA and UNDP.

An analysis of available data on net wages was made. These surveys show that the ratio of employed men and women is 2:1. Analyses indicate that the age structure of employed persons in BH is equal for both sexes. A more detailed inspection shows that the percentage share of younger women is higher in comparison to their colleagues. This situation is a result of multiple reasons, the most common of them being quitting work to take care of children, greater demand for younger work force, earlier retirement age of women and so on.

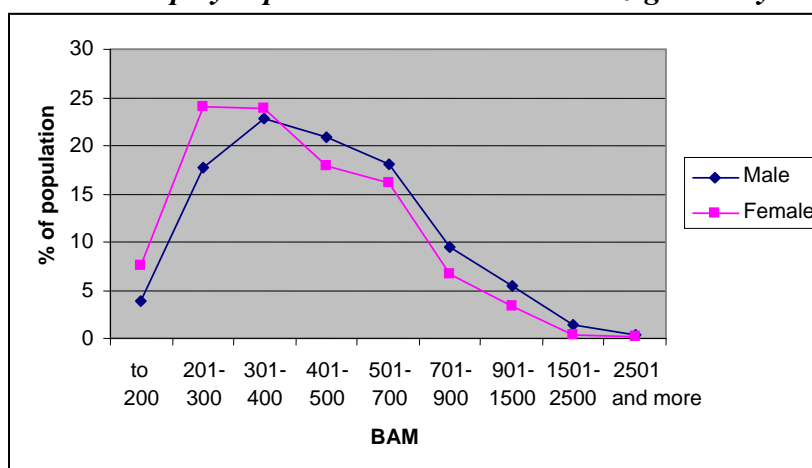
An analysis of the gender gap in pay grades shows that there are more men in the labour market in BiH, i.e. that it is a men-oriented labour market. Although there is approximately equal number of males and females employed within the highest (over BAM 2,500) and lowest (up to BAM 200) pay grades, in all other pay grades the number of employed men is higher than the number of employed women.

There is the biggest difference in the pay grade between BAM 401 and 500 where the ratio of employed men and women is 3:1.



In the labour market in BiH, on average, women are better educated than men. Comparing the structure of employed women and employed men, we can see that the percentage of women who completed 4- or 5-year secondary (high) school, 2-year or 4-year university is higher than the percentage of men. Unlike the women, among which persons who completed 4- or 5-year secondary (high) school are the most common group of the employed, male persons with completed 2- or 3-year secondary (high) school are the most common group of the employed. This stems from the fact that women traditionally do not do crafts and are not educated in this type of secondary education in BiH.

**Chart 1.2: Employed persons in Bosnia and Herzegovina by education**



In contrast to men with no completed education, who mostly receive salary from BAM 200 to 400 per month, women without education are mainly in the lowest pay grades and receive salary lower than BAM 200 per month.

Women with completed university education are moving into higher pay grades. However, men still dominate in the two highest pay grades. This points to the fact that women in BiH, as well as in the world, have less access to managerial and other highly paid positions in the BiH labour market.

The greatest difference in pay relates to the group of persons without any diploma, where the difference in pay is BAM 173.09 in favour of men.<sup>2</sup> The gap in pay between men and women decreases, as the education level rises, up to the level of secondary (high) school. However, the difference is still significant; BAM 136.56 for persons with primary school and BAM 112.71 for those with secondary education.

By age, the biggest difference is the amount of BAM 76 for women from 36 to 45 years old. Women with completed secondary school are affected by the highest difference in pay in Bosnia and Herzegovina.

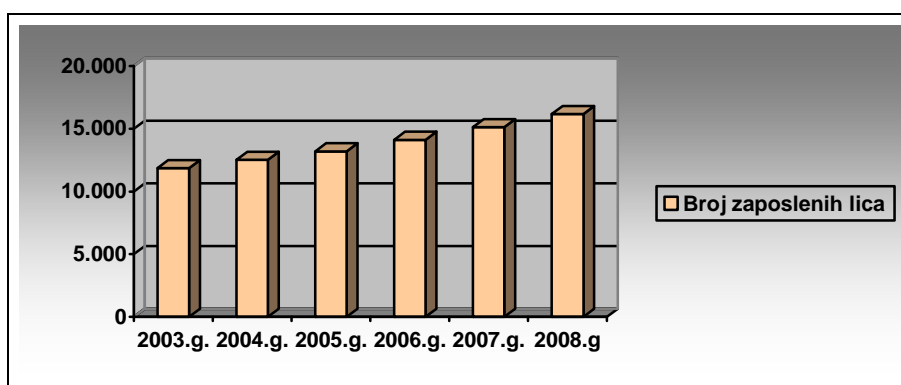
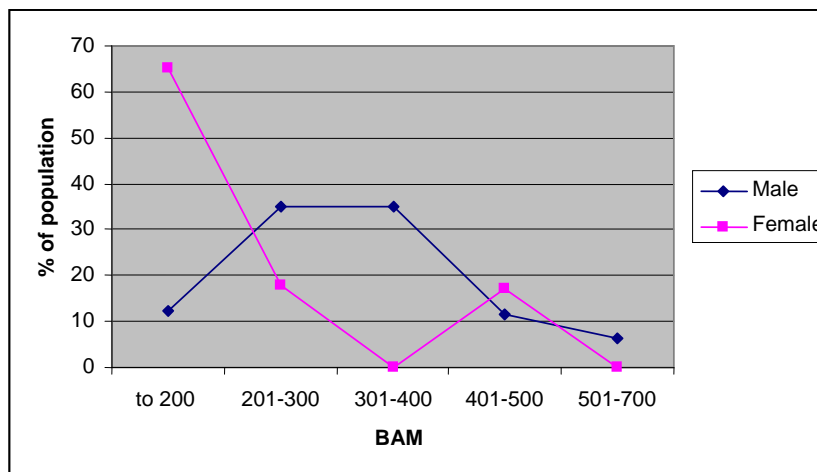
The most discriminated groups of women are women with primary school, women who completed secondary school and are employed in the processing industry and women who completed 2- and 3-year secondary education who work as shop assistants. These women are paid one-third less than their male colleagues.

The 2006 Labour Force Survey showed that in BiH an average difference in pay received by male and female is BAM 73 if the number of working hours is not taken into account. If we take into account people who work 40 hours a week, then this difference is slightly smaller and it is BAM 55.

Bearing in mind that these statistics relate to approximately 200 thousand women in BiH covered by available statistics from the survey, the overall effect of these differences can be roughly estimated at about BAM 11 million per month. As the number of employed women is estimated at 283 thousand in the survey, the actual effect of this difference in net pay could be much higher.

<sup>2</sup> BiH Survey statistics in this report cover 2004.





### **Recommendation 34**

*The Committee recommends that the State party amend existing legislation in order to adequately reflect and implement the Law on Gender Equality of 2003 and that it increase the resources of the Agency for Gender Equality to enable it effectively to monitor and combat gender discrimination in the field of economic, social and cultural rights.*

The Constitution of Bosnia and Herzegovina and the Entity and cantonal constitutions prohibit discrimination based on sex. Consequently, the laws in Bosnia and Herzegovina, as well as by-laws that must be in accordance with the constitutions of Bosnia and Herzegovina, do not make formal gender discrimination in any area that is regulated by laws and by-laws. In this sense, legally speaking the sexes are equal. However, in practice, in the implementation of laws and regulations it can be often seen that a seemingly neutral legal provision, practice or criterion place people of one sex in an unequal position in relation to the other sex, as demonstrated by expert analysis that the Gender Agency of BiH and entity Gender Centres make within their scope and mandate. To offset this indirect discrimination, the Gender Agency and entity Gender Centres, in cooperation with other competent authorities, initiate, promote and enforce revised laws and regulations to ensure their compliance with the Law on Gender Equality in BiH and the international conventions in the field of gender equality, especially CEDAW. The aim is to ensure real gender equality in all spheres of public and private life. This applies particularly to ensuring equal access to resources, employment, labour and education regardless of sex. During the harmonization of legislation particular attention is paid to provisions respecting obligations of competent authorities regarding the planning, implementation and monitoring of measures for promotion of gender equality, particularly for specific measures designing that would increase the number of women in decision-making, primarily in political positions, and an equal presence of the both sexes in public life, especially in the media. In addition, the legislation incorporates provisions that enable, in either criminal, misdemeanour or civil action, sanctioning of perpetrators and protecting of victims of harassment, sexual harassment and violence based on gender or other acts that are aimed at putting one of the sexes in an unequal position or at degrading members of one of the sexes. Furthermore, there are attempts to

introduce a statutory obligation of keeping gender statistics in certain areas. Finally, the introduction of gender sensitive language in the legislation and legal requirements prescribing the use of gender sensitive language when issuing official documents, in the media and other spheres of public and private life is insisted on.

We note that all the proposed amendments to the law have not taken effect yet because of the long duration of the legislative process, but generally all proposed amendments are usually accepted during the legislative process, i.e. the procedure of amending the valid legislation.

Given the Agency for Gender Equality operates within the Ministry of Human Rights and Refugees, the issue of its funding is fully resolved.

### **Recommendation 35**

***The Committee urges the State party to increase its efforts to combat unemployment through special targeted programmes, including programmes aimed at reducing unemployment among youth, women, especially female heads of households, as well as unemployment among disadvantaged and marginalized groups.***

According to the BiH Statistics Agency, in January 2010 the number of employees in legal entities in BiH was 701,431, out of which 280,857 employed persons were women. Compared to December 2009 the total number of employees in legal persons increased by 2.2%, while the number of employed women increased by 2.1%. The registered unemployment rate in January 2010 amounted to 42.4% and it was less than in December 2009 by 0.3 percentage points.

According to the employment institutes and offices in Bosnia and Herzegovina, on 31 January 2010, there were 516,321 unemployed persons registered, which made an increase of 1.12% or 5741 person in comparison with 31 December 2009. Out of the total number of persons who seek employment, 257,489 persons or 49.87% were women.

***Slow job creation and low labour demand are the key problems of unemployment in BiH, and the existing level of job creation can not absorb the influx of workers into the labour market.***

Bosnia and Herzegovina is in the process of preparing three strategic documents for the period 2010-2014: *BiH Development Strategy, Strategy of Social Inclusion and Employment Strategy*. The process of preparation of strategic documents and coordination of activities is the responsibility of the Directorate for Economic Planning (DEP) while the coordination takes place in partnership with the Governments of the Federation, the Republika Srpska and Brcko District, and a large number of participants from governmental sector and civil society.

In the labour market in Bosnia and Herzegovina the following vulnerable groups have been identified: women, young people aged between 15 and 24, people with disabilities and Roma.

In order to take adequate measures to remedy the problem of unemployment and inactivity, especially of women, ***the Gender Equality Agency of BiH***, in cooperation with ***Gender Centre of the Federation of Bosnia and Herzegovina, Gender Centre of the Republika Srpska*** and non-governmental and international organizations carried out the following researches: ***"Unemployment and socio-economic status of women. The case of Bosnia and Herzegovina", "Gender Barometer", "Socio-economic status of women in Bosnia and Herzegovina", "A Desktop Research Into the Current State of Affairs of the Labour Market in Bosnia and Herzegovina, "Gender gap in Bosnia Herzegovina incomes" in 2008 and the study "Position of Women in the Balkans."***

Bearing in mind the conclusions of these studies it can be noted that the biggest problems in labour and employment of women are: 1) a lower level of education, lower activity and employment rates, women's disadvantage in the labour market, and a limited choice of occupations, 2) women face barriers to employment, such as bias in employment, the traditional understanding of the role of women in society, its sole responsibility for the care of children and carrying out family duties, 3) due to their absence from the labour market, women are exposed to the risk that their knowledge and skills get outdated, which

places them in a situation of having hard time returning into the labour market, 4) in particular, women with low educational level are at risk of unemployment and marginalization in the labour market because of outdated technical skills, and unavailability of lifelong learning.

In response to these problems, the Gender Equality Agency of BiH and entity Gender Centres have participated in the integration of special measures for the employment of women in the employment strategies, run a number of initiatives to improve the legislation in order to encourage hiring of women and to protect women at work, and initiatives regarding designing and funding programs and activities that encourage employment of women.

Bearing in mind the problems of women in employment, **the Employment Strategy of the Federation of BiH** is focusing on the following areas of work: *the implementation of campaigns aimed at encouraging inactive persons to register with the Employment Office, inclusion of inactive groups, a program of active measures for inactive women, the elimination of gender discrimination at work, in recruitment, education, labour market, ensuring equal opportunities for women and men in these fields; harmonization of duties at work and in family.*

*An expected result of the Employment Strategy of the Federation of BiH is an increase in female employment from 21.1% recorded in 2008 to 40% by the end of 2013.*

The purpose of **the Republika Srpska Employment Strategy** is to increase employment rates for women by targeting the promotion of market access and increasing opportunities to obtain jobs for the unemployed and inactive women. In this regard, active measures and programs are aimed to: *encourage the inactive women job seekers to register with the Public Employment Services, to increase employment rates among women by focusing on the improvement of market access and increase employment opportunities and self-employment for the unemployed and inactive women; activities which promote active labour market access and upgrading qualifications and raising the knowledge and expertise of these individuals for inclusion in the recruitment process, and increased compatibility of family life and work, in order to eliminate the intentional inactivity of women when it is caused by family obligations.*

*An expected result of the Republika Srpska Employment Strategy is an increase in female employment from 38.3% recorded in 2009 to 46% by the end of 2014.*

### **Special programs for the employment of women in the Federation of BiH**

*The 2009 and 2010 work programmes of the Federal Employment Institute, a public institution responsible for designing of employment programmes in the Federation of BiH, provides for special programs for the employment of women.*

*Thus, in 2009 a special program of co-financing of employment of persons with disabilities and other hard-to-employ groups was designed and implemented. A special target group were women victims of violence registered in the Employment Offices. The program aimed at encouraging employment of particular groups of people who were registered as unemployed. In 2010 a completely new program of co-financing of employment of women who are registered as unemployed, regardless of whether they were victims of violence or not, is planned. The program aims to encourage employment and self-employment of unemployed women registered.*

While there is a lack of specific programs of the Federal Employment Institute in the mentioned period, since 2003 the Federal Ministry of Development, Entrepreneurship and Crafts has been regularly planning resources to encourage entrepreneurship and crafts (about BAM 35.141 million has been allocated). The Federal Ministry of Development, Entrepreneurship and Crafts emphasized that one of strategic objectives was the development of small and medium enterprises in which the accent was placed on women's entrepreneurship.

### **Special programs for the employment of women in the Republika Srpska**

It can be concluded that there are many projects in the Republika Srpska in the field of employment, improvement of labour rights and economic empowerment by institutions (the Employment Institute of the Republika Srpska, the Development and Employment Fund of the Republika Srpska), the Association

of Trade Unions of the Republika Srpska, non-governmental organizations and certain microcredit organizations that have programs specifically aimed at supporting women (such as microcredit organization MI-BPSPO).

The micro-credit organizations, which in their programs support women, support self-employment in the private sector and agriculture in particular. It should be noted that these loans are more expensive, but they are formally and administratively more accessible and for many women the only solution when they start their own business.

#### **a) Youth unemployment (15-24)**

In 2009 young people made 13.8%<sup>3</sup> of BiH's population (14.7% in FBiH and 12.2% in RS), BiH belonging to the group of much younger countries in comparison with the EU, where young people make 12.7% of the population. Young people are having hard time finding a job, but compared with other age groups they are disproportionately much more involved in the informal labour market. European Union countries, and countries in the region, have significantly higher rates of employment of young people than BiH. In comparison with other countries BiH has very important development resources that are largely unused. The unemployment rate of young people in 2009 amounted to 49% (FBiH 54%, RS 38,2% and DB 50%), which is less than in 2007 (58.4%).

Entity Employment Institutes have been paying special attention to youth employment, particularly those with university education. These programs have been running for several years now.

In 2009 the **Employment Institute of the Republika Srpska** implemented *the Project of Employment of Interns (pripravnici) with University Degree*, while the **Federal Employment Institute and the Cantonal Offices** continuously implement similar programs for employment of young people with university education and without work experience. *The Employment of Assistant Professors at Universities and Research Institutes Program* co-financed employment in the teaching and research sectors. Universities, colleges and research institutes in the Federation could apply for the program, and criteria for selecting the persons who will be co-funded were determined by universities themselves in accordance with the Law on Higher Education and the Law on Scientific and Research Activities, which are applied in a particular canton. *The 2009-2011 Youth Employment and Retention Program (YERP) in Bosnia and Herzegovina*, which is financed from the United Nations Development Programme (UNDP), is intended to strengthen the capacity of employment offices in order to create conditions for the provision of professional and effective services to young unemployed people. Also, *the Youth Employment Program in Bosnia and Herzegovina (YEP)* is under preparation, which will be funded by *Swiss Agency for Development and Cooperation and the Austrian Agency for Technical Cooperation*.

#### **b) Persons with disabilities**

*Employment of persons with disabilities in the Republika Srpska* is regulated in laws and institutionally. *The Law on Vocational Rehabilitation, Training and Employment of Disabled Persons* governs rights, conditions and the procedure of vocational rehabilitation, training and recruitment of persons with disabilities and reduced work capacity, the establishment of organizations and activities of institutions, companies and other organizations involved in employment and vocational rehabilitation of disabled persons and fulfilling common and special requirements. According to the Fund for vocational rehabilitation and employment of disabled persons, out of a total of 665 disabled persons who are directly employed by support of the Fund, 41 disabled persons or 6.16% are females, while 624 disabled persons or 93.83 % are males (the statistics cover the period between 1 January 2006 and 31 December 2009).

*Employment of persons with disabilities in the Federation of BiH* is regulated in the *Law on Vocational Rehabilitation, Training and Employment of Persons With Disabilities*, which was passed in mid-February 2010. In 2009 the Federal Institute for Employment co-financed employment of 90 persons with a percentage of disability of at least 60% and persons with difficulties in mental development, and 30

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<sup>3</sup> LFS BiH, 2009

women victims of violence. For this purpose, the Federal Employment Institute provided grants to co-fund employment of unemployed persons with disabilities and women victims of violence by employers; to co-fund self-employment, agricultural activities (mainly the production of healthy food in beekeeping, cattle raising, vegetable and fruit growing), crafts (production, services), cottage industry, rural tourism and other activities.

In 2010 a special program for employment of persons with disabilities and other hard-to-employ has been designed. Funds for 90 disabled persons and 30 women victims of violence to be employed by employers and to be self-employed have been appropriated.

### **c) Employment of Roma**

Out of a total of 17 national minorities, Roma are the largest minority in BiH. In the absence of the Census, in late 2009 and early 2010 the Ministry of Human Rights and Refugees completed registration of Roma. According to preliminary data, it can be concluded that, unlike earlier estimates ranging between 40,000 and 80,000, a total of about 25-30,000 Roma is living in Bosnia-Herzegovina. Only 3%<sup>4</sup> of Roma in Bosnia and Herzegovina has a permanent job. In terms of employment, the official records of the unemployed and employed persons do not give ethnically disaggregated statistics to show the number of Roma, and a very small number of Roma are recorded as unemployed in the employment offices anyway. The biggest source of income for this ethnic minority is self-employment<sup>5</sup> in the sector of collection of recyclable materials and recycling of waste. Thus, the number of employed Roma is very small, the public sector employing about 2-3% of Roma, while Roma-owned enterprises and craft shops are very scarce.

In 2009 the **Employment Institute of the Republika Srpska** started implementing the Roma Employment Support Project in the Republika Srpska. So far, the funds in the amount of BAM 190,000.00 have been approved for co-funding of employment of 75 persons, out of which 5 individuals will be self-employed and 70 will be employed by employers. The project has not been fully implemented, so the Employment Institute re-published a public invitation for co-financing of self-employment and employment by employers until the funds in the amount of BAM 171,000.00 have been spent.

**The Federal Employment Institute** is also implementing programs of employment and self-employment of Roma in accordance with the Memorandum of Understanding for the Implementation of the 2009 Action Plan of Bosnia and Herzegovina to address the problems of Roma in the area of employment. The available funds in the amount of BAM 440,000, designed to support employment and self-employment of Roma in the Federation, are focused on: co-funding of employers for the employment of Roma in crafts or related work (old crafts, cottage industry, manufacturing and service crafts), collection of secondary raw materials, agriculture (greenhouse production, beekeeping and other branches of agriculture) or other activity.

In 2009 BAM 91,400 were spent. The rest of the funds were directed again to boost Roma employment based on the assessment of applications submitted upon the second public invitation (published on 11/06/2009). In 2010 implementation of the Programme of Employment and Self-employment for Roma will be continued with the funds appropriated in the amount of BAM 350,000.

In Brcko District in the reporting period one of the key program activities - employment program for interns (pripravnici) was implemented, the target group being people with the fourth and seventh level of education, as shown in the table below.

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4 APBiH for solving the problems of the Roma in Employment, Housing And Health Care, the Ministry of Human Rights and Refugees, Sarajevo, 2009.

<sup>5</sup> 2009 Action Plan of Bosnia and Herzegovina to address the problems of Roma employment.

Target group	Interns (P r i p r a v n i c i)					Total
	II Public invitation 2009	II PI– 31/08/ 2009	Extended II Public invitation 2009	Interns- Supplemented Extended II PI 2009	Supplemented Government programmes 2010	
<b>7th level of education</b>	<b>148</b>	<b>11</b>	<b>15</b>	<b>25</b>	<b>24</b>	223
<b>6th level</b>	<b>17</b>	<b>25</b>	<b>4</b>	<b>-</b>	<b>3</b>	49
<b>4th level</b>	<b>108</b>	<b>-</b>	<b>20</b>	<b>25</b>	<b>10</b>	163
Total:	273	36	39	50	37	435

The total number of interns in the table above will be funded from the budget of the Brcko District of Bosnia and Herzegovina and funds of the Employment Institute of Brčko District.

### **Recommendation 36**

*The Committee recommends that the State party take effective measures to ensure that employers respect their contractual obligations towards their employees, namely by refraining from arbitrarily dismissing them or by paying their salaries or social security contributions on time. The Committee further recommends to the State party to ensure that labour inspection units are sufficiently staffed and resourced in order to enable them to effectively combat abuses of workers' rights.*

The right to work as a basic human right is not exercised, at the moment, by a large number of BiH citizens who are registered in the records of Employment Institutes, which should be increased by an unknown number of unemployed persons who cannot even earn subsistence wages and the ascertained number of persons who work in the informal sector (illegal employment).

Termination of employment in the legal system in BiH is regulated by entity laws that contain obligatory provisions prohibiting an employer to fire employees arbitrarily while he/she is in certain circumstances which give him/her special protection. The legislature chose the mentioned legal solution from the experience of frequent termination of the contract of employment caused by difficult economic situation brought about by the world economic crisis - recession. Unlawful non-payment of contributions into the staff pension scheme, social and health insurance is also noticeable.

Related to the above stated, a scheme of social welfare was established as a way of protecting workers' rights in cases when they are not paid wages by the employer. The scheme does not protect claims directly related to pay, but payment of contributions is made for the workers who were laid off so that they can exercise the right to pension and the right to financial compensation.

Please note that in the recent past, through social welfare programs, the Governments of both entities and Brcko District government have approved substantial funding for the settlement of contributions for pension and disability insurance and unemployment insurance, and have helped a larger number of workers to retire through a public invitation.

It follows from the above that a program of social welfare has proved to be justified in maintaining social peace, easing the position of workers in cases of bankruptcy, liquidation and privatization of heavily indebted companies.

So, based on the Labour Laws in BiH, arbitrary dismissal of workers is prohibited. The Labour laws govern severance pay, benefits, contributions, social welfare of workers who need to pay unpaid contributions in the pension scheme to earn a pension.

The controlling mechanism that supervises the implementation of these laws is Labour Inspection and in cases of any disputes the jurisdiction of the court is determined according to the location of the company's headquarters or worker's permanent residence.

The Labour Inspection supervises the application of regulations relating to: the obligation of concluding a contract of employment between employers and workers, rights of workers, the obligation of employers to register employees within the prescribed time limits with competent authorities of the pension and health insurance, working hours, holidays and leaves, wages, recruitment and employment of minors, women, pregnant women, new mothers, disabled persons, aliens and others, working conditions, safety and health of employees, special health care of minors, women and disabled workers, the implementation of safety measures and training of workers in safety at work, termination of employment, severance pay at termination of employment, cancellation of contracts and notice periods, the right to strike, collective agreements and by-laws of employers, production and other assets and equipment and carrying out periodic inspections of their working order, the application of technical regulations in safety, safety of workers and other persons, property and environmental protection, crime scene investigation of serious accidents at work and accidents that have resulted in the death of workers, the use of personal protective equipment, working and auxiliary facilities, control of working conditions and working environment in terms of lighting, noise, microclimate, chemical and biological hazards and hazards from electrical and lightning protection installations; designing of construction and technical documentation in terms of safety at work, arrangement of construction sites, control of working conditions on special sites, training and qualification of workers for safe work in the workplace, performing other activities in the area of supervision and safety at work when it is determined by a special law. Inspection supervision over the implementation of laws and regulations in the area of labour and safety at work is performed by the Republican Labour Inspection as part of the Inspectorate.

In 2009 the Labour Inspectorate organized and conducted enhanced surveillance to curb illegal employment. In conducting the inspections the inspectors imposed fines in all cases where they found illegal employment, and acted in a preventive fashion ordering measures for the removal of these deficiencies and in a restrictive fashion ordering closure of the business entities they inspected.

### **Recommendation 37**

*The Committee recommends that the State party take measures to repeal the sanction imposed on persons working in the informal sector, i.e. the suspension of their registration with the employment bureaux for a period of 12 months.*

Provisions of the Law on Employment of both entities and Brcko District of BiH provide for a sanction to be imposed on an unemployed person who is kept in the records of Employment Institute and found to be working illegally, i.e. in the informal sector, by the Inspection Service and it is that he/she will be deleted from the above records and prohibited from re-registering within 12 months.

In order to partially implement the UN Committee's recommendations to repeal the provision prohibiting persons working in the informal sector from registering within 12 months, the provision has been revised with the result of shortening the deadline from 12 to 6 months.

In the very complex economic situation Bosnia and Herzegovina is trying to find ways forward for complete repealing of the provision and full implementation of relevant recommendations of the UN Committee.

### **Recommendation 38**

*The Committee urges the State party to ensure that adequate funds from the overall resources of the Entities, cantons and municipalities be allocated to the social welfare centres and that the number of social workers, psychologists and other qualified personnel of these centres be increased in order to better respond to the specific needs of children without parental care, female heads of households, persons with disabilities and victims of trafficking in persons, especially women and children.*

As for the position of the social welfare centres in terms of lack of funds and qualified personnel in

charge of social welfare and the Committee's appeals to provide the funds from Entities and Brcko District, in the constellation of the economic situation in the country this requirement is difficult to fully achieve.

An indisputable conclusion is that the social welfare centres are inadequately equipped and that there is an apparent lack of personnel and professional staff in particular because, in addition to all the jobs performed by social welfare centres in the Entities and Brcko District of BiH, they are the authorities of first instance in granting entitlements to the people who were not disabled in wartime and civilian victims of war. When it comes to people who were not disabled in wartime, then we talk about a group that exists only in the Federation and that exercises the legal rights on the grounds of disease or bodily impairment.

Until 2009 in the Federation, around 120,000 applications were filed on this basis, which satisfied the criteria, passed the first instance proceedings and submitted for auditing to the Federal Ministry of Labour and Social Affairs, while the Federal budget appropriated BAM 158 million for that purpose. About 40,000 beneficiaries were granted the entitlement and then it was realized that such a law is absolutely unfeasible financially and, in order to fully implement it, approximately BAM 360 million should be appropriated in the annual budget of the Federation, so process of amending started in order to tighten requirements for entitlements under this regulation. Huge effort was put by the centres for social welfare in the both exercises.

Likewise, the social welfare centres are the authorities of first instance in the case involving rights exercised under regulations governing rights of civilian victims of war. At this point in the Federation the number of beneficiaries is somewhere close to 11,000 and the work of centres on this basis is a huge job starting from making a monthly roster for the payment to beneficiaries through daily reviews of beneficiaries to inclusion of new beneficiaries and exclusion of earlier beneficiaries. The 2009 Federal budget appropriated BAM 39.5 million for this purpose.

The social welfare centres in the Federation of BiH have the status of a legal person founded by the municipality. No additional funds for these additional activities are appropriated in any of the budgets so that for the time being it is not realistic to expect the social welfare centres in the Federation to significantly fill up vacancies with adequate staff.

### **Recommendation 39**

***The Committee urges the State party to ensure a more equitable allocation of existing funds to social protection, in particular of civilian war victims, with a view to reducing the discrepancy between, inter alia, the budgets for civilian and for military victims of war.***

According to current data the number of civilian war victims in BiH is 14,928. Of this number, 10,943 civilian casualties of war were registered in the Federation of Bosnia and Herzegovina, 3825 in the Republika Srpska and 160 in Brcko District.

Bosnia and Herzegovina has recently amended the legislation aimed at improving the position of victims of torture, civilian war victims, as well as improving the situation of persons with disabilities in general. The amendments are particularly relevant to prisoners and victims of sexual abuse and rape. Reasons for the adoption of these amendments were non-compliance with or different implementation of laws to rights of civilian war victims in the legal system of BiH.

However, the existing legal framework has been deepening discrimination between categories of disabled persons and disabled war veterans and civilian war victims.

An analysis of the whole situation shows clear inconsistency in the exercise of rights on the basis of actual work (pensioners, people disabled at work etc.) in relation to disabled veterans and civilian war victims.

Unfortunately, owing to the economic situation in the country it is very difficult to resolve the current situation adequately.



Maximum that the civilian war victims in the Federation of BiH have achieved in this regard is the fact that their base of the benefit amounts to 70% of the base for the disabled veterans and an assessment is that this is the maximum that this group can achieve.

Bringing this matter in line with international standards can be achieved progressively in the entity parliaments and the Parliamentary Assembly of BiH.

#### **Recommendation 40**

*The Committee encourages the State party to promote the adoption of the proposed Law on Amendments to the Law on Social Protection, Civilian War Victims, and Families with Children, which is currently in the parliamentary procedure in the Federation of Bosnia and Herzegovina. It provides for the transfer of the budget for the social protection of civilian war victims and persons with disabilities not related to armed conflict from the cantons to the Federation, in order to eliminate inequalities resulting from the diverging availability of funds in the cantons. It also requests the State party to ensure that the authorities of the Federation of Bosnia and Herzegovina extend this budgetary transfer to other categories of social protection beneficiaries.*

The Federation of Bosnia and Herzegovina adopted the Law on Amendments to the Law on Social Protection, Civilian War Victims and Families with Children (Official Gazette of FBiH 39/06), which provides for the transfer of the budget for social protection of civilian victims of war and persons with disabilities that are not related to the armed conflict from the cantons to the Federation. So they created the conditions to eliminate inequalities that result from different availability of funds in cantons. This means that the law has raised the basic rights of civil war victims and disabled at the level of the Federation. Further, harmonization of legislation within the entities and between entities will follow. Activities in this area will last continuously until the establishment of a consistent system of social protection in Bosnia and Herzegovina that will be equitable for all categories of persons in need of social protection. True, the full implementation of legal solutions is closely linked with the overall material and financial situation in the society, bearing in mind that the war in Bosnia and Herzegovina created a social milieu that is characterized by a large number of refugees and displaced people, a large number of disabled people who are unable to provide normal living conditions for themselves and their family, as they have lost their job in late working age without any chance of re-employment etc.

#### **Recommendation 41**

*The Committee recommends that the State party ensure that victims of sexual violence suffered during the armed conflict of 1992-1995 obtain the status of civilian war victims, to devise and implement a coherent strategy at State level to protect the economic, social and cultural rights of victims of sexual violence and their family members, and to ensure the participation of victims of sexual violence in any decision-making processes affecting them.*

Article 54(3) Law on Basic Social Protection, Protection of Civilian Victims of War and Protection of Families with Children (Official Gazette of the Federation of BiH, 36/99, 54/04, 39/06 and 14/09) provides for a special group of civilian victims of war and they are persons who were victims of sexual abuse and rape.

What is characteristic for this group of persons is the fact that it is sufficient that the competent authority finds such facts in statutory proceedings and on this basis they draw a monthly pay in the amount of BAM 563.00 when the coefficient is 1. If in addition to sexual abuse and rape the person suffered injuries or other bodily impairment he/she may be entitled to care and assistance rendered by other person and an orthopaedic allowance.

It is necessary to point out that civilian war victims exercise their rights under the legislation of the Republika Srpska and the Brcko District of Bosnia and Herzegovina. In the Federation of Bosnia and Herzegovina it is still possible to apply for the exercise of the rights, whereas returnees in RS who have

not been recognized the rights in the Federation are not able to exercise them in the RS because applications for the recognition of the rights in this entity have not been taken in for some time, more precisely, since the end of 2007.

Victims of sexual violence during 1992-1995 war conflicts were recognized as a group of civilian victims of war and in the Republika Srpska they exercise the rights in accordance with the Law on Civilian Victims of War (Official Gazette of the Republika Srpska 25/93, 32/94, 37/07 and 60/07) under the same conditions.

In the process of developing an action plan for implementation of UNSCR 1325 in Bosnia and Herzegovina, Bosnia and Herzegovina has renewed interest in the matter of support to women civilian victims of war. Taking into consideration specific needs of women, who during the war suffered physical and sexual violence, activities for provision of housing have been planned and programs of acquiring additional qualifications and retraining, as well as psycho-social assistance programs have been launched. These programs should be implemented in collaboration of governmental, nongovernmental and international institutions and organizations. The draft Action Plan to implement UNSCR 1325 in Bosnia and Herzegovina in order to achieve goal no. 6 "***Enhanced network of support and help to women and girls who were victims during the war***" provides for implementation of activities that will help better and more effective support to women civilian victims of war. Activities include: creating a program for empowering women civilian victims of war, within associations which deal with women civilian victims of war, through psychosocial support and capacity building; organizing forums and conferences with representatives of civilian victims of war for identifying their needs and problems; giving support to training, re-training and employment (economic empowerment); giving support to workshops for retraumatization (identification of experts in the above-mentioned areas who will continue to train those who will provide services to end-users of services / victims) etc. The Prosecutor's Office of BiH continuously works on detection and prosecution of perpetrators of war crimes, including crimes of sexual violence against women in the armed conflict in Bosnia and Herzegovina. The National Strategy for War Crimes Prosecution envisaged that it is necessary, at the Court and the Prosecutor's Office of BiH, i.e. at the state level, to centralize and update records of all war crimes cases pending before local courts.

#### **Recommendation 42**

***The Committee requests the State party to promote the adoption of an inter-Entity agreement on pension rights and to ensure the implementation of the inter-Entity agreement on health insurance with a view to guaranteeing access to pension benefits and health care by returnees who move from one Entity to the other.***

The issue of establishing an inter-entity agreement on pensions especially when it comes to returnees from one entity to another has not been adequately solved yet. The Agreement on Mutual Rights and Obligations in the Implementation of Pension and Disability Insurance in Bosnia and Herzegovina that was signed by representatives of three insurance carriers on 18 May 2000 is still in effect. A system in which a pension is paid by the insurance carrier on whose territory the last pensionable years were earned has not been established because of obstruction by the authorities although it was ordered by the Human Rights Chamber and the European Court of Human Rights in Strasbourg.

#### **Recommendation 43**

***The Committee urges the State party to ensure the harmonization of the criminal law provisions of the Entities and of the Brcko District on the crime of domestic violence with the State Law on Gender Equality, as well as their application by judges, prosecutors and the police.***

Bosnia and Herzegovina as well as many other countries are facing the phenomenon of domestic violence. As early as in 1996 there was a more serious approach and it was noted that the most common causes leading to violence in the family were: inadequate living conditions, unemployment, financial insecurity, alcoholism, stress, mental illness, drug addiction, and violence as behaviour that results from

patriarchal understanding of the relationship of wife and husband. Generally, victims of domestic violence are spouses, former spouses, children, parents and other persons living in a family union.

In the BiH legislation, the act of domestic violence is criminalized as a criminal offence amongst criminal offences against marriage and family. According to the criminal codes of the Entities, whosoever, by use of violence, threatening behavior or mental cruelty violates the peace, life, physical or mental health of any member of his family, shall be punished by a fine or sentence of imprisonment. The Court, in criminal proceedings, may impose an appropriate security measure (an injunction) such as compulsory psychiatric treatment or treatment from addiction, i.e. a measure of protective supervision in cases of imposition of the suspended sentence.

Pursuant to the entity Laws on the Protection from Domestic Violence, the court may pronounce following protective measures against a perpetrator in the family:

- a) Removal from the apartment, house or other dwelling;
- b) A restraining order towards victim of the violence;
- c) Prohibition from harassment and spying of the victim of violence;
- d) Mandatory psycho-social treatment;
- e) Mandatory rehabilitation for an addiction;
- f) Socially useful work in benefit of local community.

Since BiH is committed to establish and develop new standards of protection of women and children from all forms of violence in accordance with international standards in order to establish an effective social mechanism for further implementation and improvement of standards of protection against domestic violence and improving monitoring of this phenomenon, in this regard significant progress has been made and the following strategic documents have been adopted:

- 2009 – 2011 Strategy to Prevent and Combat Domestic Violence in BiH,
- 2009-2010 Strategic Plan to Prevent Domestic Violence in the Federation of BiH,
- 2008 and 2009 Action Plan to Combat Domestic Violence in the Republika Srpska,
- 2007-2010 National Strategy to Combat Violence against Children and
- 2011-2014 National Strategy to Combat Violence against Children is being designed.

It should be noted that the Council of Ministers adopted Gender Action Plan for BiH, which in one of his chapters includes activities for combating and preventing violence. At the level of Bosnia and Herzegovina the Resolution on Combating Violence against Women has been adopted and the Strategy to Combat Domestic Violence in Bosnia and Herzegovina, which will be a compilation of the entity strategies, is in the process of adoption. These are *inter alia* important indicators of efforts made so far in Bosnia and Herzegovina to achieve long-term objectives in the fight against domestic violence.

Good cooperation between NGOs and institutions in Bosnia and Herzegovina is achieved in providing assistance to victims of domestic violence. In this direction several joint projects have been implemented and they are: "Mobile Team" Working with the Perpetrator - self-help groups", "The right to life without violence", "Assistance to women victims of domestic violence and trafficking in persons", "Children's summer" and others.

The purpose of all enumerated and other measures under the legislation of BiH and its entities is to prevent domestic violence, ensure protection of victims of violence and eliminate conditions conducive to or inspiring acts of domestic violence. Protective measures may be imposed at the request of person exposed to violence, or his representative or at the request of police, prosecutor, Centre for Social Welfare, government, NGOs or *ex officio*. Protective measures are imposed by the court having jurisdiction in the place of permanent or temporary residence of a victim of domestic violence.

Due to legal and other changes, and frequent training and enhancement of protection providers, which have strengthened their capacity for effective law enforcement, and the work to improve cooperation between institutions and non-governmental organizations, victims of domestic violence are increasingly

encouraged to seek help, to report violence to competent institutions – protection providers, and to seek help from non-governmental organizations dealing with women's human rights. It should be noted that the police is becoming a very important factor in helping the victims and detecting perpetrators and that statutory and other provisions respecting domestic violence and violence in general in society are more consistently implemented.

Hence, safe houses have been established in both entities as specific protection of victims of violence: six ones in the Federation and three ones in the Republika Srpska.

There was a need to establish a single SOS line in both entities that would be available to all victims of domestic violence and provide necessary information to assist the victims. All three telecom operators (BH Telecom, MTEL and HT Mostar) agreed that the SOS phone calls would be free of charge and the appropriate legal procedure was followed.

It is true, which is not characteristic only for Bosnia and Herzegovina, that it is very difficult to determine the scope and prevalence of domestic violence. It can be linked with certainty to the hidden nature of the problem, usually contained in a failure to report the perpetrator, because it usually occurs in privacy and is traditionally considered "**private matter**". It significantly contributes to the lack of uniform statistics regarding domestic violence, which must be removed in the future owing to the strategic documents.

Because of these findings BiH must work more than ever on raising and strengthening awareness in society about the seriousness of domestic violence, its prevalence and growth, and also on better training of citizens in terms of observing, reporting and fighting against abusers. This means that it is necessary more than ever to educate the general public, especially children, parents and experts on the problem of domestic violence, including the method of struggle against violence, and, if possible, to work on the establishment of a joint action plan and to ensure capacities in the sector of home affairs to develop and improve multidisciplinary collaboration with other sectors. This implies continuous improvement of policing in the local community. An important part in these activities is harmonization of legislation with a view to reinforcing punitive measures for perpetrators of domestic violence and taking more account of the length of investigations and court proceedings. It is also very important to work in future on improvement of inter-institutional cooperation of all sectors involved in this matter so that information exchange can be adequate for effective prevention of domestic violence. In this regard a media campaign should be intensified and necessary financial resources for preventing violence both in family and in society as a whole should be provided.

Acting on the obligation of harmonization of the legislation with the Law on Gender Equality in Bosnia and Herzegovina ( BiH Official Gazette 16/03, 102/09) and in particular with Article 6, entity criminal codes and the Criminal Code of Brcko District have been amended accordingly.

Article 222 of the *Criminal Code of the Federation of Bosnia and Herzegovina* (Official Gazette of FBiH 36/03, 37/03, 21/04, 69/04, 18/05) provides for a special criminal offence titled "Domestic Violence". In addition to the basic form of the offence which carries a fine or imprisonment not exceeding one year, there are more serious forms that carry fines or prison sentences.

**The Parliament of the Federation of Bosnia and Herzegovina** has passed the new Law on Protection from Domestic Violence which sets out special procedures for the imposition of protective measures, including the deadlines for the imposition of these measures, defining criteria for the financing of various forms of technical assistance to the victims of violence, including accommodation in a safe house, making the protocol at the local level on the treatment of victims of violence and providing for precise roles of all stakeholders (police, social welfare centres, health facilities, educational institutions, NGOs<sup>6</sup> etc.), as well as the adoption of cantonal programs to prevent domestic violence, including work with a perpetrator<sup>7</sup> show that after these discussions both the number of requests for the imposition of protective measures

<sup>6</sup> „Žene sa Une“ – Bihać, „Local Democracy Foundation - Fondacija lokalane demokratije“ – Sarajevo, „Vive Žene“ – Tuzla, „Žene ženama“ – Sarajevo, „Žena BiH“ – Mostar and „Medica“ – Zenica.

<sup>7</sup> \*Statistics of municipal courts and cantonal ministries of the interior in the Federation of BiH.

and the number of protective measures have increased. In the reporting period 391 requests for the imposition of protective measures were submitted, while the courts pronounced 103 protective measures<sup>8</sup>. These measures protected a total of 161 persons. The largest number of imposed protective measures was a measure prohibiting harassment or stalking a person exposed to violence (72.81%), while no protective measure to ensure protection of person exposed to violence, i.e. mandatory psychosocial treatment, was imposed.

The Prosecutorial and Judicial Training Centre held a seminar for judges and prosecutors with the aim of application of procedure for the imposition of protective measures both in pursuance of the valid Law on Protection against Domestic Violence and proposed new provisions in the draft Law on Protection against Domestic Violence.

Through a coordinating role in implementing this plan, the Gender Centre of the Federation of Bosnia and Herzegovina regularly informs the Government of the Federation of Bosnia and Herzegovina about the implementation of planned activities. A number of activities have been implemented and they are:

- The health legislation at the federal level provides for health care also for victims of domestic violence;
- Uniform training manuals for professionals in the territory of the Federation (health, education and security) have been finished or are at the stage of development.<sup>9</sup> It is necessary to point out that the unique manual for training of health workers, which was prepared and organized by the Federal Ministry of Health, has already been used for conducting training of health workers in primary health care in the Federation BiH. Unfortunately, we should also point out that development of such a manual for social protection have not started yet, although, according to the Gender Centre of Federation of Bosnia and Herzegovina, there are top professionals / experts whose knowledge and experience the Federal Ministry of Labour and Social Policy can use in the preparation of this manual;
- One of the new services to assist victims of violence is a unique phone number 1265 for the territory of the Federation of Bosnia and Herzegovina, which was established following the adoption of the Strategic Plan, and whose establishment was supported by the Government of the Federation of Bosnia and Herzegovina, telecom operators in Bosnia and Herzegovina and a number of non-governmental organizations. An important role in the process of functioning of the phone line is played by non-governmental organizations whose staff provides professional assistance through this service, including remuneration of the professional staff. Bearing in mind that the minimum standards of the Council of Europe for support services to help women victims of violence include the obligation of States to establish a unique phone, there is a need to consider and insure in the future funds for the costs of this service in the regular governmental budgets. According to the non-governmental organizations ("Foundation Of Local Democracy" Sarajevo, "Medica" Zenica, "Vive women" Tuzla, „BiH Woman" Mostar and "Women from the Una" Bihac) and the Municipal Social Welfare Centre of Jajce, from the date of establishment of the phone (beginning of December 2008) to 31 December 2009, the professionals provided assistance to 2,978 victims of domestic violence;
- The Draft Law on the Basic Social Protection and Minimum Social Security defines victims of domestic violence as a group of beneficiaries of social protection and social security;
- A plan for the implementation of statistical researches of interest for the Federation of Bosnia and Herzegovina sets forth a research in the causes of domestic violence;

A lot of educational<sup>10</sup> and promotional materials were prepared, researches were conducted<sup>11</sup> in violence against women, including domestic violence, a large number of projects<sup>12</sup> aimed at raising awareness in

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<sup>8</sup>\* See Annex II, Table B.

<sup>9</sup>\* State of affairs – end of March 2010.

<sup>10</sup>\* Publications funded by the European Union under the title "Do Not Help Me, Teach Me Self-Help - Nemoj mi pomagati, nauči me da sebi pomognem" (Manual for adults), "Come Together - Hajdemo zajedno" (a picturebook) and "Violence Is Not OK - Nasilje nije OK" (a picturebook) that can help both professionals who work with children and parents and to remove causes of violent behaviour among children and young people. The publications have been prepared in the organization of Local Democracy Foundation in Sarajevo.

<sup>11</sup>\* Cross-border Cooperation in the Prevention of Violence against Women and Children - Prekogranična saradnja u sprečavanju nasilja nad ženama i djecom," Medica – Zenica.

public about non-violent behaviour were implemented by non-governmental organizations. It is necessary to point out that 90% of the funds for the implementation of these projects were provided by non-governmental organizations from foreign donors' funds although some of the local community (such as Bihac, Sarajevo, Zenica, Mostar etc.) fund individual projects aimed at reducing violence against women, both in the family and at work.

Speaking about the collaboration of governmental and nongovernmental institutions in connection with the prevention of domestic violence and protection of victims of violence, it is necessary first to point out that a lack of funds is still a burning issue, especially in those non-governmental organizations operating a safe house. However, sporadic cases of cooperation by governmental institutions providing financial assistance that was directed towards some of the non-governmental organizations (e.g. assistance provided to "Women from the Una" Non-governmental Organization of Bihac by the Government of the Una-Sana Canton, the Municipalities of Bihac and Sanski Most and the Ministry of Culture and support given to NGO "Medica" Zenica by the Municipality of Zenica, while the NGO receives a portion of the funds from the Government of Zenica-Doboj Canton) were recorded. The Government of the Federation of Bosnia and Herzegovina also recognized this problem and has been appropriating certain funds for financing of certain kinds of assistance to victims of violence in the budget of the Federation of Bosnia and Herzegovina since 2008.

**Article 10 of the Constitution of Republika Srpska** determines that citizens of the Republika Srpska shall be equal in their freedoms, rights and duties; they shall be equal before the law and they shall enjoy equal legal protection irrespective of their race, sex, language, national origin, religion, social origin, birth, education, property status, political and other beliefs, social status and other personal attributes. The Constitution provides that no one may be subjected to torture, cruel, inhuman or degrading treatment or punishment. It stresses that the family, mother and child shall enjoy special protection.

**Article 208 of the Criminal Procedure Code of the Republika Srpska** (Republika Srpska Official Gazette 49/03,108/04, 37/06 i 70/06) provides for a separate criminal offence titled **Domestic violence**. In addition to the basic form of the offence which carries a fine or imprisonment up to two years, there are more serious forms that carry a longer prison term than the basic form of the offence.

**Criminal Procedure Code** (Republika Srpska Official Gazette 50/03, 115/04, 29/07 and 68/07) provides for prohibiting measures (injunctions) that can be ordered upon a motion by the parties or defence attorney in the course of proceedings and they include measures that are ordered in cases involving domestic violence: prohibition from visiting certain places or from meeting with certain persons. These measures are ordered by court.

**Family law** (Republika Srpska Official Gazette 54/02) provides for special protection afforded to mother and child in accordance with international human rights and freedoms. Some provisions are particularly important in the context of domestic violence, e.g.

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"Peer Violence in Elementary Schools - Vršnjačko nasilje u osnovnim školama" - The results of the various forms of violence among children in primary schools in the territory of Tuzla canton, NGO "Vesta", Tuzla, 2006.

"The Presence of Gender-based Violence in Adolescent Relationships - Pojavnost rodno zasnovanog nasilja u adolescentskim vezama", An analysis of the results of research conducted in secondary schools in Tuzla Canton, Program and measures of prevention, Non-governmental Organization "Vesta", Tuzla, 2009.

<sup>11</sup>\*Research in how well disabled people are informed about services available for fighting, protection and prevention of domestic violence but also about how to properly react and where to get help when it comes to the problem of domestic violence and its public presentation, Local Democracy Foundation, Sarajevo; Assessment of achievements in the fight, protection and prevention of domestic violence in the Canton of Sarajevo, Local Democracy Foundation, Sarajevo, October 2008;

Sustainable ways of combating gender-based violence in rural areas in Bosnia and Herzegovina, Medica - Zenica, November 2009;

<sup>12</sup>Another Look at the Tip of the Iceberg - Drugi pogled na vrh ledenog brijega", research on sexually-based violence, "Medica" - Zenica.

<sup>12</sup>\*Projects: "Strengthening Professional Capacities for the Implementation of a National Strategy to Protect Children from Violence, Abuse and Neglect - Jačanje kapaciteta profesionalaca za primjenu državne strategije za zaštitu djece od nasilja, zlostavljanja i zanemarivanja", "Help Women Victims of Domestic Violence and Trafficking - Pomoć ženama žrtvama nasilja u porodici i trgovine ljudima, Local Democracy Foundation, Sarajevo, "Improving the Right to Live Free of Violence of People with Disabilities - the Deaf/Hearing-Impaired and Blind" Local Democracy Foundation, Sarajevo; Training projects for health workers, social workers and police from the territory of Tuzla Canton - Non-governmental organization "Vive Women" Tuzla; Youth education projects, workshops for parents and nursery staff and seminar on violence for employees who work with children with special needs, "Miriam," Caritas, Mostar.

Article 52 (1) – A spouse can file for divorce if the marriage relationship is seriously and permanently damaged, due to which their life together has become unbearable.

Article 106 (1) –The court shall, in an extra-judiciary procedure, deprive of parental rights those parents who abuse their parental rights, who abandoned the child, whose behaviour shows that he/she does not take care of the child, or who seriously neglects his/her responsibilities.

**Article 218 of the Criminal Code of the Brčko District of BiH** (Brčko District of BiH Official Gazette 10/03, 45/04 and 06/05) provides for a separate criminal offence titled **Domestic violence**. In addition to the basic form of the offence which carries a fine or imprisonment of up to one year, there are more serious forms that carry a longer prison term than the basic form of the offence.

<b>STATISTICS OF MUNICIPAL COURTS RESPECTING ARTICLE 222 OF THE CRIMINAL CODE OF THE FEDERATION OF BOSNIA AND HERZEGOVINA</b>		
	2007*	2008
Number of filed indictments	399	463
Number of final verdicts pronounced	177	228
Number of appealable verdicts pronounced	73	61

<b>NUMBER OF MOTIONS FOR PROTECTIVE MEASURES IN THE FEDERATION OF BIH</b>		
	2007*	2008
Number of filed motions for protective measures	78	120
Number of protective measures ordered	17	53
Number of individuals covered by protective measures	31	68

<b>STATISTICS OF MUNICIPAL COURTS RESPECTING ARTICLE 208. OF THE CRIMINAL CODE OF REPUBLIKA SRPSKA</b>			
	2006	2007	2008
Number of cases	609 criminal offences	523 criminal offences	425 criminal offences

In addition to harmonizing the criminal codes with the Law on Gender Equality in Bosnia and Herzegovina, bearing in mind the complexity of the problem of domestic violence, including the too long judicial proceedings and a need to provide a victim of violence with quick and adequate support, entity laws on protection against domestic violence were adopted.

**The Law On the Protection From Domestic Violence of Republika Srpska** (Republika Srpska Official Gazette 118/05, 17/08) provides for fines and protective measures as the main sanctions with a view to efficiently protecting victims of domestic violence. Any form of domestic violence is prohibited. Domestic violence is any act of inflicting physical, psychological and sexual harm, sufferings or economic damage, as well as threats to commit the aforementioned, and a lack of due care and attention which may seriously impede family members and persons who are in close social relationships, regardless of if there is or there was a life union among them, from enjoying their rights and freedoms on the basis of gender equality principle in all areas of public and private life. What should be emphasized in particular and what the Law determines is that domestic violence and especially violence against women and children within the family represents severe violation of rights of women and children. The Law defines acts of domestic violence and protective measures that a court can order against a perpetrator in

family. The Law also governs placing of a victim in a safe house in order to protect her/him and ensure his/her enjoyment of her/his rights and interests. The police and the centres for social work or social welfare institutions are in charge of doing it. The Law also prescribes penalties for the offence of domestic violence, which are imposed in misdemeanour proceedings. *The Law On the Protection From Domestic Violence of the Federation of Bosnia and Herzegovina* (FBiH Official Gazette 22/05 and 51/06) provides for fines and protective measures as the main sanctions with a view to efficiently protecting victims of domestic violence. According to the Law the protection against violent behaviour shall be provided by: police, prosecutor's offices, centres for social work or social welfare institutions in urgent proceedings.

In order to achieve a strategic approach to this issue, on 5 March 2009 the Council of Ministers adopted the 2009 - 2011 Strategy to Prevent and Combat Domestic Violence in Bosnia and Herzegovina. At the 53rd session held on 13 March 2009 the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina adopted 2009 - 2011 Strategy to Prevent and Combat Domestic Violence in Bosnia and Herzegovina, while the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina adopted it at the 31st session held on 22 March 2009. In addition to activities at the level of Bosnia and Herzegovina, the Strategy to Prevent and Combat Domestic Violence also includes activities of the entities' strategic and action plans. In addition to the implementation of activities at the state level, the aim of the Strategy is the entity coordination of the implementation of strategic and action plans to combat domestic violence in order to implement them more efficiently, especially if one takes into account the fragmentation and inconsistency of the legislation in Bosnia and Herzegovina, and non-aggregated statistics relating to the issue of domestic violence.

The Entity Judicial and Prosecutorial Training Centres conduct induction training for judicial associates and judicial advisers with the aim of creating high-quality personnel for the selection of future judges and prosecutors. Since 2009 a module developed to include a sub-module relating to protection from domestic violence have been used. Judges and prosecutors undergo additional training in the United Nations Convention on the Elimination of All Forms of Discrimination against Women and the concluding recommendations for Bosnia and Herzegovina, including the portion that refers to general recommendation No. 19, which includes training in handling cases of violence against women.

Over the past years the number of incidents and reports of all kinds of abuse of children have increased. At the same time, awareness has been raised in all segments of society and institutions of the system and the social need to protect children from abuse has strengthened. The main obstacle to effective protection of children, among other things, is a lack of clear steps in the process of child protection, and unclear roles among the participants in the process. In May 2008 the complexity of this phenomenon, a large number of participating institutions, identified deficiencies in the system of care, as well as the past experience led to the adoption of the Framework Protocol for the Action in Cases of Child Abuse. (The following institutions were involved in preparation: Ministry of Human Rights and Refugees, Ministry of Labour and Social Policy of FBiH, FBiH Ministry of Health, Ministry of Health and Social Welfare of RS, FBiH Ministry of the Interior, Ministry of the Interior of RS, FBiH Ministry of Justice, Ministry of Justice of RS, Ministry of Education and Science of the Federation of Bosnia and Herzegovina, Ministry of Education and Culture of Republika Srpska, the Association of Court Experts of FBiH, RS Association of Court Experts, the High Judicial and Prosecutorial Council of BiH, FBiH Ombudsman and the Ombudsman of RS.) The Framework Protocol includes basic principles and guidelines which must be complied with by all Bosnia and Herzegovina institutions involved in such cases.

After that, in November 2008, the Republika Srpska adopted the Protocol on the Procedure in the Case of Peer Violence among Children and Youth in the Educational System, which was signed by Ministers of Education and Culture, Health and Social Welfare and the Interior. This protocol sets forth the procedures for participants' responding to the situation in order to prevent, identify, register, investigate, medically treat and so on in all cases of peer violence in the educational system, all with the aim to provide all necessary support, first of all, to the child, and then those who take care of the child.

The Republika Srpska Government adopted the 2007 - 2008 Action Plan to Combat Domestic Violence in the Republika Srpska (Republika Srpska Government Decision No. 04/1-012-948/07 of 7 June 2007),



with the implementation starting in 2008. Activities under this Plan are in accordance with the actions that were initiated by the Council of Europe to combat violence against women, including domestic violence. The Action plan was intended to identify the basic obstacles to the implementation of laws and regulations and to start improvements in terms of legal framework, data collection, strengthening the capacity of institutions to work on cases of domestic violence in cooperation with civil society, as well as public awareness about domestic violence as a social problem.

A manual titled "Preventing and Combating Domestic Violence in the Republika Srpska", the first unified guidelines that promote multisectoral collaboration of all stakeholders working on cases of domestic violence in the Republika Srpska, was written. The manual was prepared during the implementation of the Action Plan to Combat Domestic Violence, in collaboration with the Gender Centre of the Republika Srpska, Ministry of Justice, Ministry of Health and Social Welfare, Ministry of the Interior, Ministry of Family, Youth and Sports and Ministry of Education and Culture of the Republika Srpska.

"Family without Violence" Campaign in 2007 and 2008. (RS)

"White Ribbon" Campaign - men in the struggle against male violence against women - in the period from 25 November to 10 December 2009. The campaign was intended exclusively for men and was the most visible public indication that the men were ready to end violence against women. (RS) In a conclusion, the Republika Srpska Government declared 2008 and 2009 "years of fight against domestic violence in the Republika Srpska".

The 2009 – 2013 Strategy to Combat Domestic Violence Strategy in the Republika Srpska has been developed.

#### **Recommendation 44**

***The Committee recommends to the State party to train the medical and psychological staff of the social welfare centres on the specific needs of victims of trafficking and to intensify its efforts to set up an effective mechanism for the collection of anti-trafficking data, and requests it to include updated information on the number of cases where charges were brought against traffickers and police officers involved in trafficking, and on the sentences imposed, in its next periodic report.***

As for the results achieved in the field of combating traffickers, in this field Bosnia and Herzegovina has made a significant step forward, both in matters of disclosure of traffickers and the issue of establishing preventive measures to combat this unfortunate phenomenon. Although Bosnia and Herzegovina was mainly a transit or destination country for victims coming from Eastern Europe, in recent years 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 – has appeared, while the number of identified foreign victims of human trafficking is in steady decline. An increase in trafficking of nationals of Bosnia and Herzegovina within the boundaries of Bosnia and Herzegovina has made the agencies that deal with the issues to face new challenges in identification and investigation of crimes in the field of human trafficking. Due to a serious approach to this unfortunate phenomenon, Bosnia and Herzegovina has managed to reduce the number of identified victims. A sustainable system, which, besides establishing of a unified information management system, also resulted in the establishment of systems to provide direct support and assistance to victims of human trafficking which includes resources and intervention at the state level, has been set up. The system was set up in partnership of governmental, non-governmental and international sector and therefore has a particular significance especially in view of strengthening international and regional cooperation.

All criminal offences that are associated with human trafficking in the Criminal Code of Bosnia and Herzegovina are classified in the chapter of the crimes against humanity and values protected by international law. The criminal offence of trafficking is regulated by Article 186 of the Criminal Code of BiH, which is in line with the Palermo Protocol (Convention against Transnational Organized Crime supplemented by two protocols, one relating to the prevention and punishment of trafficking in persons, especially women and children). At the entity level, there are related criminal acts such as: Article 210

CC FBiH-incitement to prostitution, Article 198 CC RS -trafficking for prostitution, and Article 207 of Brcko District - incitement to prostitution.

At the proposal of the Council of Ministers in January 2010 the Parliamentary Assembly of Bosnia and Herzegovina amended the Criminal Procedure Code of Bosnia and Herzegovina. Accordingly, Article 186 of the Criminal Code was amended to become fully compliant with the Council of Europe Convention for the Suppression of Human Trafficking. The definition of the crime was amended and penalties for the criminal offence of trafficking were made higher. Penalties were introduced for people who use the services of trafficked persons, the system of forfeiture of crime proceeds in such cases was improved and closure of establishments used for the crime was provided for. We should also mention Article 100 of the Law on Amendments to the Criminal Procedure Code obliging the authorized bodies of the Federation of Bosnia and Herzegovina, the Republika Srpska and Brcko District to bring their criminal codes in line with the Criminal Code of Bosnia and Herzegovina within 90 days after its affective date.<sup>13</sup>

In May 2008 the BiH Council of Ministers considered and adopted the third National Action Plan to Combat Trafficking for the period 2008-2012. The new plan defines clear obligations of relevant institutions that need to be fulfilled in the next five years (2008-2012) to achieve better success in prosecution of traffickers and improve standards of protection of victims of trafficking based on the latest international standards for the protection of human rights. The new National Action Plan to Combat Trafficking further elaborates the objectives in the fight against human trafficking and clearly defines measures for the implementation of the goals in the following areas: support systems, prevention, protection and assistance to victims and witnesses, prosecution and international cooperation. The Action Plan is based on a comprehensive approach and includes three segments: the criminal prosecution, protection of victims of trafficking and prevention, with an emphasis on activities being placed on the protection of victims of domestic trafficking.

In early 2009 the Rulebook on the Internal Structure of the Ministry of Security of BiH, in which the Office of State Coordinator for Combating Human Trafficking and Illegal Immigration grew into the Department for Combating Human Trafficking within the Sector for International Cooperation. In this way permanent funding for the activities of the Department for Combating Human Trafficking is ensured in the budget of the Ministry of Security of BiH.

When it comes to the State budget it should be pointed out that every year funds are planned for assistance programs to victims of trafficking to be implemented by the Ministry of Security of BiH and the Ministry of Human Rights and Refugees. It should be noted that in 2009 the Ministry of Human Rights and Refugees, in cooperation with the Department for Combating Human Trafficking, appropriated in the budget of the Ministry BAM 45,000 in support of non-governmental organizations to provide direct assistance to victims of trafficking, while the Ministry of Security of BiH appropriated in its budget BAM 100,000 intended to finance safe houses that provide accommodation and support to foreign victims of trafficking.

In 2008 the Judicial and Prosecutorial Training Centres of the Federation, the Republika Srpska and Brčko District, in cooperation with the State Coordinator and the International Organization for Migration were in progress, with support from International Development Agency of the United States, developed and published a manual for judges and prosecutors under title "Human Trafficking - Prevention and Protection in BiH". The project also included training of judges and prosecutors, with the participation of representatives of police and social services. During the courses of training the participants shared experiences, identified the best possible practices in gathering evidence and prosecuting human trafficking cases, while providing care and protection to victims.

The main trends of trafficking in 2009 were the same as in previous years, the same total number of

identified victims with a small number of foreigners and, as noted above, an increase in the number of identified victims of domestic trafficking.

2006-2009 statistics showing the number of identified victims of trafficking, conducted investigations and issued convictions are given below:

## 2006

According to the law enforcement agencies and prosecutors' offices 77 persons were charged with 34 criminal offences of human trafficking and related crimes in 2006. In two cases charges were brought for criminal offences of human trafficking in combination with Article 250 of the Criminal Code of Bosnia and Herzegovina (organized crime).

According to police reports the number of identified victims of trafficking in 2005 was 54 and in 2006 it was 42. At the same time in 2006 there were more investigations - 90 (42 ones were instituted and the backlog was 48 investigations, which is an increase compared to 2005 when there were a total of 68 investigations (37 ones were instituted in 2005 and the backlog from 2004 was 31 investigations). 14 orders for non-institution of investigation were issued and 13 investigations were terminated.

Also 31 indictments were brought in 2006 and the courts confirmed 33 ones (two indictments, which were brought in 2005 were confirmed in 2006), and in 2005, 24 indictments were filed and the courts confirmed 26 indictments. The courts of first instance rendered verdicts against 30 persons, out of which 23 convictions. In plea bargaining 10 persons pleaded guilty and were sentenced: one person received a suspended prison sentence, 2 persons received fines and 7 persons received prison sentences. 13 persons pleaded not guilty and did not enter into plea bargaining and they received two suspended prison sentences and 11 prison sentences, 3 indictments were dismissed and there were 4 acquittals. 12 original verdicts were appealed against.

Considering the proportion of prison sentences imposed in relation to suspended sentences and fines it can be concluded that the penal policy became stricter. Thus, on the basis of plea bargaining 7 persons received prison sentences, and 11 persons received prison sentences after not having pleaded guilty, i.e. in a trial. Fines are imposed on only 2 persons in plea bargaining. In relation to the total number of convictions, 3 indictments were dismissed and 4 persons were acquitted. 23 first instance verdicts were appealed in 2006, out of which 12 verdicts were appeal by the prosecutor and 11 appeals were filed by the defendant. Deciding these appeals, the appeal courts issued a total of 17 final and binding verdicts, out of which 10 imposed sentences of imprisonment and 2 persons received a suspended sentence. 1 person received a fine, while 3 indictments were dismissed and one person was acquitted. The number of convicted persons who were admitted to sentenced custody was 9, while 8 finally convicted persons are waiting to serve their sentence.

The following table shows the structure of the crimes of human trafficking and related crimes, and mutual relationship in 2005 and 2006:

Criminal offence	Number of reported criminal offences		Number of reported criminal offences		Number of victims	
	2005	2006	2005	2006	2005	2006
Establishment of Slavery –Art. 185, BiH CC	-	2	-	2	-	1

Trafficking in Persons –Art. 186, BiH CC	15	17 <sup>12</sup>	35	45	27	23
International Procuring in Prostitution –Art. 187. BiH CC	-	3	-	9	-	3
Unlawful Withholding of Identity Papers –Art. 188, BiH CC	3	2	3	6	3	5
Enticing into Prostitution –Art. 210, Federation of BiH CC	10	8	10	13	14	8
Trafficking in Human Beings for the Purpose of Prostitution –Art. 198, Republika Srpska CC	6	1	8	1	6	2
Enticing into Prostitution –Art. 207, Brčko District BiH CC	1	1	2	1	3	1
Abuse of a Child for Pornography –Art. 208, Brčko District BiH CC	1	-	1	-	1	-
<b>TOTAL</b>	<b>36</b>	<b>34</b>	<b>59</b>	<b>77</b>	<b>54</b>	<b>43</b>

## 2007

According to the law enforcement agencies and prosecutors' offices, there was a significant decrease in the number of indictments brought, convictions and criminal charges filed in 2007. Thus, in 2007 34 criminal charges were filed, which involved 65 offenders and 38 victims of trafficking / incitement to prostitution. A total of 11 indictments were filed, out of which 8 were confirmed. In the Federation of Bosnia and Herzegovina 8 indictments were filed, out of which 6 were confirmed. One indictment was brought and confirmed in the Brcko District, the Republika Srpska and the Court of Bosnia and Herzegovina each. A total of six verdicts were rendered. In the Federation of Bosnia and Herzegovina 3 verdicts were rendered: one person received a suspended sentence, two convictions were final (one was rendered in plea bargaining). The Brcko District did not render any verdicts and the Republika Srpska dismissed one indictment. The Court of Bosnia and Herzegovina rendered an appealable conviction which involved 10 people and another that involved human trafficking for the purpose of begging was final (it was rendered in plea bargaining).

## 2008

According to the law enforcement agencies and prosecutors' offices, during the 2008th there was a significant increase in the number of indictments brought and convictions issued while there was a drop in the number of investigations conducted. Thus, in 2008 23 investigations were conducted, which involved 53 persons in human trafficking cases and cases of mediation in prostitution. A total of 21 indictments were filed and all were confirmed. In the Federation of Bosnia and Herzegovina 15 indictment were filed and confirmed. One indictment was brought and confirmed in the Brcko District. Two indictments were brought and confirmed in the Republika Srpska, while the Court of Bosnia and Herzegovina received and confirmed three indictments. A total of 14 verdicts were rendered. 11 verdicts were rendered in the Federation of Bosnia and Herzegovina. One verdict was rendered in the Republika Srpska while 1 verdict was rendered at the Court of Bosnia and Herzegovina.

## 2009

In 2009, as in previous years, the Strike Force to Combat Human Trafficking and Illegal Migration coordinated activities of prosecutors and police agencies and tax authorities in the investigation and prosecution of human trafficking offences.

According to the Strike Force, in 2009 prosecutors in BiH received a total of 23 criminal charges involving human trafficking. At the end of the reporting period there were a total of 22 pending charges involving these crimes. Orders for conducting an investigation were issued in 20 cases, which, together with 24 investigations pending from the past, made a total number of 44 investigations that were conducted in the reporting period. A total of 10 indictments were brought and confirmed. A total of 20 persons were convicted (2 persons received final verdicts imposing sentences of imprisonment). In plea bargaining 4 persons pleaded guilty and were sentenced (2 suspended prison sentence, 2 prison sentences). After a trial held convictions were handed down against 10 persons (all received prison sentences). There were 5 acquittals and one indictment was dismissed. A total of 7 appeals were lodged against these verdicts.

At the end of the reporting period, there were a total of 12 cases pending at the courts.

#### **Recommendation 45.**

*The Committee urges the State party, in addressing the problem of poverty, to ensure, on a priority basis, that adequate social assistance be provided to individuals and groups living below the poverty line, that the impact of any laws and policies on the economic, social and cultural rights of such individuals and groups be assessed on the basis of regularly updated data, disaggregated by gender, age, ethnic background, social status and other relevant criteria, and that effective monitoring mechanisms be adopted and implemented to that effect. In this regard, the Committee refers the State party to the statement adopted by the Committee on 4 May 2001 on poverty and the International Covenant on Economic, Social and Cultural Rights.*

According to the Agency for Statistics of BiH, the percentage of the population living below the poverty line in Bosnia and Herzegovina is 18.2% (data produced by the methodology of Eurostat) or 18.6% (data produced by the methodology of World Bank).

When it comes to a share of the poorest part of the population in national consumption, and here we are talking about one fifth of the population, 7.2% of the national consumption is covered by 20% of the poorest whereas 39.0% of the national consumption is covered by 20% of the reaches.

According to the above, and many other parameters related to social policy it is evident that the social position of the population of Bosnia and Herzegovina is extremely difficult. The burden of poverty particularly affects those who belong to marginalized groups, above all - refugees and displaced persons, older persons, youth, persons with disabilities, the Roma, who are most numerous in BiH, but also the most vulnerable population groups and others.

By signing the European Social Charter (revised), BiH is obliged to engage in the coming period on creating the conditions for quickly overcoming the difficult economic situation and creating conditions of families that are already or will be at risk of social exclusion and poverty to overcome the difficult situation. It is understood that poverty must be treated as a multidimensional problem and that its solution can not be restricted only to the system of social assistance, but that the issue must be addressed in a comprehensive policy, which will facilitate the participation of disadvantaged groups in employment and access to all resources, rights, goods and services, and reduce the risks of entering into even deeper poverty, help the most vulnerable groups and mobilize all available resources to combat poverty and social exclusion. In order to achieve this, efforts should be put into the harmonization of standards, laws and regulations governing the area of social policy, so that there would be no drastic differences in matters of social policy between the entities and cantons, as it is still the case in the reality.

In order to fight poverty effectively, we need to know and ascertain the number of the poor and identify the most vulnerable groups and territorial distribution of the phenomenon. Programs on which the relevant institutions should and must act effectively to protect vulnerable groups that need social assistance must be designed. So far, statistics have been kept only by municipal social welfare centres, but in the resent period, a significant contribution to an insight into the phenomenon of poverty in BiH has been given in the 2007 "Social Inclusion in BiH" Human Development Report. Besides this document, contribution to the assessment of the situation in this area has been given by he *Living Standards*

*Measurement Study* (LSMS). On that occasion, about 19.5% of the population of BiH (16% in FBiH and 25% in the Republika Srpska) was found to be below the poverty line. In addition, it was concluded that about 30% of the population is just at the line of poverty. Since the above-cited data relate to the poll and not on data obtained in the census, they must be considered as an assessment with the appropriate tolerance limits. In the coming period BiH has an obligation to focus its activities on strategic priorities for this area including: completion of harmonization of standards and legislation at the national level and adoption of the basic principle that the social welfare must be based on needs; synchronization of the social needs throughout the country; improvement of the efficiency of services in the field of social policy through organizational changes, with special regard to the establishment of realistic and efficient standards, regulations providing for simplified procedures in the areas of social work in accordance with international standards.

In the past two years, when it comes to marginalized and most vulnerable groups, Bosnia and Herzegovina devoted considerable attention to providing assistance to the BiH Roma, an ethnic minority that is the most vulnerable group by all parameters. In 2009 and 2010 extensive preparation and implementation of the adopted Action Plan of Bosnia and Herzegovina to address the issue of Roma in the areas of: housing, employment and health care has started. The real basis for the implementation of the plan is funds appropriated for these needs in the state budget and funds provided by international donors. Therefore, in accordance with developed programs within the 2005 – 2015 Decade of Roma Inclusion, which it is a member of, BiH is realistically expected to achieve positive results in improving the general situation of the Roma in BiH, in all aspects of their work and living.

#### **Recommendation 46**

***The Committee recommends to the State party to adopt, at the State level, a housing law and a national housing strategy to address the housing needs of the population. The Committee also recommends that the State party allocate sufficient resources for the provision of social housing, especially for the low-income and disadvantaged and marginalized groups.***

According to the Constitution of Bosnia and Herzegovina, housing policy is the responsibility of the entities and Brcko District. Thus, the housing needs of the population and therefore the provision of funds and the allocation of social housing, especially to persons with lower income, the poor and marginalized groups is not under jurisdiction of the state. On the proposal of the Ministry for Human Rights and Refugees the adoption of the ***Strategy for Access to Housing in BiH*** was put on the agenda. This activity is a continuation of activities started in 2008, when "A Comparative Study of International Experience in the Field of Social Housing" and "Report on the Assessment of Housing Needs in BiH." These two comprehensive documents, prepared in cooperation with international housing experts, constitute a solid basis and serve as background material for the production of this strategic document that aims to initiate actions to develop an adequate legal framework, adequate institutional planning and development of policies that will be in line with non-discrimination in access to housing for all.

In accordance with the general goals of economic reconstruction, development and cooperation, this document will promote non-discriminatory access to housing, sustainable housing and urban development, including the prosperous development of instruments for improvements in this area, with particular focus on housing for vulnerable categories of population. In this regard, special attention will be paid to the strategic housing policy to be compliant with the recommendations contained in international and domestic sources of law, and the Ministry for Human Rights and Refugees will continue to take appropriate actions in order to promote, protect and provide full and progressive exercise of the right to housing in Bosnia and Herzegovina.

Since there are still a lot of refugees and displaced people in Bosnia and Herzegovina, whose homes were demolished and destroyed, a Division operates within the Ministry to work, among other things, to meet housing needs of refugees and displaced persons.

Also the Human Rights Division operates within the Ministry, which has launched activities set forth in the plans of action thanks to funds appropriated in the budget of BiH and donors' funds, to address the

needs of Roma of BiH as the most vulnerable ethnic minorities also in terms of their housing. The activities are underway and are expected to meet housing needs of a large number of Roma of Bosnia and Herzegovina by 2015. This is very important for Bosnia and Herzegovina, bearing in mind that the Roma population are the most vulnerable group in BiH when it comes to housing. Therefore, BiH adopted the Action Plan on Roma Housing in July 2008. Although 2009 was the first year of implementation of the aforementioned action plan, a significant progress has been made and the following activities have been taken: the decision on the criteria for the use of funds allocated to address the problems of Roma in the field of housing has been adopted. Basically, this is for the following purposes: construction of flats and houses, improvement of housing conditions and the rehabilitation and urbanization of Roma settlements. Total funds which include both funds in the budget and donor's funds amount to over 5.5 million. It is estimated that in 2010 a total of 210 dwellings under projects approved in 2009 will be built and repaired. A 2010 plan is to repeat publication of an invitation for the implementation of subsequent housing projects for Roma of Bosnia and Herzegovina, where a significant contribution is given by Swedish SIDA, which has been providing significant support to the Roma in BiH through their own programs for several years now.

#### **Recommendation 47**

***The Committee urges the State party to ensure the right of the Roma people to repossess their pre-armed-conflict property, to guarantee security of tenure to inhabitants of Romany settlements and to ensure that adequate alternative housing or compensation is provided to the Roma people and to pre-armed-conflict tenants who have been evicted from their settlements and homes, in line with the Committee's general comment No. 7.***

Further to the answer to question 32 in which the situation and the position of refugees and displaced people of Bosnia and Herzegovina is explained, we noted that since the signing of the Dayton Peace Accords to date, almost all property has been returned to pre-war owners. However, conditions for sustainable return, in spite of significant efforts and activities of the competent authorities, have not been satisfactory yet. The fact is that a large number of families have not returned to their pre-war homes yet. This is also confirmed by the fact that there are still some 2,700 families living in BiH collective centres without the most basic conditions for normal life. Also, there is a large number of people whose property was destroyed completely during the war and about 45,000 housing units belonging to returnees are waiting for reconstruction. Unfortunately, a big problem in dealing with reconstruction of pre-war property refers to the Roma, which is the largest national minority in BiH. The main problem to resolve property rights issues of the Roma is the lack of necessary papers and evidence of their pre-war property, because they had no title of ownership of land and housing, nor was their property entered in the land books.

Bearing this in mind and respecting a very difficult situation of the Roma, based on the Roma Strategy, BiH has prepared and adopted the Action Plan of Bosnia and Herzegovina to address the problems of Roma in the areas of employment, housing and health care. The Action Plan on the Educational Needs of Roma was adopted earlier. A special place in the list to address important issues of Roma life was taken by the issue of accession of BiH to the 2005 – 2015 Decade of Roma Inclusion in September 2008 and it was decided to resolutely tackle the implementation of adopted plans of action including the action plan related to housing for the Roma of BiH. The fact is that BiH estimates that between 50 and 70% of Roma live in inhabitable dwellings. The Action Plan for Housing provides for three basic objectives: urbanization of Roma settlements and legalization of individual dwellings; education and raising awareness of the public and the Roma about housing problems, legal regulations, housing, housing culture etc. and planning the construction of new housing units through the social housing, donor and loan programs.

In 2010 the implementation of housing projects for Roma in 17 municipalities in BiH has started to involve entities and Brcko District in addition to the competent State bodies. Significant support to this plan is given by international NGOs including BOSPO and SIDA project.

So, the forthcoming activities that are underway will be a significant step in addressing the overall housing situation of Roma and in establish registration of Roma housing units in order to establish their property rights in property which is owned by the Roma.

#### **Recommendation 48**

*The Committee calls on the State party to continue its efforts and to seek further international assistance for the clearing of anti-personnel mines in all parts of its territory.*

From the beginning of mine action (1996) to the end of 2009, BiH reduced the mine contaminated area by 2657.34 km<sup>2</sup> in all mine campaigns, out of which the operations of humanitarian de-mining covered 113.02 km<sup>2</sup>, having disposed of 51,166 anti-personnel mines, 7,456 anti-tank mines and 43,913 pieces of UXOs. In 2009 the mine contaminated area was reduced by 128 km<sup>2</sup>, out of which the operations of humanitarian de-mining covered 12.75 km<sup>2</sup>, having disposed of 2.112 anti-personnel mines, 150 anti-tank mines and 877 pieces of UXOs.

In BiH, there is also a centre for mine action founded by the BiH Council of Ministers under the De-mining Law of BiH. The De-mining Commissions of BiH as expert bodies are within the Ministry of Civil Affairs. The Centre is funded from the budget of BiH institutions.

The mine action in BiH is defined by the 2009-2019 Mine Action Strategy of BiH. The vision of the strategic plan is that BiH is free of mines as of 2019. The actual size of mine contaminated area (on 01/01/2010) was 1555.35 km<sup>2</sup>, which represents 3, 04% of total land area. Problems of the implementation of the 2009-2019 Mine Action Strategy of BiH are related to providing financial resources for mine action in BiH, which should be provided from additional sources (loans), which has been a usual practice so far.

In the period between 1992 – 2009 mine / UXO casualties amounted to 5,033 persons. During the war there were 3,339 casualties, while in the period 1996-2009 there was a total of 1,694 casualties (495 persons were killed), of which 107 deminers (42 deaths).

In 2009 mine / UXO casualties amounted to a total of 28 persons (9 people were killed), of which five deminers (3 deaths). According to available information, the Centre for Mine Action in BiH and the 2007 estimates of the mine situation in BiH, it is estimated that in Bosnia there are still 226,155 mines / UXO.

The mine action in BiH is financed also by funds of international institutions / organizations and donors through the International Trust Fund for Demining and Mine Victims Assistance, based in Slovenia. In 2009 donors were: European Commission Delegation in BiH, the Government of the United States, Canada, Germany, Norway, Austria, Czech Republic, Belgium, Italy, Japan, UNDP, UNICEF, SIDA (Swedish International Development Agency) and the Swedish Agency for Development and Cooperation.

#### **Recommendation 49**

*The Committee recalls the State party's obligation to ensure access to safe drinking water within, or in the immediate vicinity, of each household. It invites the State party to identify disaggregated indicators and appropriate national benchmarks in relation to the right to water, in line with the Committee's general comment No. 15 on the right to water, and to include information on the process of identifying such indicators and benchmarks in its next report.*

In addition to other responsibilities, the Ministry of Foreign Trade and Economic Relations, particularly the Department of Water Resources and Tourism, is responsible for water resources.

According to the Constitution of Bosnia and Herzegovina, water laws are at the level of entities: the Federal Ministry of Agriculture, Forestry and Water Management is responsible for water management



within the territory of the Federation of Bosnia and Herzegovina and in the Republika Srpska it is the Ministry of Agriculture, Forestry and Water Management of Republika Srpska.

Since the entity boundaries are not consistent with the hydrographical areas, the 2006 amendments to each of the entity laws reached a high level of compliance of the legal framework with the Framework EU Water Directive.

On the basis of the entity laws, river basin districts were designated and the agencies for the river basins management were set up.

The Water Law of F BiH (Federation of BiH Official Gazette 70/2006) established agencies for river basins: Agency for the Sava River Basin in Sarajevo and Agency for the Adriatic Sea and Mostar to be responsible for water management entrusted to them by this Law and implementing regulations.

The Agency for the Sava River Basin in Sarajevo manages the water area which includes part of the international river basin of the Danube (part of the Save international sub-basin) on the territory of Bosnia and Herzegovina/Federation.

The Agency for the Adriatic Sea covers the water basin of the Adriatic Sea - the river basins of the Neretva, Cetina and Krka within the Federation.

The 2006 Law on Waters of the Republika Srpska establishes the Agency for the Sava District Water Basin in Bijeljina and the Agency for Trebisnjica Water Basin District in Trebinje.

In accordance with international principles, both the entity laws also regulate: the issuance of water documents, a legal framework for the establishment of monitoring, a system of inspection and administrative supervision, legal protection, the basis for the development of databases and public participation in decision-making.

By-laws are currently in the process of preparation and they relate to: the establishment and operation of the licensed and reference laboratories, designating sanitary protection zones and sources of drinking water, pollutants in waste water, determination of types of surface water bodies and ground water, the classification of ecological status and allowed values of chemical parameters of water quality.

There are activities on the adoption of strategies in the Federation, and the Framework Plan for the development of water resources was adopted in the Republika Srpska. The water management strategy in the FBiH and water management plans will set forth priority uses of water, and the first priority will be supplying the population with drinking water.

#### **a) Access to drinking water by the population of FBiH and water quality**

Based on available data, given the large losses in water supply systems that are very difficult to identify, together with the fact that no census has been carried for long time, it is difficult to make a balance of delivered drinking water, as well as assessment of access to drinking water.

According to aggregated statistics available about 60% of the population of the Federation of BiH (1,179,900 people of about 1,900,000 inhabitants in the Sava water basin in the Federation, and about 215,000 of about 370,000 people in the water area of Adriatic Sea, making a total of approx. 1,390,000 people of approx. 2,230,000 inhabitants) are included in the public water supply systems (in urban areas the coverage is 94% of the total population, while in rural areas it is significantly less coverage and is around 20%).

Other people meet their need for water through individual, group or community water supply systems, the public utilities not being in charge of their management. Healthy water in the central water supply system is ensured mostly by continuous controlling.

Central city water supply systems are major part of water infrastructure, that is, they supply with drinking water most of the residents of Sarajevo Canton. Drinking water from local water systems supply about

9.5% of residents of Sarajevo Canton. Physical, chemical and microbiological analyses of water samples taken from 70 local water supply systems show that 21% of the samples do not meet the requirements under the Rulebook on Hygienically Safe Drinking Water (SFRY Official Gazette 33/87 and 13/91).

In the area of Una-Sana, Herzegovina-Neretva Canton, Zenica-Doboj Canton, Tuzla Canton, and West Herzegovina Canton 10 and Posavina Canton, hygienic and sanitary condition of water facilities and the system of public health control of drinking water is not satisfactory. Most of the central sources of water supply have the first and second zone of sanitary protection, as well as the modern way of chlorification. In contrast, in a large number of local water chlorification is done manually or not at all. The second zone of sanitary protection is usually not defined, and individual water supply facilities (open water springs, wells, tanks, natural cisterns), are often not regulated by any strict sanitary protection zone. Laboratory for the control of hygiene of water are equipped with standard methods of analysis, and the periodic analysis can not work due to lack of equipment. So it is not possible to determine parameters such as heavy metals, pesticides, phenols, mineral oils and so on. Controls of drinking water are mainly limited to the review of the basic physical, chemical and microbiological parameters, an insufficient number of samples is tested, so an adequate opinion on its quality cannot be given. In Bosnia Podrinje Canton water supply facility is the biggest part of water infrastructure, that is, drinking water is supplied to 80% of residents of Canton. The first zone of sanitary protection is regulated, while in the second zone there are a lot of potential contaminants (septic tanks, illegal dumps, fish ponds etc.).

The quality of water supply can be judged by the situation of epidemiological diseases whose causes may be in the contaminated water, and these are primarily intestinal infectious diseases. In 2008 the disease rate of intestinal infectious diseases (231.52 per 100,000 people) was slightly lower compared to 2006 (246 per 100,000 people) and 2007 (265 per 100,000 people).

Article 2 of the Law on Food (BiH Official Gazette 50/04) defines that the concept of food includes drinking water, and also defines safety, quality, methods and control of water sanitary. Based on the above mentioned law the Council of Ministers, upon the proposal of the Food Safety Agency of Bosnia and Herzegovina, adopts implementing regulations in the field of hygiene and sanitary water. Adoption of a new Rulebook on Drinking Water is in the final stage, and until then Entity Rulebooks on Health Safety of drinking water prescribed by the entity ministers of health (and under the Water Law of the FBiH, Article 48, it is enacted by the federal Minister of Health) will be in force. Therefore, using licensed laboratories of health institutions (federal and cantonal level) and in their own laboratories, the municipal utility companies that manage public water systems regularly control the quality of drinking water.

Also, an expanded analysis of the quality of raw water (at 20 measurement sites are examined organoleptic, physical and chemical properties, chemical and toxic substances and microbiological properties) is made once every year in the most important sources in the area where the Agency for the Adriatic Sea in Mostar is in charge.

In the Federation of BiH besides public water systems there is a large number of rural water systems and individual water users who independently perform the control or mostly do not do it at all.

According to the Draft Water Management Strategy of F BiH, which was prepared in the summer of 2009, the total amount of encompassed water for the need of water supply in the Federation is about 261,542,143 m<sup>3</sup> / g, which means that 1.39 million people covered by public water systems are provided with a specific gross consumption of 512 l per person per day.

The number of public water supply systems in cities, especially in villages, are still at certain times unable to meet the basic needs of water users, and often in quality, so there are often scheduled and intentional stoppages in supply (rationing of water supply) - which is especially characteristic in the basin of the Krka and the Cetina Rivers, water region of the Adriatic Sea, the sub-basin in the northern part of the Bosnia and the Drina River and Sava Basin. One of the reasons for stoppages are losses in the water supply companies themselves.

In these circumstances, it is extremely difficult to ensure equal distribution of the available amount of water to all consumers, and ensure basic hygienic conditions. It must be said that the enormous losses partly result from the impossibility of recording the amount of water delivered owing to poor equipment of the utility companies that manage the water supply systems. Some municipal centres' values of specific consumption of water by inhabitants are very small, which may be a result of poor recording of the amount of water that enter the system, or registration on household consumer water meters, inconsistently showing net and gross consumption. They are often municipal water supply centres where stoppages in water supplies last at least 8 hours a day, due to insufficient capacity or springs, or inadequate facilities for the transport, accumulation and distribution of water with a high percentage of losses, or, as it is unfortunately the most common case, the combination of all three listed reasons.

Generally, in the communities with regular supply of water, it can be concluded that the current value of specific water consumption of households is around 120 l per person per day, which is the average specific consumption in the territory of the Federation of BiH. The average specific consumption in industry that is connected to the city water supply network (according to available data), is about 64 l per person per day.

From the above it can be seen that the present specific consumption in municipal centres in the territory of the Federation of Bosnia and Herzegovina, which have regular water supply, is mainly within usual brackets of European countries with similar climate, level of development, technological development and the like. The biggest cities of the Federation BiH, Sarajevo, Tuzla, Mostar and Zenica have, in terms of water supply systems, their characteristics and their spending significantly affect the overall state of water.

#### **b) Access to drinking water by the population in the Republika Srpska and water quality**

The total population of the Republika Srpska is estimated at about 1,600,000 inhabitants. The territory of the Republika Srpska is divided into 63 municipalities, where water supply is organized in over 51 central municipal water supply systems and a large number of water supply systems of local communities and small rural and individual water supply systems. Public water supply systems cover about 46% of the population, while about 54% of the population relies on rural water supply systems, their own wells, springs or surface water sources (an estimate is that there are about 9,800 local or rural water supply systems). About 87 % of the population is covered in urban areas. This is explained by the fact that there are several cities where the coverage is very low. Insufficient coverage of households with water supply systems are found in the following municipalities in particular: Sokolac, Kozarska Dubica, Novi Grad, Ostra Luka, Knezevo. On the other hand, there are villages, and municipal centres, where water supply systems are well developed, but there is a problem of water quality, as is the case with Prnjavor or areas immediately along the Sava River. Also, quality of water sources will become very questionable for consumers of water in the valley of the Bosna River if the issue of protecting water in its basin is not permanently solved, or other permanent water sources are not provided (which was also provided for in the long-term water supply program for this area). So, for many areas, and consumers, the issue of water supply of drinking water in the future will only be related to the development of regional systems and, in this regard, the construction of reservoirs as sources. For the purposes of the water supply in municipal centres, about 4 m<sup>3</sup> / s, or more accurately 3940 l / s of water is taken on average from the sources. The water is taken directly from the sources (1234 l / s), from the wells (1791 l / s) and from rivers and lakes (915 l / s).

Water pollution control measures and purification of waste water are very poor. Water that is directed towards the settlements is mainly purified, although it is estimated that more than 40 percent of raw water requires additional treatment. Water taking facilities and water pumping facilities produce the only substantial costs. The service is affected by multiple problems, including failure of the pipelines, electricity power outages, limited capacity of tank space, lack of financial resources for the procurement of spare parts and the like. About three-quarters of water supply companies may supply water at least 22 hours.

Because of low water prices, which caused rather poor investments and current maintenance over a long period - the state of water supply system is bad enough. This is affected also by the out-dated distribution network of the water systems, in which asbestos-cement pipes are often prevalent and vulnerable to exploitation, although they are no longer used in modern water supply systems for sanitary reasons. Average water losses in water systems are about 50 percent of the total amount, which speaks volumes about the state of the system. Therefore, the reduction of losses at the same time is the most important reserve of supply of water for the settlements, after the restoration of the system and remedy of losses in them.

### **c) Water quality throughout BiH**

Water quality in BiH cannot be assessed only on the current state of water quality. Due to economic difficulties and a slow transition in BiH - most of the industry, which was very strongly developed in the territory of BiH, does not operate now or operates at reduced capacities. Therefore, the current amount of effluents cannot be treated as a starting platform for commitments to reduce pollution emissions at the international level (in the basin of the Sava and Danube Rivers), because they do not match the real potentials of earlier built industrial facilities throughout Bosnia and Herzegovina, but the current effluent situation.

The effluent load of rivers and their quality will be much worse with the gradual launch of production in existing industrial facilities.

The use of water to supply the population, as determined by the law, is absolutely necessary. So in the future the protection of existing water sources and improvement of the quality of polluted rivers, especially those that are used to supply villages, should be taken into account. Also, in order to create conditions for future insurance of water to meet needs of settlements in the long run, is conservation, protection and reservation of water as the main potential sources, especially those that need to be used for regional systems are imposed as the main task.

### **Recommendation 50**

*The Committee urges the State party to ensure that the practice of "two schools under one roof", as well as the construction of separate schools for children belonging to different ethnic groups, be discontinued. The Committee recommends that the State party merge and teach one curriculum to all classes, irrespective of ethnic origins, and requests it to report on any steps taken in that regard in its next periodic report.*

Based on the conclusions issued on the 4th session of the Conference of Ministers of Education in BiH, held on 09 September 2008, a decision of the Ministry of Civil Affairs formed a Working Group to analyze the phenomenon of "two schools under one roof", composed of two representatives of the Federal Ministry of Education and Science, Central Bosnia Canton, Herzegovina-Neretva Canton and the OSCE each and a representative of the Zenica-Doboj Canton.

The Conference of Ministers of Education in BiH, at the 6th meeting held on 10 February 2009, was informed about the work of the Working Group for the preparation of comprehensive analysis of the phenomenon of "two schools under one roof" and tasked the Working Group to meet once again by the end of February 2009 and to submit complete information about the proposed measures to overcome this phenomenon to the Ministerial Conference, in order to discuss the information at one of the next sessions.

At the 7th meeting held on 5 May 2009 the Conference of Ministers of Education in BiH was presented with the Report of the Working Group to analyze the phenomenon of "two schools under one roof," and tasked the Working Group to meet once again by the end of May 2009, to analyze the material, to incorporate comments and to submit them to all ministers of education, so that it can be discussed at one of the next session of the Conference of Ministers.

The 9th session of the Conference of Ministers of Education in BiH, which was held on 29 September 2009 approved a report of the Working Group on an analysis of phenomenon of "two schools under one

roof” with additional suggestions and recommendations presented at the session. However, considering the fact that this phenomenon is politicised in the public and that the criticism is made by inertia, it is necessary to develop new analytical material in which the concept of "two schools under one roof" will be redefined. This redefinition should eliminate all manifestations of this phenomenon and content that do not have the characteristics of discrimination and segregation. For this purpose, the Conference of Ministers of Education in Bosnia and Herzegovina agreed to appoint the Working Group that would be headed by a representative of the OSCE, while members would be representatives of the Federal Ministry of Education and Science, Ministry of Education of the Herzegovina-Neretva Canton, Zenica-Doboj and Central Bosnia Cantons, the Council of Europe and the Ministry of Civil Affairs. The ministers concluded that some progress has been made in eliminating the phenomenon of segregation and discrimination in education in Bosnia-Herzegovina, but these are not sufficient steps and called on the wider community, particularly parents and school boards to get involved in solving these problems.

The report of the Working Group on an analysis of phenomenon of "two schools under one roof” was discussed at the 11th session of the Conference of Ministers of Education in BiH, which was held on 30th March 2010. An Information Paper from that meeting was submitted to the Government of the Federation which submitted it to the FBiH Parliament, which made conclusions for overcoming this phenomenon, which obliged the cantons where the practice of "two schools under one roof” is reported to bring it to an end by the beginning of next school year.

### **Recommendation 51**

***The Committee urges the State party to promote equal access by Romany children to primary, secondary and tertiary education, e.g. through the grant of scholarships and the reimbursement of expenses for schoolbooks and of travel expenses to attend school, and to closely monitor school attendance by Romany children.***

The Strategy of Bosnia and Herzegovina to address the problems of Roma in BiH and, then, the Action Plan on Education Needs of Roma of Bosnia and Herzegovina were the impetus to improve the overall situation of Roma in education. Under the Education Reform Strategy for the largest national minority in BiH, the educational authorities in BiH were bound: to ensure that all Roma children in BiH have an opportunity to acquire elementary education; that all children belonging to ethnic minorities - particularly Roma, should be included in the educational system in the whole territory of BiH as appropriate; that the national minorities - particularly Roma, should define their needs, with the support of relevant governmental institutions, as to what is necessary for successful education; to develop a flexible plan applicable in the entire territory of BiH for the inclusion of children of ethnic minorities in the educational system (access to education); and to provide assistance in the provision of textbooks, school supplies, transportation and others. The realization of the above in practice means the implementation of the Framework Law on Primary and Secondary Education in Bosnia and Herzegovina (BiH Official Gazette, No. 18/03), which determines that: every child has the equal right of access and equal opportunity to participate in appropriate education, without discrimination on any grounds (Article 4), equal access and equal opportunities include the provision of equal conditions and opportunities for all to start and continue further education (Article 4), that the language and culture of any national minority living in Bosnia and Herzegovina will be respected and fit into a school where feasible to the greatest extent possible, in accordance with the Framework Convention for the Protection of National Minorities (Article 8), which is all in accordance with international instruments which are directly applicable in BiH, based on the Constitution of BiH, and Annex IV of the General Framework Agreement for Peace.

So, the overall legislative framework regarding the educational system in BiH gives an opportunity to all citizens of Bosnia and Herzegovina without any discrimination to access education. However, the fact is that because of deeply ingrained prejudice against Roma, their children are not enrolled in school in time, are often absent from school, drop out of school and so on. The reasons are multiple, and basic activities to be taken can be distinguished as follows: make a decisive shift in policy of recognition of early childhood, especially with regard to the parents of the Roma as a key stage in the process of life-long learning, work to improve the overall situation of Roma - employment, health care, housing and special education, overcome the situation in which the Roma children even when enrolled in regular schools,

nevertheless, do not get the same quality education as other children because of the failure to get feedback - uneducated parents, their homework is rarely reviewed, sometimes teachers do not really evaluate their abilities and motivation. Roma parents are rarely represented in the school boards and the like, which should be overcome.

The inclusion of BiH in the Decade of Roma Inclusion in September 2008 has made a significant advance regarding the provision of assistance to the BiH Roma in all spheres of society, and in the field of education, too. For the first time, in 2009, Bosnia and Herzegovina earmarked funds for resolving the Roma problems. A methodology and spending plan for the funds earmarked for the implementation of action plans were designed. The process of registration of Roma of BiH was completed and created the basic conditions for a fair allocation of budgetary resources and current grants at the level of BiH, for addressing the overall problems of the Roma population. In this context the Decade of Roma Inclusion advocates increased access to quality education for Roma and obliges member states to provide annually and throughout the Decade financial resources necessary to implement the established and adopted action plans and other documents for the consistent inclusion of the Roma of BiH in all social trends. Measures on ensuring the planned enrolment of Roma children in primary and secondary school are taken, Roma students are helped to get scholarships, and the relevant ministries of education are increasingly working to organize lectures, seminars and workshops in order to raise awareness of the educational needs of Roma. In some schools a page in the Roma language is introduced in school magazines and newspapers, additional instructions in the Romany language are introduced and Roma assistants in a number of primary schools with Roma students are employed; greater support is given to Roma and socially disadvantaged students, Roma children of preschool age are included in education, education of Roma children of school age, the issue of access to the registration of Roma in the birth, marriage and death registers is addressed. Special support is given to the project "With greater knowledge to faster integration of the Roma in the state community".

Until the end of the 2005-2015 Decade of Roma Inclusion, BiH is expected to make qualitative progress in improving the overall situation of Roma and thereby a progress in their education, especially compulsory enrolment, attendance and school completion. Filling out the set of planned tasks in the coming period will significantly contribute to improving the overall status of the Roma of BiH, both in terms of their economic, social and cultural position, and in terms of improving their civil and political status.